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Presidential Documents

Title 3—

The President

Proclamation 7214 of July 30, 1999

To Provide for the Efficient and Fair Administration of Action Taken With Regard to Imports of Lamb Meat and for Other Purposes

By the President of the United States of America

A Proclamation

1. On July 7, 1999, I issued Proclamation 7208, which implemented action of a type described in section 203(a)(3) of the Trade Act of 1974, as amended (19 U.S.C. 2253(a)(3)) (the ''Trade Act''), with respect to imports of fresh, chilled, or frozen lamb meat, provided for in subheadings 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, and 0204.43.20 of the Harmonized Tariff Schedule of the United States (HTS). Proclamation 7208 took effect on July 22, 1999.

2. Proclamation 7208 established import relief in the form of tariff-rate quotas (TRQs) and increased duties but did not make specific provision for their administration. I have determined under section 203(g)(1) of the Trade Act (19 U.S.C. 2253(g)(1)) that it is necessary for the efficient and fair administration of the action undertaken in Proclamation 7208 to exempt from the measure goods that were exported prior to July 22, 1999.

3. I have further determined under section 203(g)(1) of the Trade Act that in order to provide for the efficient and fair administration of the TRQs established in Proclamation 7208 it is necessary to delegate my authority to administer the TRQs under that section to the United States Trade Representative.

4. On May 28, 1999, I issued Proclamation 7202, which took certain actions to eliminate circumvention of the quantitative limitations applicable to imports of wheat gluten that were proclaimed in Proclamation 7103. I have determined that a technical correction in the description of an action taken in Proclamation 7202 is appropriate.

5. Section 604 of the Trade Act (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to sections 203 and 604 of the Trade Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to provide for the efficient and fair administration of the TRQs on imports of fresh, chilled, or frozen lamb meat classified in HTS subheadings 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, and 0204.43.20, subchapter III of chapter 99 of the HTS is modified as provided for in the Annex to this proclamation.

(2) The United States Trade Representative is authorized to exercise my authority pursuant to section 203(g) of the Trade Act to take all action necessary, including the promulgation of regulations, to administer the TRQs relating to imports of lamb meat provided for in HTS subheadings 0204.10.00, 0204.22.20, 0204.23.20, 0204.30.00, 0204.42.20, and 0204.43.20.

(3) The third sentence of initial paragraph 4 of Proclamation 7202 is hereby stricken and the following sentence is inserted in lieu thereof: ''Such action shall take the form of a reduction in the European Community's 1999/2000 wheat gluten quota allotment in the amount of 5,402,000 kg., which represents the amount of wheat gluten that entered the United States in excess of the European Community's 1998 quota allocation.''

(4) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(5) The actions taken in this proclamation shall be effective on the date of signature of this proclamation and shall continue in effect through the close of the dates on which actions proclaimed in Proclamation 7202 and Proclamation 7208 cease to be effective, unless such actions are earlier expressly modified or terminated.

(6) The modifications to the HTS shall be effective with respect to goods exported on or after July 22, 1999, and shall continue in effect as provided in the Annex to this proclamation, unless such actions are earlier expressly modified or terminated.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of July, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.

William J. Clinton

Billing code 3195–01–P

ANNEX

Modifications to the Harmonized Tariff Schedule of the United States

(a) Effective with respect to goods that are exported on or after July 22, 1999, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified to read as follows:

"8. For purposes of the subheadings enumerated below, the in-quota quantities for fresh, chilled or frozen lamb meat shall be allocated as follows:

Subheadings	Country or Countries	Allocation (kg)
9903.02.01	Australia	17,139,582
	New Zealand	14,481,603
	Other countries	229,966
9903.02.03	Australia	17,600,931
	New Zealand	14,871,407
	Other countries	236,155
9903.02.05	Australia	18,062,279
	New Zealand	15,261,210
	Other countries	242,346

	Carcasses and half-carcasses of lamb (provided for in subheading 0204.10.00 or 0204.30.00), other lamb cuts with bone in (provided for in subheading 0204.22.20 or 0204.42.20), and boneless lamb meat (provided for in subheading 0204.23.20 or 0204.43.20), all the foregoing fresh, chilled or frozen, except products of Canada, of Mexico, of Israel, of developing countries enumerated in general note 4(a) to this schedule, of beneficiary countries under the Caribbean Basin Economic Recovery Act (as enumerated in general note 7(a) to this schedule) or of beneficiary countries under the Andean Trade Preference Act (as enumerated in general note 11(a) to this schedule):		
	If exported on or after July 22, 1999, through July 21, 2000, inclusive:		
9903.02.01	In quantities not in excess of 31,851,151 kg	9%	15.4¢/kg
9903.02.02	Other	40%	15.4¢/kg + 40%
	[Carcasses...:]		
	If exported on or after July 22,2000, through July 21, 2001, inclusive:		
9903.02.03	In quantities not in excess of 32,708,493 kg	6%	15.4¢/kg
9903.02.04	Other	32%	15.4¢/kg + 32%
	If exported on or after July 22, 2001, through July 22, 2002, inclusive:		
9903.02.05	In quantities not in excess of 33,565,835 kg	3%	15.4¢/kg
9903.02.06	Other	24%	15.4¢/kg + 24%"

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Rules and Regulations

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

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NUCLEAR REGULATORY COMMISSION

10 CFR Part 31

RIN 3150—AG06

Requirements for Those Who Possess Certain Industrial Devices Containing Byproduct Material to Provide Requested Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to add an explicit requirement that general licensees, who possess certain measuring, gauging, or controlling devices that contain byproduct material, provide the NRC with information concerning these devices. The NRC intends to use this provision to request information concerning devices that present a comparatively higher risk of exposure to the public or property damage. The final rule is intended to help ensure that devices containing byproduct material are maintained and transferred properly and are not inadvertently discarded.

EFFECTIVE DATE: October 4, 1999.

FOR FURTHER INFORMATION CONTACT: Catherine R. Mattsen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6264, or e-mail at CRM@nrc.gov; or Jayne McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, or e-mail at JMM2@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On February 12, 1959 (24 FR 1089), the Atomic Energy Commission (AEC) amended its regulations to provide a general license for the use of byproduct material contained in certain measuring, gauging, or controlling devices (10 CFR 30.21(c)). Under current regulations in 10 CFR 31.5, certain persons may receive and use a device containing byproduct material under this general license if the device has been manufactured and distributed according to the specifications contained in a specific license issued by the NRC or by an Agreement State. A specific license authorizing distribution of generally licensed devices is issued if a regulatory authority determines that the safety features of the device and the instructions for safe operation of that device are adequate and meet regulatory requirements.

The person or firm who receives such a device is a general licensee. The general licensee is subject to requirements for maintaining labels, following instructions for use, storing or disposing of the device properly, and reporting transfers and failure of or damage to the device. For some devices, the general licensee must also comply with leak testing requirements. The general licensee is also subject to the terms and conditions in 10 CFR 31.2 concerning general license requirements, transfer of byproduct material, reporting and recordkeeping, and inspection. The general licensee must comply with the safety instructions contained in or referenced on the label of the device and must have the testing or servicing of the device performed by an individual who is authorized to manufacture, install, or service these devices.

A generally licensed device usually consists of radioactive material, contained in a sealed source, within a shielded device. The device is designed with inherent radiation safety features so that it can be used by persons with no radiation training or experience. Thus, the general license is meant to simplify the licensing process so that a case-by-case determination of the adequacy of the radiation training or experience of each user is not necessary.

There are about 45,000 general licensees under 10 CFR 31.5. These licensees possess about 600,000 devices that contain byproduct material. The NRC has not contacted general licensees on a regular basis because of the relatively small radiation exposure risk posed by these devices and the very large number of general licensees. However, general licensees are not always aware of applicable regulations and thus are not necessarily complying with all of the applicable requirements. The NRC is particularly concerned about occurrences where generally licensed devices containing radioactive material have not been properly handled or properly disposed of. In some cases, this has resulted in radiation exposure to the public and contamination of property. Although known exposures generally have not exceeded the public dose limit, there is a potential for significant exposures. When a source is accidentally melted in a steel mill, considerable contamination of the mill, the steel product, and the wastes from the process, the slag and the baghouse dust, can result.

The NRC conducted a 3-year sampling (1984 through 1986) of general licensees to assess the effectiveness of the general license program. The sampling revealed several areas of concern regarding the use of generally licensed devices. In particular, the NRC concluded that many general licensees are not aware of the appropriate regulations. Also, approximately 15 percent of all general licensees sampled could not account for all of their generally licensed devices. The NRC concluded that these problems could be remedied by more frequent and timely contact between the general licensee and the NRC.

On December 27, 1991 (56 FR 67011), the NRC published a notice of proposed rulemaking concerning the accountability of generally licensed devices. The proposed rule contained a number of provisions, including a requirement for general licensees under 10 CFR 31.5 to provide information to the NRC upon request, through which a device registry could be developed. The proposed rule also included requirements in 10 CFR 32.51a and 32.52 for the specific licensees who manufacture or initially transfer generally licensed devices. Although the public comments received were reviewed and a final rule developed, a final rule was not issued because the resources needed to implement the proposed rule properly were not available.

The NRC continued to consider the issues related to the loss of control of generally licensed, as well as

specifically licensed, sources of radioactivity. In July 1995, the NRC, with assistance from the Organization of Agreement States, formed a working group to evaluate these issues. A final report was completed in July 1996 and published in October 1996 as NUREG–1551, ''Final Report of the NRC-Agreement State Working Group to Evaluate Control and Accountability of Licensed Devices.''

In considering the recommendations of the working group, the NRC decided, among other things, to again initiate rulemaking to establish an annual registration program of devices generally licensed under 10 CFR 31.5 that would be similar to the program originally proposed in the December 27, 1991, proposed rule. However, the NRC decided to do so only for those devices that present a higher risk, compared to other generally licensed devices, of potential exposure to the public and property loss if control of the device were lost. The NRC found the working group process valuable in identifying criteria for categorizing devices that are more likely to present a significant risk by exposure of the public or through contamination of property.

On December 2, 1998 (63 FR 66492), the Commission again proposed the addition of an explicit requirement to provide information in response to requests made by the NRC. While the rule applies to all 10 CFR 31.5 general licensees, the NRC plans to contact only those general licensees identified by the working group for the purpose of the registration program. For the most part, general licensees using devices meeting these criteria have a limited number of devices that will require registration.

In that notice (at 63 FR 66493), the NRC also withdrew the December 27, 1991, proposed rule. The NRC has reviewed the other provisions contained in the December 27, 1991, proposed rule and the recommendations of the working group and developed additional requirements in a separate proposed rule published July 26, 1999 (64 FR 40295). The recommendations made in NUREG–1551 were considered in developing the separate, more comprehensive proposed rule issued July 26, 1999. That proposed rule addresses fees for registration, additional reporting, recordkeeping, and labeling requirements for 10 CFR 32.51 licensees, and compatibility of Agreement State regulations in this area.

On March 9, 1999 (64 FR 11508), the Commission established an interim enforcement policy for violations of 10 CFR 31.5 that are discovered and reported by licensees during the initial cycle of the registration program. The initial cycle is considered to be the issuance of one round of registration requests to all affected general licensees. This policy supplements the normal NRC Enforcement Policy in NUREG–1600, Rev. 1. It will remain in effect through one complete cycle of the registration program.

Under this interim enforcement policy, enforcement action normally will not be taken for violations of 10 CFR 31.5 that are identified by the general licensee, and reported to the NRC if reporting is required, provided that the general licensee—

Takes appropriate corrective action to address the specific violations and prevent recurrence of similar problems; and

Has undertaken good faith efforts to respond to NRC notices and provide requested information.

This change from the Commission's normal enforcement policy is intended to remove the potential for the threat of enforcement action to be a disincentive for the licensee to identify deficiencies.

Under the interim enforcement policy, enforcement action, including issuance of civil penalties and Orders, may be taken where there is —

(1) Failure to take appropriate corrective action to prevent recurrence of similar violations;

(2) Failure to respond and provide the information required by regulation;

(3) Willful failure to provide complete and accurate information to the NRC; or

(4) Other willful violations, such as willfully disposing of generally licensed material in an unauthorized manner.

As noted in the December 2, 1998, proposed rule, and discussed further in the separate, more comprehensive proposed rule of July 26, 1999, the Commission also plans to increase the civil penalty amounts specified in its Enforcement Policy in NUREG–1600, Rev. 1, for violations involving lost or improperly disposed of sources or devices. This increase will better relate the civil penalty amount to the costs avoided by the failure to properly dispose of the source or device. Due to the diversity of the types of sources and devices, the Commission is considering the establishment of three levels of base civil penalty for loss or improper disposal. The higher tiers would be for sources that are relatively costly to dispose of.

Discussion

The Atomic Energy Act of 1954 (AEA), as amended, authorizes the NRC to request appropriate information from its licensees concerning licensed activities. However, the Commission had not included such an explicit provision in the regulations governing 10 CFR 31.5 general licensees.

This final rule adds an explicit requirement to 10 CFR 31.5 that requires general licensees who possess certain measuring, gauging, and controlling devices to respond in a timely way to written requests from the NRC for information concerning products that they have received for use under a general license.

The final rule requires a response to requests within 30 days or such other time as specified in the request. For routine requests for information, 30 days should be adequate in most instances, and an extension can be obtained for good cause. If more complicated requests are made or circumstances recognized that may require a longer time, the Commission may provide a longer response time. In the unusual circumstance of a significant safety concern, the Commission could demand information in a shorter time. The NRC will provide a phone number in the request for information in case additional guidance is necessary.

The NRC intends to use this provision primarily to institute an annual registration program for devices using certain quantities of specific radionuclides. The registration program is primarily intended to ensure that general licensees are aware of and understand the requirements for the possession of devices containing byproduct material. The registration process will allow NRC to account for devices that have been distributed for use under the general license. The NRC believes that, if general licensees are aware of their responsibilities, they will comply with the requirements for proper handling and disposal of generally licensed devices. This should help reduce the potential for incidents that could result in unnecessary radiation exposure to the public as well as contamination of property.

The general licensees covered by the registration program will be asked to account for the devices in their possession and to verify, as well as certify, information concerning—

(1) The identification of devices, such as the manufacturer, model, and serial numbers;

(2) The persons knowledgeable of the device and the applicable regulations;

(3) The disposition of the devices; and

(4) The location of the devices.

An organization which uses generally licensed devices at numerous locations is usually considered a separate general licensee at each location (except in the case of different facilities at the same complex or campus). In the case of

portable devices that are routinely used at multiple sites, there is one general licensee for each primary place of storage, not for each place of use. Thus, an organization may be required to complete more than one registration, if it possess devices subject to registration at multiple locations.

While the final rule applies to all 10 CFR 31.5 general licensees (about 45,000), the NRC will contact only approximately 5100 general licensees, possessing about 20,000 devices, for registration purposes. This category of general licensees is based on the criteria recommended by the working group for determining which sources should have increased oversight. The proposed rule presented an estimate of 6000 general licensees, based on the estimates made in the working group report. However, this had not accounted for the fact that, in the interim, Massachusetts had become an Agreement State. Using the same criteria, and removing the previously NRC general licensees in Massachusetts, results in an estimate of 5100. Other States are expected to become Agreement States in the near future which will affect the number of general licensees under NRC jurisdiction, but not the overall number nationally. The separate, more comprehensive proposed rule published July 26, 1999, indicated that Agreement States will be required to achieve a compatible level of accountability over generally licensed devices. Thus, following State implementation of compatible programs in conjunction with that rule, further changes in the number of generally licensed devices within NRC jurisdiction should not adversely affect accountability.

Requests for information will be sent to general licensees who are expected, based on current NRC records, to possess devices containing (as indicated on the label) at least—

370 MBq (10 mCi) of cesium-137;
3.7 MBq (0.1 mCi) of strontium-90;
37 MBq (1 mCi) of cobalt-60; or
37 MBq (1 mCi) of any transuranic (at this time, the only generally licensed devices meeting this criterion contain curium-244 and americium-241).

Most of the devices meeting these criteria are used in commercial and industrial applications measuring thickness, density, or chemical composition in petrochemical and steel manufacturing industries. The requests will include the information contained in NRC records concerning the possession of these devices. The licensees will be asked to verify, correct, and add to that information. The NRC records are based on information provided to the NRC by distributors under 10 CFR 32.52(a) and compatible Agreement State regulations and from general licensees as required by 10 CFR 31.5(c) (8) or (9) regarding transfer of generally licensed devices. If a general licensee no longer possesses devices meeting the criteria, it will be expected to provide information about the disposition of the devices previously possessed. Errors in current NRC records concerning these general licensees could be the result of—

(1) Errors made in the quarterly reports of manufacturers or initial distributors;

(2) General licensees not reporting transfers; or

(3) Errors made by NRC or its contractors in recording transfer information.

In addition to the 5100 general licensees identified for registration, the NRC may occasionally request information from other general licensees on a case-by-case basis as necessary or appropriate. For example, this might involve investigating the extent that other users have experienced a problem that has been identified with the design of a particular device model. However, significant modifications to the registration program to include a larger class of licensees would be done through rulemaking.

Although the amendment to the regulations imposes some additional costs on licensees, the NRC has estimated these costs to be minimal. This cost is the estimated administrative cost expended by general licensees to verify the information requested by the NRC regarding licensed devices. The NRC believes that the rule's intended effect of increased compliance by general licensees with regulatory requirements, and resulting NRC and public confidence in the general license program potentially afforded by these new requirements, outweigh this nominal administrative cost.

Public Comments on the Proposed Rule

The NRC reviewed the public comments received on the December 2, 1998, proposed rule. Seven comment letters were received from: the State of Illinois (an Agreement State), National Steel Pellet Company, Steel Manufacturers Association (SMA), the Commonwealth of Massachusetts (an Agreement State), the State of New Jersey (a non-Agreement State), American Iron and Steel Institute (AISI), and one private citizen.

All commenters supported the proposed rule. One commenter agreed with the NRC that the proposed change would increase accountability and control over generally licensed radioactive devices. Another commenter supported the proposed regulation as a step in the right direction, if not completely solving the regulatory problems of the NRC. The steel industry supported the proposed rule as a positive, although small, step toward minimizing the risk associated with improper disposal of spent sources in the scrap supply.

Agreement was expressed by two commenters that the administrative burden on general licensees to provide the minimal information requested by the NRC is reasonable, as is the 30-day period in which general licensees have to respond, with extensions granted for good cause.

Several commenters voiced agreement with the interim enforcement policy. One commenter, the State of New Jersey, believes that it is extremely important to remove any incentive for a general licensee to attempt to discard its source rather than comply with the reporting requirement. The commenter stated that when people get rid of their generally licensed devices in a hurry, the State has to go out and find them in mountains of trash or scrap metal.

Two other commenters, the SMA and AISI, stated that they would support any enforcement program that deters improper disposal of radioactive sources. They also endorse the provision allowing general licensees to report and correct violations without incurring penalties. These commenters believe that this provision would encourage licensees, who are not sure about sources they hold, to remedy the problem rather than improperly dispose of the sources in an attempt to avoid high penalties.

A. Current NRC General Licensing Process and Cost Shift

Comment: In general, the three representatives of the steel industry expressed similar concerns regarding the current NRC general licensing process. One commenter, the SMA, stated that the proposed rule did not address the fact that the current regulatory regime has shifted the costs of lax accountability and control onto steel makers, insurers, and the taxpayers. This commenter stated that general licensees do not pay for their licenses nor provide information directly to NRC about the sources they hold. Instead, the cost has fallen on steel producers to detect the sources, on steel producers and taxpayers to arrange for proper disposal, and on steel producers and their insurers to pay the cost when a source is inadvertently melted. This commenter believed that general

licensees should be required to shoulder their fair share.

Similarly, the AISI pointed out that current NRC regulations have inadvertently and improperly shifted the costs for accountability and control onto hot metal producers, insurers, and taxpayers and that steel producers are being forced to pay the cost of detecting orphaned sources, to arrange for proper disposal, and to pay for the cleanup when a source is inadvertently melted. This commenter also believed that general licensees should be required to pay their fair share of these costs and stated that improving licensee accountability would also reduce the risk of the illegal release of generally licensed material into the public scrap supply. In addition, the AISI noted that the inadvertent melting of orphaned sources by domestic steel producers has resulted in decontamination, disposal, and lost production costs ranging between $10 million and $24 million at electric furnace mills and that the cost of a similar incident occurring in a major integrated steel mill could easily exceed $100 million.

Response: The Commission recognizes the expense to the steel industry when generally licensed devices containing radioactive material are not properly disposed of or properly handled. The NRC believes that this rulemaking will reduce the probability of lost and improperly disposed of sources, and ultimately the number of incidents of inadvertent meltings. This would reduce the total expense to the steel industry, insurers, and taxpayers resulting from such incidents. A separate, more comprehensive rulemaking on this subject (proposed on July 26, 1999) is expected to further improve accountability for devices and reduce the impact of improperly disposed of sources to the steel industry. In addition, that rule would establish a registration fee to recover the cost of the NRC enhanced oversight program for those general licensees being required to register their devices.

B. Reporting Electronically and Data Verification

Comment: Two commenters recommended that the NRC provide a means for electronically reporting the information requested by the NRC in order to save time, mailing expenses, and paper. They also indicated that the NRC should ensure that its database has an adequate data quality verification system and can easily flag inconsistencies.

One commenter suggested that the electronic filing could be accomplished through a secure page on the NRC Internet Web Site and that the NRC could use the employer's tax identification number and a password to secure the information. This commenter also recommended that the NRC database include a data quality verification system to quickly identify and immediately notify licensees of any reporting inconsistencies and that employers could also be required to annually verify the accuracy of the inventory.

Response: The submission of electronic applications and reports is a generic issue that impacts more than the general license registration program. The NRC has evaluated the issue of permitting licensees to file applications and reports electronically and plans to publish an amendment to the regulations to allow such submissions. The NRC expects to publish the amendment next year. At that time, the NRC will evaluate how this change will impact implementation of the registration program and future enhancements to the design of the automated system. However, the NRC currently expects that the initial registration program would require submission of hard copies of the registration forms.

The NRC is in the process of upgrading its information technology systems to facilitate processing of annual registrations. The upgrades will include adequate data verification for distributor, general licensee, and registration information and will include automated readers for processing the large volume of registration forms. The automated readers will identify changes and inconsistencies with the database, convert changes to electronic form, and incorporate the new data.

C. Control and Accountability

Comment: One commenter believed that a great deal of improvement is needed in the regulations governing licensed radioactive devices concerning their location and whether they are being disposed of properly. This commenter felt that a license should not be given out to persons to own as many devices as they please; instead a license should be given out per device, thereby limiting the number of devices available and making known the number of devices in use. This commenter felt that radioactive material presents an extreme threat to health and safety even if disposed of properly.

Response: The Commission does not believe it is necessary, appropriate, or practical to limit the number of devices going out to general licensees to one per licensee. Tracking the number of devices in use and who has them is achievable without such a restriction. Generally licensed devices are designed to be inherently safe and do not present nearly as great a risk to health and safety as the commenter suggests. Given the nature of the general license, restrictions on numbers of devices that can be possessed would be difficult to enforce and would likely lead to difficulties in getting accurate information on devices possessed.

Comment: Another commenter recommended that the NRC not target businesses with specific licenses, pointing out that they are required to—

(1) Have a Radiation Safety Officer;

(2) Actively perform testing and inspections; and

(3) Maintain written documentation.

Therefore, specific licensees are almost always aware of the byproduct material regulations applicable to byproduct material managed under a general license as well and are more likely to adequately account for and handle devices containing byproduct material in accordance with the regulatory requirements. The commenter recommended that the NRC instead target general licensees that do not currently maintain byproduct material under a specific NRC license because these general licensees are more likely to be unaware of the appropriate regulations and are more likely to inappropriately account for and handle devices containing byproduct material.

Response: Specific licensees who also have generally licensed devices are subject to any regulations applicable to the general license. Therefore, these specific licensees will be subject to registration. Given the approach of this first rule, it would be possible for NRC to simply not make this request for information from those who also hold specific licenses. However, this would require additional effort to cross reference data on specific licensees with that on general licensees. Specific licensees, while generally more aware of applicable regulations, do have problems with incomplete accountability for devices. The potential improvement in accountability should justify the limited administrative effort of providing registration information even in the case of those holding specific licenses.

If the additional rulemaking concerning registration is made final, specific licensees holding generally licensed devices subject to registration may wish to avoid the additional fee. If so, they would have the option of amending their specific license, if necessary, to include the devices, and thereby remove the devices from the

general license status. In this case, labels may have to be changed to be consistent with the device's regulatory status.

Comment: The State of Illinois indicated that a group of general licensees in Illinois possesses devices containing curium-244 in quantities that would require registration under the proposed rule. This commenter recommended that the NRC contact licensees possessing not only americium-241 but also curium-244, and noted that the statement in the December 2, 1998, proposed rule (63 FR 66493) that americium-241 is the only transuranic radionuclide found in generally licensed devices in quantities exceeding 37 megabecquerels (1 millicurie), is in error.

Response: The Commission agrees. The omission in that statement, of curium-244 as a transuranic element used in generally licensed devices meeting the criteria for registration, was an oversight. Devices containing curium-244 with quantities meeting the criterion for transuranics will be included in the registration requirement.

Comment: Several commenters stated that the NRC should give serious consideration to the NRC-Agreement State Working Group recommendations as contained in NUREG–1551, ''Final Report of the NRC-Agreement State Working Group to Evaluate Control and Accountability of Licensed Devices.'' Specifically, one commenter stated that there should be a Responsible Individual (RI) and a Backup Responsible Individual (BRI) for each general license. This commenter stated that, unlike a specific license where there are a Radiation Safety Officer and Authorized Users, there may be only one person (RI) who has a real understanding that his or her company possesses a generally licensed device that contains a radioactive source. When that RI dies, retires, resigns, or is laid off, there may be no one at the facility with any understanding or appreciation of the significance of the generally licensed device. The commenter stated that the addition of one extra name and phone number to the records should not be too burdensome on the licensee and may help avoid the burden of responding to a radiation incident involving the device.

Two other commenters recommended that the NRC consider the Working Group's recommended comprehensive measures, including requirements for the NRC to maintain inventory records, to compare and reconcile related discrepancies, and to mandate reporting the bankruptcy of a licensee to the NRC. The commenters also recommended State/NRC site inspections and inventories at regular intervals. These commenters felt that serious consideration should be given to each of these measures in order to prevent the continued loss of licensed sources into the scrap stream.

One of these commenters also urged the NRC to move forward with the planned additional regulations amending or establishing requirements for registration fees, labeling, and compatibility with Agreement State requirements. The commenter stated that the limited registration program would have minimal impact on the radioactive scrap problem if it is the only amendment the NRC proposes.

Response: The more comprehensive measures recommended by the NRC-Agreement State Working Group are being considered in the separate, more comprehensive rule proposed on July 26, 1999. Comments on these issues will be considered as part of that rulemaking process.

D. Registration Program

Comment: One commenter noted that the language of the proposal did not call for a periodic registration program requiring reporting at least annually. Rather, the proposed amendment would merely restate NRC's authority to collect information from licensees. The commenter pointed out that the NRC already has this authority under 42 U.S.C. 2095 and in its own regulations at 10 CFR 30.34. This commenter urged the NRC to explicitly call for a periodic registration program in the amended regulation stating that this would remind general licensees that they have licensed radioactive sources and that there are responsibilities attached to their licenses. It would also indicate that the Government has knowledge of their sources and the authority to enforce prohibitions on improper disposal.

Response: The NRC has proposed explicit provisions for an annual registration requirement in the separate, more comprehensive rule on this subject.

Comment: A commenter suggested that the NRC reconsider one of the provisions in a proposed rule published February 5, 1974 (39 FR 4583), that would have required registration of the generally licensed devices before customers are allowed to receive them. This commenter stated that this would ensure and document that general licensees have received copies of the regulations and that they are aware of their rights and responsibilities.

Response: The Commission does not believe preregistration is necessary to ensure and document that general licensees have received copies of the regulations and that they are aware of their rights and responsibilities. However, the Commission has proposed amendments to address the need for customers to receive additional information prior to purchases of generally licensed devices in the separate, more comprehensive rule.

Comment: Another commenter strongly encouraged the NRC to adopt a mandatory registration program for all sources, not merely those that pose the greatest risk to steel mills.

Response: The Commission has decided to use the criteria developed by the NRC/Agreement State Working Group to determine which sources should be subject to the registration program. These criteria were based on considerations of relative risk and were limited to radionuclides currently in use in devices considered to present a higher risk of potential exposure, as well as potential for contamination of property.

E. Fee-Based System

Comment: One commenter believed that a fee-based system for all general licensees would ensure that the NRC recovers the minimal cost to initiate and maintain the reporting program. The commenter stated that such a registration program would enable the NRC to account for all sources that have been distributed. The commenter further suggested that the program could be designed to allow steel companies and the general public to trace the origins of an improperly disposed of source. This would help steel companies in determining liability for the multimillion-dollar clean-up costs that the steel companies and their insurers incur when sources are inadvertently melted. It would also provide Federal and State nuclear regulators that handle orphan sources a means to obtain reimbursement resulting in an additional deterrent against improper source disposition.

Another commenter was concerned that, even though a fee-based system for all general licensees would permit the NRC to recover the anticipated cost of initiating and maintaining the reporting program, a fee schedule could slow or prevent implementation of the entire proposal. If this is correct, the commenter recommended that the NRC retain the proposal as published.

Response: The Commission is not addressing comments on its proposed fee-based system as part of this rulemaking process. The separate, more

comprehensive rule addresses fees for registration and the comments will be considered in connection with that rulemaking.

F. Registration Information Available on the Internet

Comment: One commenter was opposed to making the registration information available on the Internet because such posting would unnecessarily cause public concern over the presence and use of low level devices. The commenter believes that this information should be available only through the Freedom of Information Act request process.

Response: Some of the information submitted in distributor quarterly reports and entered into the general license tracking system that is to be used for handling registration information would be considered proprietary. This database will be designed with security features in order to protect proprietary information. It will not be available on the Internet. The NRC would post information on its website concerning lost or unaccounted for devices.

G. Civil Penalty Amounts

Comment: One commenter agreed with the NRC's intent to increase the civil penalty amounts for violations involving lost or improperly disposed of sources or devices. The commenter stated that the penalties must be significantly higher than the costs avoided by the failure to properly dispose of the source or device.

A second commenter supported fining general licensees who violate their general licenses by using a schedule that is proportionate to the damage actually caused by the lost source. The commenter used the example of the cost for cleaning a steel mill contaminated by melting such a source. This commenter believed that because the NRC's proposed penalty is not much higher than the current fine of $2500 per loss that has been assessed to licensees, it would not significantly deter illegal behavior. The commenter believes that increasing the current relatively minimal penalty levels to amounts that reflect the real world damage caused by loss of a licensed source will provide general licensees with a substantive economic incentive to dispose of their sources legally.

Response: As discussed in the July 26, 1999 (64 FR 40295) proposed rule, the Commission is considering raising civil penalties for violations involving lost or improperly disposed of sources or devices and may use a tiered approach with higher than usual civil penalties for sources that are relatively costly to dispose of. This is to ensure that such civil penalties better relate to the costs avoided by the failure to properly dispose of the source or device. The cost of cleaning a contaminated steel mill would not be an appropriate basis for setting fees.

No comments were made concerning the specific wording of the proposed amendment. No change to the rule has been made as a result of these comments.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997 (62 FR 46517), this final rule is classified as Compatibility Category D. Category D means the provisions are not required for purposes of compatibility; however, if adopted by the State, the provisions should not create any conflicts, duplications, or gaps in the regulation of AEA material. Ultimately, an enhanced oversight program is expected to include provisions that will require a higher degree of compatibility. This is being considered in the separate, more comprehensive rulemaking that would add more explicit requirements for the registration program and additional provisions concerning accountability of generally licensed devices.

Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Pub. L. 104–113, requires that agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is amending its regulations to require that those who possess certain industrial devices containing byproduct material provide requested information. The amendments are administrative in nature and require certain types of specific entities to provide information concerning specific devices in their possession. Therefore, this action does not constitute the establishment of a standard that establishes generally applicable requirements.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in the categorical exclusion in 10 CFR 51.22(c)(3)(iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this regulation.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The information collection requirements in this rule have been approved by the Office of Management and Budget, approval number 3150–0016.

The public reporting burden for this information collection is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of this information collection, including suggestion for reducing the burden, to the Records Management Branch (T–6 E6), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202, (3150–0016), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

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

Regulatory Analysis

The NRC has prepared a regulatory analysis for this regulation. The analysis examines the cost and benefits of the alternatives considered by the NRC. The regulatory analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained by calling Jayne McCausland, U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC, 20555–0001; telephone (301) 415–6219; or e-mail at JMM2@nrc.gov.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commission certifies that this final rule does not have a significant economic impact on a substantial number of small entities. This rule requires general licensees who have received specific devices to respond to requests for information from NRC. The final rule applies to the approximately 45,000 persons using products under an NRC general license, many of whom may be classified as small entities. However, the

NRC intends to request registration information from only approximately 5100 of these general licensees. Registration information to be obtained will include identification of the devices, accountability for the devices, the persons knowledgeable of the device and the applicable regulations, and the disposition of the devices. The NRC believes that the economic impact that any general licensee incurs as a result of supplying this information constitutes a negligible increase in administrative burden. It is estimated that there are approximately 20,000 devices in the possession of the Commission's general licensees which will come under the registration requirement. The average cost to the general licensee per device per year is about $4.00. Therefore, the action will not have a significant economic impact on small entities. The final rule is intended to ensure that general licensees understand and comply with regulatory responsibilities regarding the generally licensed radioactive devices in their possession.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule, because these amendments do not involve any provisions that impose backfits as defined in 10 CFR 50.109(a)(1) and, therefore, a backfit analysis is not required.

Small Business Regulatory Enforcement Fairness Act

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

List of Subjects in 10 CFR Part 31

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out above and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 31.

PART 31—GENERAL DOMESTIC LICENSES FOR BYPRODUCT MATERIAL

1. The authority citation for Part 31 continues to read as follows:

Authority: Secs. 81, 161, 183, 68 Stat. 935, 948, 954, as amended (42 U.S.C. 2111, 2201, 2233); secs. 201, as amended, 202, 88 Stat. 1242, as amended, 1244 (42 U.S.C. 5841, 5842).

Section 31.6 also issued under sec. 274, 73 Stat. 688 (42 U.S.C. 2021).

2. Section 31.5 is amended by adding paragraph (c)(11) to read as follows:

§ 31.5 Certain measuring, gauging, or controlling devices.[2]

* * * * *

(c) * * *

(11) Shall respond to written requests from the Nuclear Regulatory Commission to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by submitting a letter to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 and provide written justification as to why it cannot comply.

* * * * *

Dated at Rockville, Maryland, this 1st day of July, 1999.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 99–19984 Filed 8–3–99; 8:45 am]

BILLING CODE 7590–01–P

[2] Persons possessing byproduct material in devices under a general license in 10 CFR 31.5 before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of 10 CFR 31.5 in effect on January 14, 1975.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–01–AD; Amendment 39–11241; AD 99–16–06]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Model PA–46–350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain The New Piper Aircraft, Inc. (Piper) Model PA–46–350P airplanes. This AD requires installing reinforcement plates to the wing forward and aft attach fittings. This AD is the result of a report that sheet steel material that is below design strength standards may have been utilized on the wing attach fittings on the Model PA–46–350P airplanes manufactured since January 1995. The actions specified by this AD are intended to prevent structural failure of the wing attach fittings caused by the utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control.

DATES: Effective September 24, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 24, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–01–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. William O. Herderich, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6084; facsimile: (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Piper Model PA–46–350P airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 19, 1999 (64 FR 13530). The NPRM proposed to require installing reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766–656. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with the instructions to the above-referenced kit, as referenced in Piper Service Bulletin No. 1027, dated November 19, 1998.

The NPRM was the result of a report that sheet steel material that is below design strength standards may have

been utilized on the wing attach fittings on the Model PA–46–350P airplanes manufactured since January 1995.

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

The FAA's Determination

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

Cost Impact

The FAA estimates that 185 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 30 workhours per airplane to accomplish the installation, and that the average labor rate is approximately $60 an hour. Piper will give warranty credit for parts on all affected aircraft. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $333,000, or $1,800 per airplane.

Piper has informed the FAA that parts have been distributed to accomplish the installation on 6 of the affected airplanes. Presuming that these parts were incorporated on 6 of the affected airplanes, this will reduce the cost impact of this AD by $10,800 from $333,000 to $322,200.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

99–16–06 The New Piper Aircraft, Inc.: Amendment 39–11241; Docket No. 99–CE–01–AD.

Applicability: Model PA–46–350P airplanes, serial numbers 4622191 through 4622200 and 4636001 through 4636175, certificated in any category.

Note 1: The affected serial numbers refer to airplanes that have been delivered since January 1995 and could have insufficient strength wing attach fittings installed. Airplanes manufactured after serial number 4636175 have this problem corrected prior to delivery.

Note 2: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent the potential for failure of the wing attach fittings caused by the utilization of substandard material, which could result in the wing separating from the airplane with consequent loss of control of the airplane, accomplish the following:

(a) Install reinforcement plates to the wing forward and aft attach fittings by incorporating the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766–656. Accomplishment of the installation is required in accordance with the instructions to the above-referenced kit, as referenced in Piper Service Bulletin No. 1027, dated November 19, 1998.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(d) The installation required by this AD shall be done in accordance with the instructions to the Wing to Fuselage Reinforcement Installation Kit, Piper part number 766–656, dated November 6, 1998, as referenced in Piper Service Bulletin No. 1027, dated November 19, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on September 24, 1999. Issued in Kansas City, Missouri, on July 26, 1999.

Mike Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–19747 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AEA–05]

Amendment to Class E Airspace; Babylon, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace extending upward from 700

feet Above Ground Level (AGL) at Republic Airport, Babylon, NY. The development of new Standard Instrument Approach Procedures (SIAP) based on the Global Positioning System (GPS) and amendments to the Instrument Landing System (ILS) SIAP and the Non Directional Radio Beacon (NDB) SIAP at Republic Airport have made this proposal necessary. Amendments to the controlled airspace extending upward from 700 feet Above Ground Level (AGL) are needed to accommodate the SIAPs and for Instrument Flight Rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, August 27, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On March 10, 1999, a notice proposing to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by extending the Class E airspace extending upward from 700 feet above the surface at Republic Airport, Babylon NY was published in the **Federal Register** (64 FR 11819).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North America Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be amended in the order.

The Rule

The amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet AGL for aircraft executing SIAPs at Republic Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

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

* * * * *

AEA NY E5, Babylon, NY [Revised]

Republic Airport, Farmingdale, NY
GRP (Lat. 40°43′43″N., long. 73°24′48″W.)
Babylon NDB
(Lat. 40°40′21″N., long. 73°23′03″W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Republic Airport and within 3.1 miles each side of a 155° bearing from the Babylon NDB extending from the 8-mile radius to 7 miles southeast of the NDB, excluding that portion that coincides with the Islip, NY, Class E airspace area.

* * * * *

Issued in Jamaica, New York on July 6, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–20020 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 98N–0044]

RIN 0910–AA59

Regulations on Statements Made for Dietary Supplements Concerning the Effect of the Product on the Structure or Function of the Body; Public Meeting; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; reopening of comment period; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document announcing a public meeting to solicit additional comments on three particularly controversial issues raised by FDA's proposed rule on statements made for dietary supplements concerning the effect of the product on the structure or function of the body (''structure/function claims''). The document, which appeared in the **Federal Register** of Thursday, July 8, 1999 (64 FR 36824), was published with an incorrect starting time for the meeting and the registration time was omitted. This document corrects those errors.

DATES: The meeting will be held on August 4, 1999, from 10 a.m. to 6 p.m. (registration begins at 9 a.m.). Submit written comments on or before August 4, 1999.

ADDRESSES: The meeting will be held at the Jefferson Auditorium, U.S. Department of Agriculture, 1400 Independence Ave. SW., Washington, DC. Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, or via e-mail to ''FDADockets@oc.fda.gov''. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Lisa Barclay, Office of Policy, Planning, and Legislation (HF–22), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3360.

SUPPLEMENTARY INFORMATION:

In FR Doc. 99–17424, appearing on page 36824 in the **Federal Register** of Thursday, July 8, 1999, the following corrections are made: On page 36824, in the first column, in the ''**DATES**'' caption, in the second line, ''8 a.m.'' is

corrected to read ''10 a.m.'', and by adding the phrase ''(registration begins at 9 a.m.).'' after ''6 p.m.''.

Dated: July 28, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–19790 Filed 8–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08–99–046]

RIN 2115–AE46

Special Local Regulations; National Youth Conference Air Show; Ohio River Mile 602.0–605.0; Louisville, KY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the National Youth Conference Air Show. This event will be held on August 4, 1999, from 1:15 p.m. until 2:15 p.m. in Louisville, Kentucky. These regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations are effective from 1:15 p.m. until 2:15 p.m. on August 4, 1999.

ADDRESSES: Unless otherwise indicated, all documents referred to in this regulation are available for review at Marine Safety Office, Louisville, 600 Martin Luther King Jr. Place, Room 360, Louisville, KY 40202–2230.

FOR FURTHER INFORMATION CONTACT: Lieutenant Jeff Johnson, Chief, Port Management Department, USCG Marine Safety Office, Louisville, KY. Tel: (502) 582–5194 ext. 39.

SUPPLEMENTARY INFORMATION:

Drafting Information: The drafters of this regulation are Lieutenant Jeff Johnson, Project Officer, Chief, Port Management Department, USCG Marine Safety Office, Louisville, KY, and LTJG Michele Woodruff, Project Attorney, Eighth Coast Guard District Legal Office.

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rule making for these regulations has not been published, and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rule making procedures would be impracticable. The details of the event were not finalized with sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date.

Background and Purpose

The marine event requiring this regulation is an Air Show. The event is sponsored by the Shawnee Baptist Church Youth Conference. The Air Show will take place over the Ohio River between miles 602.0 to 605.0, mid-channel. Non-participating vessels will be able to transit the area after the river is reopened.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because of the event's short duration.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*) that this temporary rule will not have a significant economic impact on a substantial number of small entities because of the event's short duration.

Collection of Information

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

Federalism Assessment

The Coast Guard has analyzed this action in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2–1, paragraph (34)(h) of Commandant Instruction M16475.1C, this rule is excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Temporary Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

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

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary § 100.35–T08–046 is added to read as follows:

§ 100.35–T08–046 Ohio River at Louisville, Kentucky.

(a) Regulated Area: Ohio River Mile 602.0–605.0.

(b) Special Local Regulation: All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. ''Participants'' are those persons and/or vessels identified by the sponsor as taking part in the event. The ''official patrol'' consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessel assigned to patrol the event. The Coast Guard ''Patrol Commander'' is a Coast Guard commissioned, warrant, or petty officer who has been designated by Commanding Officer, Coast Guard Marine Safety Office Louisville.

(1) No vessel shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander may terminate the event at any time it is deemed necessary for the protection of life and/or property and can be reached on VHF–FM Channel 16 by using the call sign ''PATCOM''.

(c) *Effective Date:* These regulations will be effective from 1:15 p.m. to 2:15 p.m. on August 4, 1999.

Dated: July 12, 1999.

Paul J. Pluta,

RADM, USCG Commander, 8th CG District.

[FR Doc. 99–20025 Filed 8–4–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD07–99–023]

RIN 2115–AA98

Special Anchorage Areas; St. Johns River, Jacksonville, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the Anchorage Regulations for the St. Johns River in Jacksonville, FL. The amendment will improve the safety of vessels anchoring within and transiting these anchorage areas by imposing additional notification, tug employment, and VHF–FM channel monitoring requirements.

DATES: This rule becomes effective September 3, 1999.

FOR FURTHER INFORMATION CONTACT: LT Zachary Pickett, Coast Guard Marine Safety Office Jacksonville, at (904) 232–2640, ext. 128.

SUPPLEMENTARY INFORMATION:

Regulatory History

On May 20, 1999, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (64 FR 27487). No comments were received during the comment period.

Background and Purpose

A natural working group established by the Jacksonville Waterways Management Council proposed additional safety requirements for vessels using Anchorage Areas A and B within the St. Johns River. The Captain of the Port agreed with the findings of the Council. The amended regulations require all vessels intending to anchor in the St. Johns anchorage to notify the Captain of the Port, and all anchoring vessels will be required to monitor Channels 13 and 16 VHF–FM at all times. Also, while in the anchorage area, all vessels transferring petroleum products and all vessels over 300 feet in length, will be required to have a pilot or dock master on board and will be required to employ sufficient tugs to ensure safety.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary as these regulations will only economically affect approximately 30 vessels a year.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include 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.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this rule will not have a significant economic impact on a substantial number of small entities as the tug employment and pilot requirements will only affect approximately 30 vessels each year, and the other changes are only minor in nature.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(f) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination has been completed and is available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulation

In consideration of the foregoing, the Coast Guard amends part 110 of title 33, Code of Federal Regulations as follows:

PART 110—[AMENDED]

1. The authority citation for part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. Revise § 110.183(b) to read as follows:

§ 110.183 St. Johns River, Florida.

* * * * *

(b) * * *

(1) Except in cases of emergency, only vessels meeting the conditions and restrictions of this paragraph will be authorized by the Captain of the Port to anchor in the St. Johns River, as depicted on NOAA chart 11491, between the entrance buoy (STJ) and the Main Street Bridge (in position 30°19′20″N, 81°39′32″W). Vessels unable to meet any of the following conditions and restrictions must obtain specific authorization from the Captain of the Port prior to anchoring in Anchorage A or B.

(2) All vessels intending to enter and anchor in Anchorage A or B shall notify the Captain of the Port prior to entering.

(3) Anchorages A and B are temporary anchorages. Additionally, Anchorage B is used as a turning basin. Vessels may not anchor for more than 24 hours in either anchorage without specific written authorization from the Captain of the Port.

(4) All vessels at anchor must maintain a watch on VHF–FM channels 13 and 16 by a person fluent in English, and shall make a security broadcast on channel 13 upon anchoring and every 4 hours thereafter.

(5) Anchorage A is restricted to vessels less than 250 feet in length.

(6) Anchorage B is restricted to vessels with a draft of 24 feet or less, regardless of length.

(7) Any vessel transferring petroleum products within Anchorage B shall have a pilot or Docking Master aboard, and employ sufficient assist tugs to assure the safety of the vessel at anchor and any vessels transiting the area.

(8) Any vessel over 300 feet in length within Anchorage B shall have a Pilot or Docking Master aboard, and employ sufficient assist tugs to assure the safety of the vessel at anchor and any vessels transiting the area.

Dated: July 27, 1999.

G.W. Sutton,

Captain U.S. Coast Guard, Commander, Seventh Coast Guard District Acting.

[FR Doc. 99–20024 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300880; FRL–6086–9]

RIN 2070–AB78

Azoxystrobin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of azoxystrobin or methyl (*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methoxyacrylate) and its *Z* isomer in or on parsley. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on parsley in California. This regulation establishes a maximum permissible level for residues of azoxystrobin in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on December 30, 2000.

DATES: This regulation is effective August 4, 1999. Objections and requests for hearings must be received by EPA on or before October 4, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300880], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300880], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300880]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Jacqueline E. Gwaltney, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 278 Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–305–6792, gwaltney.jackie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for combined residues or residues of the fungicide azoxystrobin or methyl (*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methoxyacrylate) and its *Z* isomer, in or on parsley at 20 parts per million (ppm) for fresh and at 100 ppm for dry. This tolerance will expire and is revoked on December 30, 2000. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Findings

The Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq*. The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described in this preamble and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 FR 58135, November 13, 1996) (FRL–5572–9).

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Azoxystrobin on Parsley and FFDCA Tolerances

The State of California requested an exemption for the use of azoxystrobin (Quadris flowable fungicide) on 3,000 acres of parsley to control Septoria leaf blight disease caused by *Septoria petroselini*. After crop harvest the pathogen does not survive in the fields during the winter months and must therefore be reintroduced into parsley fields each season if disease is to reoccur. This is a seed borne-disease. When contaminated seeds are planted, the pathogen is reintroduced. The reintroduced pathogen spreads in the field through rain splash or sprinkler irrigation. During spring, the parsley growing areas have mild temperatures and high humidity favoring disease development. Disease severity is weather dependent and can vary from season to season. The most logical way of controlling this would be to eradicate this pathogen from the seeds. The spring seasons of 1995 and 1998 were wet and humid favoring disease development. In spite of using registered alternatives (copper fungicides and neem oil), California growers experienced significant losses due to high disease pressure. It is clearly documented that the registered alternatives are not effective in controlling the disease under high disease pressure. During 1999, the spring season was wet and conditions were favorable for the development of disease. It is expected that parsley growers in California will suffer significant losses during the 3rd and 4th parsley cutting without the use of azoxystrobin. EPA has authorized under FIFRA section 18 the use of azoxystrobin on parsley for control of septoria blight/septoria leaf spot in California. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of azoxystrobin in or on parsley. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on December 30, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on parsley after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether azoxystrobin meets EPA's registration requirements for use on parsley or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of azoxystrobin by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for azoxystrobin, contact the Agency's Registration Division at the address provided under the ''ADDRESSES'' section.

III. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of azoxystrobin and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for combined residues of azoxystrobin or methyl (*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methoxyacrylate) and its *Z* isomer on parsley at fresh parsley at 20 ppm and dried parsley at 100 ppm ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects and the Agency's selection of toxicological endpoints upon which to assess risk caused by azoxystrobin are discussed below.

1. *Acute toxicity*. The Agency evaluated the existing toxicology data base for azoxystrobin and did not identify an acute dietary endpoint. Therefore, a risk assessment is not required.

2. *Short- and intermediate-term toxicity*. The Agency evaluated the existing toxicology data base for short- and intermediate-term dermal and inhalation exposure and determined that this risk assessment is not required. **Note:** From a 21-day dermal toxicity study the no observed adverse effect level (NOAEL) was 1,000 milligrams/kilograms/day (mg/kg/day) at the highest dose tested (HDT) (Acute inhalation toxicity category III).

3. *Chronic toxicity*. EPA has established the Reference Dose (RfD) for azoxystrobin at 0.18 mg/kg/day. This RfD is based on on a chronic toxicity study in rats with a NOAEL of 18.2 mg/kg/day. Reduced body weights and bile duct lesions were observed at the lowest effect level (LEL) of 34 mg/kg/day. An Uncertainty Factor (UF) of 100 was used to account for both the interspecies extrapolation and the intraspecies variability.

4. *Carcinogenicity*. The EPA has determined that azoxystrobin should be classified as ''Not Likely'' to be a human carcinogen according to the proposed revised Cancer Guidelines. This classification is based on the lack of evidence of carcinogenicity in long-term rat and mouse feeding studies.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.507(a)) for the combined residues of azoxystrobin and R230310 in or on a variety of raw agricultural commodities at levels ranging from 0.010 ppm in tree nuts to 20 ppm in rice hulls. Included in these tolerances are numerous ones for animal commodities which were established in conjunction with tolerances for rice and wheat

commodities. Time-limited tolerances range from 0.1 ppm in soybeans to 30 ppm in spinach.

2. *Acute risk*. No toxicological effects which could be attributed to a single dietary exposure were observed, including developmental and neurotoxic effects in the appropriate studies. Therefore, no acute endpoint has been assigned.

3. *Chronic risk*. In conducting this chronic dietary risk assessment, EPA has made very conservative assumptions: 100% of parsley and all other commodities having azoxystrobin tolerances will contain azoxystrobin residues, and those residues will be at the level of the tolerance. Default concentration factors have been removed (i.e., set to 1) for the following commodities: grapes-juice, grapes-raisins, tomatoes-juice, tomatoes-puree, and potatoes-white (dry). Concentration factors were removed because data which were previously submitted show no concentration of residues into raisins, grape juice, tomato juice and puree or potatoes. The default ratio between grape juice and juice concentrate was retained. (Chronic RfD = 0.18 mg/kg/day)

The Novigen DEEM (Dietary Exposure Evaluation Model) system was used for this chronic dietary exposure analysis. The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1991. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure.

The existing azoxystrobin tolerances (published, pending, and including the necessary section 18 tolerances result in a theoretical maximum residue contribution (TMRC) that is equivalent to the following percentages of the Chronic RfD. As the 10x safety factor was removed, the chronic RfD is equal to the PAD (population-adjusted dose). As a result, the exposure given as a percentage of the total allowable exposure is reported as %PAD.

TABLE 1.—SUMMARY: CHRONIC EXPOSURE ANALYSIS BY THE DEEM SYSTEM

Population Subgroup	Exposure (mg/kg/day)	Percent Reference Dose[1] (%Chronic PAD/RfD)
U.S. Population (total)	.012246	6.8%
All Infants (<1 year old)	0.014830	8.2%
Nursing Infants (<1 year old)	0.003917	2.2%
Non-Nursing Infants (<1 year old)	0.019422	10.8%
Children (1-6 years old)	0.022035	12.2%
Children (7-12 years old)	0.012990	7.2%
Non-Hispanic Blacks	0.016444	9.1%
Non-Hispanic/non-white/non-black	0.021015	11.7%
Females 20+ (not pregnant or nursing)	0.012325	6.8%
Females 13+ (nursing)	0.014238	7.9%
Seniors 55+	0.013489	7.5%

[1] Percentage reference dose (% Chronic PAD) = Exposure x 100% (as RfD=PAD in this case) Chronic PAD

The subgroups listed above are: (1) The U.S. Population (total); (2) those for infants and children; and (3) the other subgroups (except regions and seasons) for which the percentage of the chronic PAD occupied is greater than that occupied by the subgroup U.S. Population (total).

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

4. *From drinking water*. Azoxystrobin is persistent and mobile. There is no established Maximum Contaminant Level for residues of azoxystrobin in drinking water. No health advisory levels for azoxystrobin in drinking water have been established. EPA has estimated the concentration of azoxystrobin in surface water based on GENEEC (Generic Estimated Environmental Concentration) modeling and in ground water based on Screening Concentration in Ground Water (SCI-GROW) modeling.

5. *Chronic risk*. Estimated environmental concentrations (EECs) using GENEEC for azoxystrobin on bananas, grapes, peaches, peanuts, pecans, tomatoes, and wheat are listed in the SWAT Team Second Interim Report (June 6, 1997).

The highest EEC for azoxystrobin in surface water (39 µg/L) is from the application of azoxystrobin to grapes. The EEC for ground water is 0.064 µg/L resulting from use on turf. For purposes of risk assessment, the maximum EEC for azoxystrobin in drinking water (39 µg/L) should be used for comparison to the back-calculated human health drinking water levels of comparison (DWLOC) for the chronic (non-cancer) endpoint. These DWLOCs for various population categories are summarized in the following table.

TABLE 2.—DRINKING WATER LEVELS OF COMPARISON FOR CHRONIC EXPOSURE[1]

Population Category[2]	Chronic RfD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure[3] (mg/kg/day)	DWLOC[4,5,6](µg/L)
U.S. Population (total)	0.18	0.012246	0.168	5,900
Females 13+ (nursing)	0.18	0.014238	0.166	5,000

TABLE 2.—DRINKING WATER LEVELS OF COMPARISON FOR CHRONIC EXPOSURE[1]—Continued

Population Category[2]	Chronic RfD (mg/kg/day)	Food Exposure (mg/kg/day)	Max. Water Exposure[3] (mg/kg/day)	DWLOC[4,5,6](µg/L)
Non-nursing Infants	0.18	0.019422	0.161	1,600

[1] Values are expressed to 2 significant figures.
[2] Within each of these categories, the subgroup with the highest food exposure was selected.
[3] Maximum Water Exposure (Chronic) (mg/kg/day) = Chronic RfD (mg/kg/day) - Food Exposure (mg/kg/day).
[4] DWLOC(µg/L) = Max. water exposure (mg/kg/day) x body wt (kg) ÷ [(10^{-3} mg/µg) * water consumed daily (L/day)].
[5] HED Default body weights are: General U.S. Population, 70 kg; Males (13+ years old), 70 kg; Females (13+ years old), 60 kg; Other Adult Populations, 70 kg; and, All Infants/Children, 10 kg.
[6] HED Default daily drinking rates are 2 L/day for adults and 1 L/day for children.

The estimated maximum concentrations of azoxystrobin in surface water and ground water are less than EPA's levels of comparison for azoxystrobin in drinking water as a contribution to chronic aggregate exposure. Therefore, taking into account the present uses and uses proposed in this section 18 and the fact that GENEEC can substantially overestimate (by up to 3X) true pesticide concentrations in drinking water, EPA concludes with reasonable certainty that residues of azoxystrobin in drinking water (when considered along with other sources of chronic exposure for which EPA has reliable data) would not result in an unacceptable estimate of chronic (non-cancer) aggregate human health risk at this time.

EPA bases this determination on a comparison of estimated average concentrations of azoxystrobin in surface and ground water to back-calculated DWLOCs for azoxystrobin in drinking water. These levels of comparison in drinking water were determined after EPA considered all other non-occupational human exposures for which it has reliable data, including all current uses, and the use considered in this action. The estimate of azoxystrobin in surface water is derived from a water quality model that uses conservative assumptions (health-protective) regarding the pesticide transport from the point of application to surface and ground water. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of azoxystrobin in drinking water as a part of the chronic (non-cancer) aggregate risk assessment process.

6. *From non-dietary uses.* Azoxystrobin (Heritage formulation) is registered for residential use on ornamental turf. Short-term exposure may occur for residential handlers and for postapplication activities. Because the TES Committee (November 12, 1996) did not select applicable acute dietary or short-term dermal or inhalation endpoints, a short-term risk assessment is not required. No toxicity was observed at the limit dose (1,000 mg/kg body wt/day) in a 21-day dermal study and an acute inhalation study indicated low toxicity. Intermediate-term and chronic exposures are not expected for residential use.

7. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. This risk assessment is not applicable since no indoor and outdoor residential exposure uses are currently registered for azoxystrobin.

C. Aggregate Cancer Risk for U.S. Population

1. *Short- and intermediate-term aggregate risk.* There are no applicable endpoints for short-term exposure (TES Committee, November 12, 1996); therefore, a short-term aggregate risk assessment is not required. Intermediate-term exposure is not expected for registered residential uses; therefore, an intermediate-term risk assessment is not required.

2. *Chronic aggregate risk.* Using the conservative TMRC exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, EPA has estimated the exposure to azoxystrobin from food will utilize 11.7% of the chronic PAD for the most highly exposed adult population subgroup (Non-Hispanic/non-white/non-black). The exposure to azoxystrobin from food for infants and children will utilize from 2.2% to 12.2% of the chronic PAD. EPA generally has no concern for exposures below 100% of the chronic PAD because the chronic PAD represents the level at which daily aggregate oral exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to azoxystrobin in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the chronic PAD. Chronic exposures are not expected for residential uses. EPA concludes that there is a reasonable certainty that no harm will result to adults, infants, or children from chronic aggregate exposure to azoxystrobin residues.

D. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children— i. In general.* In assessing the potential for additional sensitivity of infants and children to residues of azoxystrobin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*— a. *Rabbit.* In the developmental toxicity study in rabbits, developmental NOEL was 500 mg/kg/day, at the HDT. Because there were no treatment-related effects, the developmental LEL was ≧500 mg/kg/day. The maternal NOEL was 150 mg/kg/day. The maternal LEL of 500 mg/kg/day was based on decreased body weight gain during dosing.

b. *Rat.* In the developmental toxicity study in rats, the maternal (systemic) NOAEL was not established. The maternal LEL of 25 mg/kg/day at the lowest dose tested (LDT) was based on increased salivation. The developmental (fetal) NOAEL was 100 mg/kg/day (HDT).

iii. *Reproductive toxicity study*. In the reproductive toxicity study in rats, the parental (systemic) NOAEL was 32.3 mg/kg/day. The parental LEL of 165.4 mg/kg/day was based on decreased body weights in males and females, decreased food consumption and increased adjusted liver weights in females, and cholangitis. The reproductive NOAEL was 32.3 mg/kg/day. The reproductive LEL of 165.4 mg/kg/day was based on increased weanling liver weights and decreased body weights for pups of both generations.

iv. *Prenatal and postnatal sensitivity*. The prenatal and postnatal toxicology data base for azoxystrobin is complete with respect to current toxicological data requirements. The results of these studies indicate that infants and children are not more sensitive to exposure, based on the results of the rat and rabbit developmental toxicity studies and the 2-generation reproductive toxicity study in rats. The additional 10X safety factor to account for sensitivity of infants and children was removed by an ad hoc FQPA Safety Factor Committee.

v. *Conclusion*. Therefore, the tolerance is established for combined residues or residues of azoxystrobin or methyl (*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methoxyacrylate) and its *Z* isomer in parsley at fresh parsley at 20 ppm and dried parsley at 100 ppm ppm. The results of these studies indicate that infants and children are not more sensitive to exposure, based on the results of the rat and rabbit developmental toxicity studies and the 2-generation reproductive toxicity study in rats. The additional 10X safety factor to account for sensitivity of infants and children was removed by an ad hoc FQPA Safety Factor Committee.

3. *Chronic risk*. Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to azoxystrobin from food will utilize 2 to 5% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to azoxystrobin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to azoxystrobin residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

1. *Plants*. The nature of the residue in plants is adequately understood. The HED Metabolism Assessment Review Committee (MARC) met on November 10, 1998 and determined that the residue of concern in plants is azoxystrobin and its *Z* isomer, R230310. The Committee based this determination on the results of metabolism studies done on grapes, peanuts, and wheat. In all three studies the major residues were azoxystrobin and R230310. EPA will translate these data to parsley for this section 18.

2. *Animals*. As there are no animal feed items associated with this section 18, the nature of the residue in animals is not of concern.

B. Analytical Enforcement Methodology

An adequate analytical method is available for enforcement of the proposed tolerances. Method RAM 243 (GC/NPD) can be used for parsley. The limit of quantitation for spinach was 0.01 ppm. This method has been validated by the Agency's Analytical Chemistry Laboratory and will be submitted to the Food and Drug Administration for inclusion in the Pesticide Analytical Manual II.

C. Magnitude of the Residues

1. *Plants*. IR-4 performed five field trials on spinach. In each trial, six applications were made at an application rate of 0.25 lb ai/A. The PHI was either 6 or 7 days. This use pattern is the same as that proposed for parsley.

2. *Animals*. There are no animal feed items associated with parsley; therefore, the magnitude of the residue in animals is not relevant to this petition.

D. Rotational Crop Restrictions

Rotational crop data were submitted in pesticide petition #6F4762. Based on this information, a 45-day plantback interval is appropriate for all crops other than those with azoxystrobin tolerances.

E. International Residue Limits

There are no CODEX, Canadian, or Mexican Maximum Residue Limits (MRL) for azoxystrobin on parsley. Thus, harmonization is not an issue for this section 18 request.

V. Conclusion

Therefore, the tolerance is established for combined residues or residues of azoxystrobin or methyl (*E*)-2-[2-[6-(2-cyanophenoxy)pyrimidin-4-yloxy]phenyl]-3-methoxyacrylate) and its *Z* isomer in fresh parsley at 20 ppm and dried parsley at 100 ppm.

VI. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 4, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697,

tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VII. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300880] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VIII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specficed by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an

effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IX. 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 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).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 22, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a, 321q and 371.

2. In § 180.507 (b), by revising two commodities in the table to read as follows:

§ 180.507 Azoxystrobin; tolerances for residues.

* * * * *

(b)* * *

Commodity	Parts per million	Expiration/ revocation date
* *	* *	*
Parsley, dried	20.0	12/30/00
Parsley, fresh	100.0	12/30/00
* *	* *	*

* * * * *

[FR Doc. 99–19910 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 981231333–8333–01; I.D. 072699C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustments

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces changes to the trip limits in the Pacific Coast groundfish limited entry fisheries for *Sebastes* complex species north of Cape Mendocino, and for yellowtail rockfish and for rockfish other than yellowtail and canary rockfish within the *Sebastes* complex, north of Cape Mendocino. These actions, which are authorized by the Pacific Coast groundfish fishery management plan (FMP), are intended to help the fisheries achieve optimum yields (OYs).

DATES: Effective 0001 hours local time (l.t.) August 1, 1999. For vessels operating in the B platoon, effective 0001 hours l.t. August 16, 1999. These changes remain in effect, unless modified, superseded or rescinded, until the effective date of the 2000 annual specifications and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**. Comments on this rule will be accepted through August 19, 1999.

ADDRESSES: Submit comments to William Stelle, Jr., Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115–0070; or Rodney McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Katherine King or Yvonne deReynier, Northwest Region, NMFS, 206–526–6140.

SUPPLEMENTARY INFORMATION: The following changes to current management measures were recommended by the Pacific Fishery Management Council (Council), in consultation with the States of Washington, Oregon, and California, at its June 22 through 25, 1999, meeting in Portland, OR. The adjusted trip limits are calculated to provide a year-long fishing opportunity. Pacific Coast groundfish landings will be monitored throughout the year, and further adjustments to the cumulative trip limits may be made as necessary.

Currently the limited entry cumulative landings limit for *Sebastes* complex species taken north of Cape Mendocino is 30,000 lb (13,608 kg) per 2-month period. Within that limit and also north of Cape Mendocino, the cumulative landings limit for yellowtail rockfish is 16,000 lb (7,257 kg) per 2-month period.

The best available information at the June Council meeting indicated that 1,107 mt of *Sebastes* complex species had been landed north of Cape Mendocino through May 31, 1999, which is 69 percent of the 1,613 mt expected *Sebastes* complex landings for the January 1 through May 31 period. Within those *Sebastes* complex landings, 630 mt of yellowtail rockfish had been landed north of Cape Mendocino through May 31, 1999, which is 76 percent of the 832 mt expected yellowtail rockfish landings for the January 1 through May 31 period. These relatively low landings rates may be due to several factors, including poor winter weather and unusual La Nina ocean conditions. If the fishery were to continue under current landings limits, the fleet would not harvest its allocations for these species by the end of the year and, therefore the fishery would not achieve OY. For this reason, the Council recommended that the 2-month cumulative trip limit for *Sebastes* complex species taken north of Cape Mendocino be increased to 35,000 lb (15,876 kg) for the period of August 1 through September 30. Within that limit, the Council recommended that the 2-month cumulative trip limit for yellowtail rockfish taken north of Cape Mendocino be increased to 20,000 lb (9,072 kg) for the period of August 1 through September 30. The Council further recommended adding a

cumulative trip limit for rockfish, other than yellowtail rockfish and canary rockfish, taken under the *Sebastes* complex landings limit and north of Cape Mendocino. Within the *Sebastes* complex limit, the Council recommended an ''other rockfish'' 2-month cumulative trip limit of 10,000 lb (4,536 kg) for the period of August 1 through September 30. The purpose of this ''other rockfish'' limit is to discourage effort shifts to other rockfish species with much smaller harvest guidelines.

Beginning October 1, the 2-month cumulative trip limits for all limited entry landings will convert to 1-month limits, as previously announced in the **Federal Register**, including limits for the *Sebastes* complex, yellowtail rockfish and canary rockfish north of Cape Mendocino. Additionally, the ''other rockfish'' 2-month cumulative trip limit will convert to a monthly cumulative trip limit of 4,000 lb (1,814 kg) north of Cape Mendocino.

NMFS Action

For the reasons stated previously, NMFS concurs with the Council's recommendations and announces the following changes to the 1999 annual management measures (64 FR 1316, January 8, 1999; 64 FR 16862, April 7, 1999, and 64 FR 24062, May 5, 1999) as amended. The annual management measures are amended as follows:

1. In section IV, under B. *Limited Entry Fishery*, table 3 under paragraph B, (2)(b)(i) is revised to read as follows:

B. Limited Entry Fishery

* * * * *

(2) * * *

(b) * * *

(i) * * *

TABLE 3.—SEBASTES COMPLEX AND ITS COMPONENT SPECIES

Phase	Cumulative trip limit periods	Cumulative trip limits (in pounds)							Length of cumulative trip limit period (months)
		Sebastes complex (north and south of Cape Mendocino)		Yellowtail rockfish [1] (north of Cape Mendocino)	Rockfish other than yellowtail and canary [1] (north of Cape Mendocino)	Canary rockfish [1] (north and south of Cape Mendocino)		Bocaccio [1] (south of Cape Mendocino)	
		North	South			North	South		
I	Jan. 1–Mar. 31	24,000	13,000	15,000		9,000	9,000	750 per month	3
		(10,886 kg)	(5,897 kg)	(6,804 kg)		(4,082 kg)	(4,082 kg)	(340 kg)	
II	Apr. 1–May 31	25,000	6,500	13,000		9,000	6,500	750 per month	2
		(11,340 kg)	(2,948 kg)	(5,897 kg)		(4,082 kg)	(2,948 kg)	(340 kg)	
	June 1–July 31	30,000	3,500	16,000		14,000	3,500	[2] 1,000	2
		(13,608 kg)	(1,588 kg)	(7,257 kg)		(6,350 kg)	(1,588 kg)	(454 kg)	
	Aug. 1–Sept. 30	35,000	3,500	20,000	10,000	14,000	3,500	[2] 1,000	2
		(15,876 kg)	(1,588 kg)	(9,072 kg)	(4,536 kg)	(6,350 kg)	(1,588 kg)	(454 kg)	
III	Oct. 1–31	10,000	5,000	5,000	4,000	3,000	3,000	500	1
	Nov. 1–30	10,000	5,000	5,000	4,000	3,000	3,000	500	1
	Dec. 1–31	10,000	5,000	5,000	4,000	3,000	3,000	500	1
		(4,536 kg)	(2,268 kg)	(2,268 kg)	(1,814 kg)	(1,361 kg)	(1,361 kg)	(227 kg)	

[1] Also counts toward the overall *Sebastes* complex limit.

[2] No more than 500 lb (227 kg) of bocaccio may be landed per trip, which counts towards the cumulative trip limits for bocaccio and the *Sebastes* complex south of Cape Mendocino.

* * * * *

Classification

These actions are authorized by the regulations implementing the FMP, and are based on the most recent data available. The aggregate data upon which these actions are based are available for public inspection at the office of the Administrator, Northwest Region, NMFS (see **ADDRESSES**) during business hours.

NMFS finds good cause to waive the requirement to provide prior notice and an opportunity for public comment on this action pursuant to 5 U.S.C. 553(b)(B) because providing prior notice and opportunity for comment would be impractical. It would be impractical because the cumulative trip limit period begins on August 1, 1999, and affording additional notice and opportunity for public comment would impede the due and timely execution of the agency's function of managing fisheries to achieve OY.

NMFS also finds good cause to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d)(3), because such a delay would be contrary to the public interest. This action should be implemented at the beginning of the cumulative trip limit period to avoid confusion and to maximize the potential that fishers will harvest the allocation. For these reasons, good cause exists to waive the 30-day delay in effectiveness.

These actions are taken under the authority of 50 CFR 660.323(b)(1), and are exempt from review under E.O. 12866.

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

Dated: July 29, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–19932 Filed 7–29–99; 4:02 pm]

BILLING CODE 3520–22–P

Proposed Rules

Federal Register
Vol. 64, No. 149
Wednesday, August 4, 1999

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Dairy Tariff-Rate Import Quota Licensing

AGENCY: Office of the Secretary, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would make two revisions to Import Regulation 1, Revision 8, which governs the administration of the tariff-rate import quota (TRQ) licensing system for certain dairy products. It would broaden the definition for ''Licensing Authority'' and provide for the review and correction of errors made by officers or employees of the Federal Government.

DATES: Comments should be received on October 4, 1999 to be assured of consideration.

ADDRESSES: Comments should be sent to Richard Warsack, Dairy Import Quota Manager, Import Policies and Programs Division, 1400 Independence Avenue SW, AG BOX 1021, U.S. Department of Agriculture, Washington, DC 20250–1021 or e-mail at warsack@fas.usda.gov. All comments received will be available for public inspection in room 5541–S at the above address and during normal business hours.

FOR FURTHER INFORMATION CONTACT: Richard Warsack, Import Policies and Programs Division, 1400 Independence Avenue, SW, AG BOX 1021, U.S. Department of Agriculture, Washington, DC 20250–1021, or telephone (202) 720–2916, or e-mail at warsack@fas.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12372

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988. The provisions of this proposed rule would have preemptive effect with respect to any state or local laws, regulations, or policies which conflict with such provisions or which otherwise impede their full implementation. The proposed rule would not have retroactive effect. The rule does not require that administrative remedies be exhausted before suit may be filed.

Executive Order 12866

This proposed rule is issued in conformance with Executive Order 12866. It has been determined to be not significant for the purpose of E.O. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

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

Paperwork Reduction Act

In accordance with provisions of the Paperwork Reduction Act of 1995, the current information collection is approved by OMB under OMB control number 0551–0001, expiring on October 31, 2000. The proposed rule would not add a paperwork burden on the public.

Background

This proposed rule would make two revisions to Import Regulation 1, Revision 8, that governs the administration of the import licensing system for certain dairy products, which are subject to TRQs provided for in the Harmonized Tariff Schedule of the United States (HTS). Licenses issued annually by the U.S. Department of Agriculture qualify importers to enter specific quantities of certain dairy products under the low-tier tariff rates established in the HTS. In addition, it redesignates § 6.35 as § 6.36; and § 6.36 as § 6.37.

Section 6.21 Definitions

The proposed rule amends section 6.21 to remove the definition of ''Licensing Authority'' as the ''Dairy Import Quota Manager, Import Policies and Programs Division, Foreign Agricultural Service, U.S. Department of Agriculture'' and inserts in lieu thereof ''Any officer or employee of the U.S. Department of Agriculture designated to act in this position by the Director of the Division charged with managing the Dairy Tariff-Rate Import Quota Licensing System, currently the Import Policies and Programs Division of the Foreign Agricultural Service.'' The proposed amendment would give administrative flexibility to ensure that the functions of the Licensing Authority would not be interrupted during reorganizations or personnel changes.

Section 6.35 Correction of Errors

The proposed rule adds a new section 6.35, Correction of errors. This section provides that if a person demonstrates, to the satisfaction of the Licensing Authority, that errors were made by officers or employees of the United States Government, the Licensing Authority will review and rectify the errors to the extent possible under the regulation. Errors related to activities conducted during each calendar year must be brought to the attention of the Licensing Authority no later than March 15 of the following calendar year. This section also grants the Licensing Authority the authority to transfer the applicable amount of the TRQ from Appendix 2 back to Appendix 1, so the historical license can be issued in the following calendar year. In addition, it provides for the publication of the cumulative changes to the appendixes in the **Federal Register**.

List of Subjects in 7 CFR Part 6

Agricultural commodities, Cheese, Dairy products, Reports and recordkeeping requirements.

Proposed Rule

Accordingly, it is proposed to amend 7 CFR part 6 subpart—Tariff-Rate Import Quota Licensing as follows:

Subpart—Tariff-Rate Import Quota Licensing

1. The authority citation for part 6 continues to read as follows:

Authority: Additional U.S. Notes 6, 7, 8, 12, 14, 16–23 and 25 to Chapter 4 and General Note 15 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), Pub. L. 97–258, 96 Stat. 1051, as

amended (31 U.S.C. 9701), and secs. 103 and 104, Pub. L. 103–465, 108 Stat. 4819 (19 U.S.C. 3513 and 3601).

2. Amend § 6.21 by revising the definition of ''Licensing Authority'' to read as follows:

§ 6.21 Definitions.

* * * * *

Licensing Authority. Any officer or employee of the U.S. Department of Agriculture designated to act in this position by the Director of the Division charged with managing the Dairy Tariff-Rate Import Quota Licensing System, currently the Import Policies and Programs Division of the Foreign Agricultural Service.

3. Redesignated §§ 6.35 and 6.36 as §§ 6.36 and 6.37, respectively.

4. Add a new § 6.35 to read as follows:

§ 6.35 Correction of errors.

(a) If a person demonstrates, to the satisfaction of the Licensing Authority, that errors were made by officers or employees of the United States Government, the Licensing Authority will review and rectify the errors to the extent permitted under this subpart.

(b) To be considered, a person must provide sufficient documentation regarding the error to the Licensing Authority not later than March 15 of the calendar year following the calendar year in which the error was alleged to have been committed.

(c) If the error resulted in the loss of a historical license by a license holder, the Licensing Authority will transfer the amount of such license from Appendix 2 to Appendix 1 in order to provide for the issuance of such license in the calendar year following the calendar year for which the license was not issued. The cumulative annual transfers to Appendix 1 in accordance with this paragraph will be published in the **Federal Register**.

Signed at Washington, DC on July 26, 1999.

Timothy J. Galvin,

Administrator, Foreign Agricultural Service.

[FR Doc. 99–19561 Filed 8–3–99; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–119–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330–301, and Model A340–211, –212, –311, and –312 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A330–301, and Model A340–211, –212, –311, and –312 series airplanes. This proposal would require repetitive detailed visual inspections of the fuselage belly fairing support structure to detect cracks; and corrective action, if necessary. This proposal also would provide for an optional terminating action for the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct fatigue cracking of the fuselage belly fairing support structure, which could result in reduced structural integrity of the fuselage belly fairing support structure.

DATES: Comments must be received by September 3, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–119–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–119–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–119–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330–301, and Model A340–211, –212, –311, and –312 series airplanes. The DGAC advises that, during fatigue tests, cracks were found in the fuselage belly fairing support structure. This condition, if not corrected, could result in reduced structural integrity of the fuselage belly fairing support structure.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A330–53–3029, dated June 26, 1995 (for Model A330 series airplanes), and A340–53–4038, Revision 1, dated February 6, 1996 (for Model A340 series

airplanes), which describe procedures for performing repetitive detailed visual inspections of particular parts of the fuselage belly fairing support structure for cracks, and repair, if necessary.

Airbus also has issued Service Bulletins A330–53–3012, dated June 26, 1995 (for Model A330 series airplanes), and A340–53–4020, dated June 26, 1996 (for Model A340 series airplanes), which describe procedures for modification of the fuselage belly fairing support structure. The modification involves removing certain parts and replacing the parts with new, improved parts. Accomplishment of this modification would eliminate the need for the repetitive inspections specified in Airbus Service Bulletins A330–53–3029 (for Model A330 series airplanes) and A340–53–4038 (for Model A340 series airplanes).

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified Airbus Service Bulletins A330–53–3029 and A340–53–4038 as mandatory and issued French airworthiness directives 95–256–023(B) R1 and 95–258–037(B) R1, both dated December 17, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in Airbus service bulletins described previously, except as discussed below. This proposed AD also would provide for optional terminating action for the repetitive inspections.

Operators should note that, in consonance with the findings of the DGAC, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect cracking before it represents a hazard to the airplanes.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, unlike the inspection procedures described in Airbus Service Bulletins A330–53–3029 (for Model A330 series airplanes) and A340–53–4038 (for Model A340 series airplanes), this proposed AD would not permit further flight if cracking is detected. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any structure that is found to be cracked must be repaired prior to further flight, in accordance with the applicable service bulletins.

Cost Impact

Currently, there are no Airbus Model A330–301 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 5 work hours to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $300 per airplane, per inspection cycle.

Also, there are no Airbus Model A340–211, –212, –311, and –312 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately 6 work hours to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $360 per airplane, per inspection cycle.

Should an affected airplane be imported and placed on the U.S. Register and an operator elect to accomplish the optional terminating action rather than continue the repetitive inspections, it would take approximately between 10 and 178 hours per airplane (for Model A330 series airplanes), or between 10 and 188 hours per airplane (for Model A340 series airplanes), at an average labor rate of $60 per work hour. Required parts would cost approximately between $1,313 and $13,262 (for Model A330 series airplanes) or between $1,049 and $14,311 (for Model A340 series airplanes), per airplane. Based on these figures, the cost impact of this optional terminating action is estimated to be between $1,913 and $23,942 (for Model A330 series airplanes) or between $1,649 and $25,591 (for Model A340 series airplanes), per airplane.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 99–NM–119–AD.

Applicability: Model A330–301 series airplanes, except those airplanes on which Airbus Modification 42332 (reference Airbus Service Bulletin A330–53–3012, dated June 26, 1995) has been accomplished; and Model

A340–211, −212, −311, and −312 series airplanes, except those airplanes on which Airbus Modification 42331 or 42332 (reference Airbus Service Bulletin A340–53–4020, dated June 26, 1995), has been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the fuselage belly fairing support structure, which could result in reduced structural integrity of the fuselage belly fairing support structure, accomplish the following:

Repetitive Inspection

(a) Prior to the accumulation of 4,000 total flight cycles, or within 500 flight hours after the effective date of this AD, whichever occurs later, perform a detailed visual inspection of the fuselage belly fairing support structure for cracks, in accordance with Airbus Service Bulletin A330–53–3029, dated June 26, 1995 (for Model A330 series airplanes); or A340–53–4038, Revision 1, dated February 6, 1996 (for Model A340 series airplanes); as applicable. Thereafter, repeat the inspection at intervals not to exceed 2,800 flight cycles.

Repair

(b) If any crack is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with Airbus Service Bulletin A330–53–3012, dated June 26, 1995 (for Model A330 series airplanes); or A340–53–4020, dated June 26, 1995 (for Model A340 series airplanes); as applicable. Accomplishment of this action constitutes terminating action for the repetitive inspections required by this AD for only that repaired part.

Optional Terminating Action

(c) Modification of the belly fairing support structure in accordance with Airbus Service Bulletin A330–53–3012, dated June 26, 1995 (for Model A330 series airplanes); or A340–53–4020, dated June 26, 1995 (for Model A340 series airplanes); as applicable; constitutes terminating action for the requirements of this AD.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directives 95–256–023(B) R1 and 95–258–037(B) R1, both dated December 17, 1997.

Issued in Renton, Washington, on July 29, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20067 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–52–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–60 series airplanes. This proposal would require repetitive inspections of the elevator trim control cables for signs of wear damage or broken wires; replacement of damaged or broken cables with certain new cables; and replacement of all 7x7 cables with 7×19 cables. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the elevator trim cable due to fatigue cracking, which if not corrected, could result in reduced controllability of the airplane.

DATES: Comments must be received by September 3, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–52–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the

FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all Short Brothers Model SD3–60 series airplanes. The CAA advises that three incidents have occurred in which segments of the elevator trim cabling system have failed. In each case, the cable fractured during flight, and on two of the airplanes, the cable segments that control the nose-up trim failed at identical locations adjacent to pulleys. Metallurgical examinations established that all three separations were the result of fatigue cracking of the individual wire strands in the cable. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Bombardier has issued Shorts Service Bulletin SD360–27–27, Revision 1, dated April 1, 1999, which describes procedures for repetitive inspections of the elevator trim control cables for signs of wear damage or broken wires. The service bulletin also describes procedures for replacement of any cable with worn, broken or frayed wires; and replacement of all 7×7 cables with 7×19 cables. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 016–11–98 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 45 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed cable inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the cable inspection proposed by this AD on U.S. operators is estimated to be $54,000, or $1,200 per airplane, per inspection cycle.

The FAA estimates that it would take approximately 75 work hours per airplane to accomplish the proposed cable replacement, and that the average labor is $60 per work hour. Required parts would cost approximately $4,500 per airplane. Based on these figures, the cost impact of the cable replacement proposed by this AD on U.S. operators is estimated to be $405,000, or $9,000 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Short Brothers, PLC: Docket 99–NM–52–AD.

Applicability: All Model SD3–60 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the elevator trim cable due to fatigue, which if not corrected, could result in reduced controllability of the airplane, accomplish the following:

Inspection

(a) Within 12 months after the effective date of this AD, perform a visual inspection to detect wear damage or broken wires of the elevator trim cables, in accordance with Shorts Service Bulletin SD3–60–27–27, Revision 1, dated April 1, 1999.

(1) If no wear damage or broken wire is detected, repeat the inspection specified in paragraph (a) of this AD thereafter at intervals not to exceed 12 months or 2,400 flight hours, whichever occurs first.

(2) If any wear damage or broken wire is detected, prior to further flight, replace the damaged cable with a 7×19 cable in accordance with the service bulletin. Repeat

the inspection specified in paragraph (a) of this AD thereafter at intervals not to exceed 12 months or 2,400 flight hours, whichever occurs first.

Replacement and Inspection

(b) Prior to the accumulation of 10,000 total flight hours, or within 12 months after the effective date of this AD, whichever occurs later, replace all 7×7 elevator trim cables with 7×19 cables in accordance with Shorts Service Bulletin SD3–60–27–27, Revision 1, dated April 1, 1999. Repeat the inspection specified in paragraph (a) of this AD thereafter at intervals not to exceed 12 months or 2,400 flight hours, whichever occurs first.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in the British airworthiness directive 016–11–98.

Issued in Renton, Washington, on July 28, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20066 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–96–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A319–131, A320–232 and –233, and A321–131 and –231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A319–131, A320–232 and –233, and A321–131 and –231 series airplanes. This proposal would require replacement of all titanium thrust links with steel thrust links. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the titanium thrust links due to the life limit of the thrust links, which in combination with other failures, could result in the separation of an engine from the airplane.

DATES: Comments must be received by September 3, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–96–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–96–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–96–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Model A319–131, A320–232 and –233, and A321–131 and –231 series airplanes. The DGAC advises that fatigue tests have revealed that the fatigue life limit of the thrust link was not appropriate for the objective life limit of the airplane. Failure of the titanium thrust link in combination with other failures, if not corrected, could result in the separation of an engine from the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–71–1020, dated May 25, 1998, which describes procedures for replacement of all titanium thrust links with steel thrust links. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The Direction Générale de l'Aviation Civile (DGAC) classified this service bulletin as mandatory and issued French airworthiness directive 1999–050–126(B), dated February 10, 1999, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to

this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Other Relevant Rulemaking

The FAA has previously issued notice of proposed rulemaking (NPRM), Docket No. 98–NM–284–AD (63 FR 64654, November 23, 1998), that concerns the forward engine mount on certain Airbus Model A319, A320, and A321 series airplanes. The NPRM would require a one-time inspection of the forward engine mount assembly of the left and right engines to verify that the part number on each assembly is correct; re-identification of the forward engine mount assembly; and follow-on actions, if necessary. These actions should be accomplished prior to or concurrently with the actions of this proposed AD. This proposed AD would not affect the proposed requirements of NPRM, Docket No. 98–NM–284–AD.

Cost Impact

The FAA estimates that 65 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would be supplied by the engine manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $11,700, or $180 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 99–NM–96–AD.

Applicability: Model A319–131, A320–232 and –233, and A321–131 and –231 series airplanes; except those airplanes on which Airbus Modification 26506 (reference Airbus Service Bulletin A320–71–1020, dated May 25, 1998) has been accomplished in production; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the titanium thrust links due to the life limit of the thrust links, which in combination with other failures, could result in the separation of an engine from the airplane, accomplish the following:

(a) Replace all titanium thrust links with steel thrust links in accordance with Airbus Service Bulletin A320–71–1020, dated May 25, 1998; at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Prior to the accumulation of the total flight cycles specified for each particular model in the tables of paragraph B.(5), ''Accomplishment Timescale,'' of the service bulletin.

(2) Within 15 months after the effective date of this AD, or at the next engine removal, whichever occurs first.

Alternative Methods of Compliance

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Note 3: The subject of this AD is addressed in French airworthiness directive 1999–050–126(B), dated February 10, 1999.

Issued in Renton, Washington, on July 28, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20065 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–60–AD]

Airworthiness Directives; Eurocopter France Model SA–365N, SA–365N1, and AS–365N2 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to Eurocopter France Model SA–365N, SA–365N1, and AS–365N2 helicopters. This proposal would require replacing certain defective electrical modules with airworthy electrical modules. This proposal is prompted by the discovery of several defective electrical modules. The actions specified by the proposed AD are intended to prevent loss of electrical continuity, which could cause loss of critical rotorcraft electrical systems and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before October 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–60–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert McCallister, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5121, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–60–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–60–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model SA–365N, SA–365N1, and AS–365N2 helicopters. The DGAC advises of the discovery of malfunctions due to faulty ''CONNECTRAL'' modules on electrical circuits of a Super Puma AS332 helicopter.

Eurocopter France issued Service Bulletin No. 01.00.47R1, dated December 18, 1998 (S/B), for Model SA–365N, SA–365N1, and AS–365N2 helicopters. The S/B specifies inspecting each ''CONNECTRAL'' green electrical module manufactured from week 95/16 through week 96/21. The manufacturing code identifies the year and week of module production. The connectral modules manufactured from week 95/16 to week 96/21 and identified by a white spot on the front face are not subject to the requirements of the S/B. The DGAC classified this S/B as mandatory and issued AD No. 1998–253–044(A)R1, dated February 10, 1999, to ensure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter France Model SA–365N, SA–365N1, and AS–365N2 helicopters of the same type design registered in the United States, the proposed AD would require replacing each ''CONNECTRAL'' green electrical module that does not have a white dot on the face and that has a manufacturing code of 95/16 through 96/21 with an airworthy electrical module. Those manufacturing codes identify modules manufactured between the beginning of the 16th week of 1995 and the end of the 21st week of 1996. Replacing the electrical modules with a white dot on the face is not required because the manufacturer has verified the proper functioning of these units.

The FAA estimates that 41 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 300 work hours to replace all affected modules, and that the average labor rate is $60 per work hour. Required parts would cost approximately $29,520, but the helicopter manufacturer has stated that the parts would be provided at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $738,000 to replace all affected modules.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Eurocopter France: Docket No. 98–SW–60–AD.

Applicability: Model SA–365N, SA–365N1, and AS–365N2 helicopters, certificated in any category.

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

Compliance: Required within 200 hours time-in-service (TIS) or within the next 3 calendar months, whichever occurs first, unless accomplished previously.

To prevent loss of electrical continuity, which could cause loss of critical rotorcraft electrical systems and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove and replace each ''CONNECTRAL'' green electrical module that does not have a white dot on the face and that has a manufacturing code of 95/16 through 96/21 with an airworthy electrical module.

Note 2: Eurocopter France Service Bulletin No. 01.00.47R1, dated December 18, 1998, pertains to the subject of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

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

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

Note 4: The subject of this AD is addressed in Direction Generale De L'Aviation Civile (France) AD No.1998–253–044(A)R1, dated February 10, 1999.

Issued in Fort Worth, Texas, on July 28, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–20064 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–12–AD]

Airworthiness Directives; Robinson Helicopter Company (Robinson) Model R44 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to Robinson Model R44 helicopters, that currently requires removing and replacing the pilot's cyclic control grip assembly (grip assembly) with an airworthy grip assembly. This action would require the same actions as the current AD but would change a part number referenced in the current AD. This proposal is prompted by the discovery of an error in the part number (P/N) of the current AD. The actions specified by the proposed AD are intended to prevent use of a grip assembly that may crack, resulting in failure of the grip assembly and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before October 4, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–12–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, Airframe Branch, 3960 Paramount Boulevard, Lakewood, California 90712, telephone (562) 627–5232, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–12–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–12–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

On October 7, 1998, the FAA issued AD 98–21–36, Amendment 39–10845 (63 FR 55783, October 19, 1998), to require removing and replacing the grip

assembly with an airworthy grip assembly. That action was prompted by a report of a crack in the welded corner of a grip assembly. The requirements of that AD are intended to prevent use of a grip assembly that may crack, resulting in failure of the grip assembly and subsequent loss of control of the helicopter.

Since the issuance of that AD, the FAA has discovered that the AD contained an error. The P/N on the replacement grip assembly was incorrectly stated as P/N A756–6, Revision M (or later). It should have stated P/N A756–6, Revision O.

Since an unsafe condition has been identified that is likely to exist or develop on other Robinson R44 helicopters of the same type design, the proposed AD would supersede AD 98–21–36 to require removing the grip assembly, P/N A756–6, Revision N or prior revision, and replacing it with an airworthy grip assembly other than P/N A765–6, Revision A through N.

The FAA estimates that 5 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $576 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,080.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10845 (63 FR 55783), Docket No. 97–SW–01–AD, and by adding a new airworthiness directive (AD), to read as follows:

Robinson Helicopter Company: Docket No. 99–SW–12–AD. Supersedes AD 98–21–36, Amendment 39–10845, Docket No. 97–SW–01–AD.

Applicability: Model R44 helicopters, serial numbers (S/N) 0001 through 0159, except S/N's 0143, 0150, and 0156, with pilot's cyclic control grip assembly (grip assembly), part number (P/N) A756–6, Revision N or prior revision, installed, certificated in any category.

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

Compliance: Within 25 hours time-in-service or 30 calendar days, whichever occurs first, unless accomplished previously.

To prevent use of a grip assembly that may crack, resulting in failure of the grip assembly and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the grip assembly, P/N A756–6 Revision A through N, and replace it with an airworthy grip assembly other than P/N A756–6, Revision A through N.

Note 2: Robinson KI–112 R44 Pilot's Grip Assembly Upgrade Kit instructions, dated December 20, 1996, pertain to the subject of this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

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

Issued in Fort Worth, Texas, on July 28, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–20063 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–121–AD]

RIN 2120–AA64

Airworthiness Directives; American Champion Aircraft Corporation 7, 8, and 11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM); Reopening of the comment period.

SUMMARY: This document reopens the comment period of an earlier proposed airworthiness directive (AD) that would supersede AD 98–05–04, which currently requires repetitively inspecting the front and rear wood spars for damage, including installing any necessary inspection holes, on certain American Champion Aircraft Corporation (ACAC) Model 8GCBC airplanes; and repairing or replacing any damaged wood spar. Damage is defined as cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; or loose or missing nails. The proposed AD would retain the actions of AD 98–05–04; would extend these actions to ACAC 7, 8, and 11 series airplanes; and would incorporate alternative methods of accomplishing the actions. Since issuing the NPRM, the Federal Aviation Administration (FAA) received a comment requesting additional time to comment on the proposed AD. The FAA concurs that the comment period for the

proposal should be reopened and the public should have additional time to comment.

DATES: Comments must be received on or before September 10, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–121–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the American Champion Aircraft Corporation, P.O. Box 37, 32032 Washington Avenue, Highway D, Rochester, Wisconsin 53167; internet address: ''www.amerchampionaircraft.com''. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. William Rohder, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018; telephone: (847) 294–7697; facsimile: (847) 294–7834.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–121–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of the NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–121–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain to certain ACAC 7, 8, and 11 series airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on June 4, 1999 (64 FR 29972). The NPRM proposed to supersede AD 98–05–04, Amendment 39–10365 (63 FR 10297, March 3, 1998). AD 98–05–04 currently requires repetitively inspecting the front and rear wood spars for damage, including installing any necessary inspection holes; and repairing or replacing any damaged wood spar on certain ACAC Model 8GCBC airplanes. Damage is defined as cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; or loose or missing nails. The NPRM proposed to retain the actions of AD 98–05–04; proposed to extend these actions to all ACAC 7, 8, and 11 series airplanes; and proposed to incorporate alternative methods of accomplishing the actions. Accomplishment of the proposed inspection as specified in the NPRM would be required in accordance with ACAC Service Letter 406, Revision A, dated May 6, 1998.

The NPRM was the result of a review of the service history of the affected airplanes that incorporate wood wing spars. The review was prompted by in-flight wing structural failures on ACAC Model 8GCBC airplanes, and revealed several incidents where damage was found on the front and rear wood spars on the affected airplanes.

Reason for This Action

The FAA has received a comment requesting additional time to comment on the proposed rule. Since the NPRM comment period has already closed, the FAA is granting this extension by reopening the comment period instead of extending the comment period.

All comments will be addressed in any final or subsequent action taken by the FAA on this subject. The FAA is republishing the actual AD portion of the NPRM, Docket No. 98–CE–121–AD, for the convenience of the owners/operators of the affected airplanes.

Compliance Time of the Proposed AD

The compliance time of the proposed AD is presented in calendar time and hours time-in-service (TIS). Although the unsafe condition specified in the proposed AD is a result of airplane operation, operators of the affected airplanes utilize their airplanes in different ways.

For example, an operator may utilize his/her airplane 50 hours TIS in a year while utilizing the aircraft in no or very little crop dusting operations, banner or glider tow operations, or rough field or float operations. This airplane would obviously have a lower crack propagation rate than an airplane operated 300 hours TIS a year in frequent crop dusting operations, banner or glider tow operations, or rough field or float operations. However, either airplane could have pre-existing and undetected wood spar damage that occurred during previous operations. In this situation, the damage to the wood spar would propagate at a rate that depends on the operational exposure of the airplane and severity of the initial wood spar damage.

The FAA is proposing repetitive inspection compliance times that would coincide with the owner's/operator's annual inspection program. This should have the least impact upon operators because the costs of having the airplane out of service can be absorbed with regularly scheduled down-time.

To assure that compression cracks do not go undetected in the wood spars of the affected airplanes, the FAA has determined that the following compliance times should be used:

1. The proposed initial inspection at the first annual inspection that occurs 30 calendar days or more after the effective date of the AD or within 13 calendar months after the effective date of the AD, whichever occurs first; and
2. The proposed repetitive inspections thereafter at intervals not to exceed 12 calendar months or 500 hours TIS, whichever occurs first.

Cost Impact

Though the proposed AD would not require installing additional inspection holes/covers, the following cost analysis is based on the presumption that 11 additional inspection holes/covers per wing would be required to complete a thorough inspection in accordance with ACAC Service Letter 406, Revision A, dated May 6, 1998. These inspection holes/covers may not be required, which would reduce the proposed cost impact upon U.S. operators of the affected airplanes.

The FAA estimates that 6,701 airplanes in the U.S. registry would be

affected by the proposed AD, that it would take approximately 6 workhours (Installations: 5 workhours; Initial Inspection: 1 workhour) per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $292 per airplane, provided that each airplane would only need 11 additional standard inspection hole covers per wing bottom surface (total of 22 new covers per airplane). If the airplane would require the installation of more inspection covers (i.e., a result of previous non-factory wing recover work), the cost could be slightly higher. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,369,052, or $652 per airplane.

These cost figures are based on the presumption that no affected Model 8GCBC airplane owner/operator has accomplished the installations or the initial inspection as currently required by AD 98–05–04, and do not account for repetitive inspections. The FAA has no way of determining the number of repetitive inspections each owner/operator of the affected airplanes will incur over the life of his/her airplane. However, each proposed repetitive inspection would cost substantially less than the initial inspection because the cost of the initial proposed inspection hole and cover installations would not be repetitive. The inspection covers allow easy access for the inspection of the wood spars, and the proposed compliance time would enable the owners/operators of the affected airplanes to accomplish the repetitive inspections at regularly scheduled annual inspections.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 98–05–04, Amendment 39–10365 (63 FR 10297, March 3, 1998), and by adding a new AD to read as follows:

American Champion Aircraft Company: Docket No. 98–CE–121–AD; Supersedes AD 98–05–04, Amendment 39–10365.

Applicability: The following airplane models, all serial numbers, certificated in any category, that are equipped with wood wing spars:

7AC	7GCB
7ACA	7GCBA
S7AC	7GCBC
7BCM (L–16A)	7HC
7CCM (L–16B)	7JC
S7CCM	7KC
7DC	7KCAB
S7DC	8GCBC
7EC	8KCAB
S7EC	11AC
7ECA	S11AC
7FC	11BC
7GC	S11BC
7GCA	11CC
7GCAA	S11CC

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

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

To prevent possible compression cracks and other damage in the wood spar wing, which, if not detected and corrected, could eventually result in in-flight structural failure of the wing with consequent loss of the airplane, accomplish the following:

(a) *Initial Inspection With Possible Repair or Replacement:* Inspect and repair or replace the wood wing spars, as follows:

(1) At the first annual inspection that occurs 30 calendar days or more after the effective date of this AD or within the next 13 calendar months after the effective date of this AD, whichever occurs first, inspect (detailed visual) both the front and rear wood wing spars for cracks; compression cracks; longitudinal cracks through the bolt holes or nail holes; and loose or missing rib nails (referred to as damage hereafter). Accomplish these inspections in accordance with American Champion Aircraft Corporation (ACAC), Service Letter 406, Revision A, dated May 6, 1998. This service bulletin specifies using a high intensity flexible light (for example a ''Bend-A-Light''). A regular flashlight and mirrors may not be used for this inspection.

(2) If any spar damage is found, prior to further flight, repair or replace the wood wing spar in accordance with Advisory Circular (AC) 43.13–1B, Acceptable Methods, Techniques and Practices; or other data that is approved by the FAA for wing spar repair or replacement.

(b) *Repetitive Inspections:* Accomplish the inspection, repair, replacement, and installation required by paragraphs (a)(1) and (a)(2) of this AD within 12 calendar months or 500 hours TIS (whichever occurs first) after these initial actions, and thereafter at intervals not to exceed 12 calendar months or 500 hours TIS, whichever occurs first.

(c) *Additional Inspection Requirements After Accident/Incident:* If, after the effective date of this AD, any of the affected airplanes are involved in an incident/accident that involves wing damage (e.g., surface deformations such as abrasions, gouges, scratches, or dents, etc.), prior to further flight after that incident/accident, accomplish the inspection and repair or replacement required by paragraphs (a)(1) and (a)(2) of this AD, as applicable.

(d) *Reporting Requirements:* Within 30 days after any wing damage is found per the requirements of this AD, submit a Malfunction or Defect Report (M or D), FAA Form 8010–4, which describes the damage; and send a copy of this report to the Manager, Chicago Aircraft Certification Office (ACO), 2300 E. Devon Avenue, Des Plaines, Illinois 60018; facsimile: (847) 294–7834. Include the airplane model and serial number, the extent of the damage (location and type), and the number of total hours TIS on the damaged wing. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(e) *Alternatives to the AD:* ACAC Service Letter 406, Revision A, and ACAC Service

Letter 417, Revision C, both dated May 6, 1998, specify additional inspection and installation alternatives over that included in the original issue of these service letters. All inspection and installation alternatives presented in these service letters are acceptable for accomplishing the applicable actions of this AD.

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

(g) *Alternative Methods of Compliance:* An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Chicago ACO, 2300 E. Devon Avenue, Des Plaines, Illinois 60018.

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

(2) Alternative methods of compliance approved in accordance with AD 98–05–04 are considered approved for this AD.

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

(h) *Availability of Service Information:* All persons affected by this directive may obtain copies of the documents referred to herein upon request to the American Champion Aircraft Corporation, P.O. Box 37, 32032 Washington Avenue, Highway D, Rochester, Wisconsin 53167; internet address: ''www.amerchampionaircraft.com''; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(i) *Other AD's Affected:* This amendment supersedes AD 98–05–04, Amendment 39–10365.

Issued in Kansas City, Missouri, on July 29, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20062 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–42]

Proposed Modification of Class E Airspace; Marquette, MI; Proposed Revocation of Class E Airspace; Sawyer, MI, and K.I. Sawyer, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Marquette, MI, and revoke the Class E airspace at Sawyer, MI, and K.I. Sawyer, MI. The legal description for the Class E airspace for Sawyer Airport has been changed from Sawyer, MI, to Marquette, MI, and the legal description for Class E airspace for K.I. Sawyer, MI, is no longer valid because K.I. Sawyer Air Force Base (AFB) has been closed and renamed Sawyer International Airport. This action proposes to modify Class E airspace for Marquette, MI, to correctly describe the Class E airspace required for Sawyer International Airport, and to revoke the Class E airspace at Sawyer, MI, and K.I. Sawyer, MI.

DATES: Comments must be received on or before September 20, 1999.

ADDRESSES: Send Comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–42, 2300 East Devon Avenue, Des Plaines, Illinois 60018. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air traffic Deivision, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AGL–42.'' the postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules docket, FAA, Great Lakes Region, Office of the Assistant Chief counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Marquette, MI, and revoke the Class E airspace at Sawyer, MI, and K.I. Sawyer, MI. The legal description for the Sawyer International Airport has changed from Sawyer, MI, to Marquette, MI, and K.I. Sawyer AFB has been closed. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas designated as a surface area for an airport are published in paragraph 6002, and Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AGL MI E2 Sawyer, MI [Removed]

* * * * *

AGL MI E2 Marquette, MI [Revised]

Marquette County Airport, MI
(Lat. 46° 32′ 02″N., long. 87° 33′ 42″W.)
Marquette, Sawyer International Airport, MI
(Lat. 46°21′13″N., long. 87°23′45″W.)

Within a 4.4-mile radius of the Marquette County Airport, and within 3.1 miles each side of the 077° bearing from the airport extending from the 4.4-mile radius to 6.1 miles east of the airport and within 3.1 miles each side of the 257° bearing from the airport extending from the 4.4-mile radius to 8.3 miles west of the airport, and within a 4.6-mile radius of Sawyer International Airport.

* * * * *

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

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AGL MI E5 Sawyer, MI [Removed]

* * * * *

AGL MI E5 K.I. Sawyer, MI [Removed]

* * * * *

AGL MI E5 Marquette, MI [Revised]

Marquette County Airport, MI
(Lat 46°32′02″N., long. 87°33′42″W.)
Marquette, Sawyer International Airport, MI
(Lat 46°21′13″N., long. 87°23′45″W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Marquette County Airport, and within 3.3 miles each side of the 077° bearing from the airport extending from the 6.6-mile radius to 13.1 miles east of the airport and within 3.3 miles each side of the 257° bearing from the airport extending from the 6.6-mile radius to 8.7 miles west of the airport, and that airspace extending upward from 700 feet above the surface within an 7.1-mile radius of the Sawyer International Airport, and that airspace extending upward from 1,200 feet above the surface within a 34.8-mile radius of the Sawyer International Airport.

* * * * *

Issued in Des Plaines, Illinois on July 6, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–20019 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AEA–09]

Proposed Establishment of Class E Airspace; York Airport (THV), York County, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at York Airport, PA. The increased traffic at the York Airport and its capacity to accept flights via a Standard Instrument Approach Procedure (SIAP) makes it desirable to establish Class E airspace designated as a surface area. Additional controlled airspace would enhance the safety of flights operating in the vicinity of the York Airport. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before September 3, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 99–AEA–09, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, New York 11430. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; Telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AEA–09.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building, #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace at Logan Airport, PA. Controlled airspace extending upward from the surface is needed to accommodate operations conducted under Instrument Flight Rules. Traffic has also increased for which controlled airspace is desirable to enhance safety. Class E airspace designated as airport surface areas are published in Paragraph 6002 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, is proposed to be amended as follows:

Paragraph 6002 Class E airspace designated as surface area for an airport

* * * * *

AEA PA E2 York County, PA

York Airport (THV), PA
GRP (Lat. 39°55′12″N. x long. 76°52′39″W.)

York NDB
(Lat. 39°55′20″N. x long. 76°52′65″W.)

That airspace extending upward from the surface within a 6.5-mile radius of the York Airport.

* * * * *

Issued in Jamaica, New York, on July 6, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–20021 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1212

Multi-Purpose Lighters; Request for Additional Comment

AGENCY: Consumer Product Safety Commission.

ACTION: Supplemental Notice of proposed rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (''CPSC'' or ''Commission'') previously proposed a rule that would require multi-purpose lighters to resist operation by children under age 5. 63 FR 52397 (September 30, 1998); *see also* 63 FR at 52394; 63 FR 69030 (December 15, 1998). In that proposal, the degree of child resistance is measured by a test with a panel of children to see how many can operate a multi-purpose lighter that has its on/off switch in the off, or locked, position. In this notice, the Commission proposes that the child-panel tests instead be conducted with the on/off switch in the on, or unlocked, position. This will provide additional protection when the users of the lighters do not return the switch to the off position after use. The Commission solicits written and oral comments on this change. Comments must be limited to issues raised by the changed requirement in this document.

DATES: The Commission must receive any written comments in response to this proposal by October 18, 1999. If the Commission receives a request for oral presentation of comments, the presentation will begin at 10 a.m., September 15, 1999, in Room 420 in the Commission's offices at 4330 East-West Highway, Bethesda, MD 20814.

The Commission must receive requests to present oral comments by September 1, 1999. Persons requesting an oral presentation must file a written text of their presentations no later than September 8, 1999.

ADDRESSES: Written comments, and requests to make oral presentations of comments, should be mailed, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207–0001, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland; telephone (301) 504–0800. Comments also may be filed by telefacsimile to (301) 504–0127 or by email to cpsc-os@cpsc.gov. Written comments should be captioned ''NPR for Multi-Purpose Lighters.'' Requests to make oral presentations and texts of presentations should be captioned ''Oral Comment; NPR for Multi-Purpose Lighters.''

FOR FURTHER INFORMATION CONTACT:

Concerning the substance of the proposed rule: Barbara Jacobson, Project Manager, Directorate for Health Sciences, Consumer Product Safety Commission, Washington, D.C. 20207–0001; telephone (301) 504–0477, ext. 1206; email bjacobson@cpsc.gov.

Concerning requests and procedures for oral presentations of comments: Rockelle Hammond, Docket Control and Communications Specialist, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0800 ext. 1232. Information about this rulemaking proceeding may also be found on the Commission's web site: www.cpsc.gov.

SUPPLEMENTARY INFORMATION:

A. Discussion

The Commission previously proposed a rule under the Consumer Product Safety Act (''CPSA'') that would require multi-purpose lighters to resist operation by children under age 5. 63 FR 52397 (September 30, 1998); see also 63 FR at 52394; 63 FR 69030 (December 15, 1998). As proposed, multi-purpose

lighters, which are also known as grill lighters, fireplace lighters, utility lighters, micro-torches, or gas matches, are defined as: hand-held, self-igniting, flame-producing products that operate on fuel and are used by consumers to ignite items such as candles, fuel for fireplaces, charcoal or gas-fired grills, camp fires, camp stoves, lanterns, fuel-fired appliances or devices, or pilot lights, or for uses such as soldering or brazing. See proposed 16 CFR 1212.2(a)(1). The term does not include cigarette lighters (which are subject to the Safety Standard for Cigarette Lighters, 16 CFR 1210.2(c)), devices that contain more than 10 oz. of fuel, and matches. *Id.* The proposal also would require that the child-resistant mechanism automatically return to the child-resistant condition either (1) when or before the user lets go of the lighter or (2), for multi-purpose lighters that remain lit after the users have let go, when or before the user lets go of the lighter after turning off the flame. *Id.* at § 1212.3(b)(3).

In the previous proposal, the degree of child resistance of a multi-purpose lighter is measured by a test with a panel of children to see how many can operate the lighter. That test provides that during testing for child-resistance, multi-purpose lighters with an on/off switch will be tested with the switch in the off, or locked, position. *Id.* at § 1212.4(f)(1).

On/off switches block the operating mechanism of the lighter when in the off, or locked, position. The mechanism is released when the switch is in the on, or unlocked, position. In currently marketed lighters, the switch does not automatically reset to the locked position when the lighter is operated. During testing to determine the baseline child-resistance of currently marketed (non-child-resistant) multi-purpose lighters, the CPSC staff tested four lighters, having on/off switches, with the switch in the locked position. Children who were able to operate the lighters moved the switch to the unlocked position and pulled the trigger. The child-resistance of the lighters so tested ranged from 24 to 41 percent, well below the proposed requirement of 85 percent. The lighter with a child-resistance level of 41 percent was retested with the switch unlocked, and its child-resistance level dropped to 12 percent.

In its December 1998 comments on the proposal, BIC states that many consumers will leave the lighter in the unlocked position. Further, BIC points out that a manufacturer could design a lighter with an on/off switch that is very difficult for a child to unlock, and with a very simple child-resistance mechanism which, in itself, would not meet the 85 percent child-resistance requirement. BIC therefore contends that multi-purpose lighters with on/off switches should be tested with the switch in the unlocked position.

The Commission concurs with BIC's recommended modification to the test protocol. Testing lighters with the switches in the locked position treats the switch as part of the child-resistance mechanism. On/off switches are not adequate to serve this purpose. First, as the Commission's baseline testing demonstrated, most children in the panel age group (42 to 51 months old) can operate the switches, which are similar to those used on many types of toys. Second, when practical, safety devices should function automatically. When in the locked position, the switch may help delay or deter some proportion of children. This protection, however, is not reliable. To provide this protection, intended users must return the switch to the off position every time the lighter is used. For a variety of reasons, even the most careful adults may fail to return the switch to the off position. Thus, as BIC points out, test results for lighters tested with the switch in the locked position may not reflect the true child-resistance of the product as actually used by consumers. Therefore, the Commission now proposes that the test protocol should require that lighters with on/off switches that do not automatically reset to the off position be tested with the switch in the on, or unlocked, position. This change is consistent with the requirement in the original proposal that the child-resistant mechanism automatically reset to its protective condition after the lighter is used.

B. Preliminary Regulatory Analysis

The CPSA requires the Commission to publish a preliminary regulatory analysis of the proposed rule. This includes a discussion of the likely benefits and costs of the proposed rule and its reasonable alternatives. The Commission's preliminary regulatory analysis was published in the September 30, 1998, proposal. The changed requirement proposed in this notice does not significantly affect the results of that analysis. To the extent that lighters accessible to children are stored in the unlocked position, and thereby reduce the lighters' child resistance, there would be an increase in the expected benefits as a result of this change.

The preliminary regulatory analysis was based on the costs of developing cigarette lighters with child-resistant mechanisms. Generally, cigarette lighters do not have on/off switches separate from the child-resistance mechanism (and thus, under the cigarette lighter standard, are required to reset automatically after each actuation of the lighting mechanism). Accordingly, the Commission's cost estimates in the regulatory analysis did not assume that multi-purpose lighters would have on/off switches separate from the resetting child-resistance feature. Therefore, the change proposed in this notice is in line with the cost estimates the staff already has made.

CPSC baseline testing shows that more children are unable to operate a non-child-resistant multi-purpose lighter if the on/off switch is in the off position than if the switch is in the on position. Thus, it is possible that some models of multi-purpose lighters would fail the certification tests unless the tests were conducted with the on/off switch initially in the off position. Changing the protocol may, therefore, adversely impact manufacturers whose initial child-resistant designs were only marginally effective. However, the preliminary regulatory analysis already considered that some manufacturers may need to revise their designs if their initial attempts to certify their multi-purpose lighters fail. Thus, these costs have already been accounted for in the preliminary regulatory analysis.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires the Commission to address and give particular attention to the economic effects of the proposed rule on small entities. The original proposal's preliminary regulatory flexibility analysis examined the potential effects of the proposed rule on small entities. As explained above, the change proposed in this notice is likely to have only small changes in the costs and benefits of the final rule. Accordingly, this new requirement does not significantly change the preliminary regulatory flexibility analysis.

D. Preliminary Environmental Assessment

The proposed rule is not expected to have a significant effect on the materials used in the production and packaging of multi-purpose lighters, or in the number of units discarded after the rule becomes effective. Therefore, no significant environmental effects would result from the proposed mandatory rule for multi-purpose lighters.

E. Opportunities for Comment

Written comments limited to the issues raised by the additional

requirement proposed in this notice may be submitted until October 18, 1999. There also will be an opportunity for interested parties to present oral comments on these issues on September 15, 1999. See the information under the headings **DATES** and **ADDRESSES** at the beginning of this notice. Any oral comments will be part of the rulemaking record.

Persons presenting oral comments should limit their presentations to approximately 10 minutes, exclusive of any periods of questioning by the Commissioners or the CPSC staff. The Commission reserves the right to further limit the time for any presentation and to impose restrictions to avoid excessive duplication of presentations.

F. Extension of Time To Issue Final Rule

Section 9(d)(1) of the CPSA, 15 U.S.C. 2058(d)(1), provides that a final consumer product safety rule must be published within 60 days of publication of the proposed rule unless the Commission extends the 60-day period for good cause and publishes its reasons for the extension in the **Federal Register**. The Commission previously extended the time for issuing a final rule until June 30, 1999. 63 FR 52415.

This reproposal requires another extension of the time to issue a final rule. After the comment period ends on October 18, 1999, the CPSC's staff will need to address the comments and complete a briefing package for the Commission. The Commission is likely to then be briefed, and will later vote on whether to issue a final rule. The Commission expects that this additional work will take about 5 months. Accordingly, the Commission extends the time by which it must either issue a final rule or withdraw the NPR until December 31, 1999. If necessary, this date may be further extended.

Effective date. This reproposal does not require any change in the originally proposed effective date of 1 year after the date a final rule is issued.

List of Subjects in 16 CFR Part 1212

Consumer protection, Fire prevention, Hazardous materials, Infants and children, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

In the **Federal Register** of September 30, 1998 (63 FR 52397) the Commission proposed to amend Title 16, Chapter II, Subchapter B, of the Code of Federal Regulations. For the reasons set out in the preamble, the Commission proposes the following change to that proposal, as set forth below.

PART 1212—SAFETY STANDARD FOR MULTI-PURPOSE LIGHTERS

1. The authority citation for part 1212 continues to read as follows:

Authority: 15 U.S.C. 2056, 2058, 2079(d).

2. The note in § 1212.4(f)(1) is revised to read as follows:

§ 1212.4 Test protocol.

* * * * *

(F) * * *

(1) * * *

Note: For multi-purpose lighters with an ''on/off'' switch that does not automatically reset to the ''off'' position in accordance with § 1212.3(b)(3), the surrogate lighter shall be given to the child with the switch in the ''on,'' or unlocked, position.

* * * * *

Dated: July 28, 1999.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–19937 Filed 8–3–99; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 101

[Docket No. RM99–7–000]

Depreciation Accounting

July 29, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations to set forth uniform standards based on the straight-line method of depreciation and the assets' estimated useful service lives for determining depreciation for accounting purposes.

DATES: Comments on the proposed rulemaking are due on or before October 4, 1999.

ADDRESSES: File comments on the notice of proposed rulemaking with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Comments should reference Docket No. RM99–7–000.

FOR FURTHER INFORMATION CONTACT:

Gregory Berson (Technical Information), Office of Finance, Accounting and Operations, 888 First Street, N.E. Washington, D.C. 20426 (202) 219–2603;

Amy L. Blauman (Legal Information), Office of the General Counsel, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–2143

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home page (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. Documents will be available on CIPS in ASCII and WordPerfect 6.1. User assistance is available at 202–208–2474 or by E-mail to cips.master@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home page using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend the General Instructions of 18 CFR Part 101 to establish, for those public utilities and licensees that are subject to Part 101, criteria for determining depreciation for accounting purposes.

II. Background

A. Commission Authority

The Commission has authority under section 301 of the Federal Power Act (FPA) [1] over the accounting practices of public utilities and licensees. Pursuant to section 301, the Commission has prescribed a Uniform System of

[1] 16 U.S.C. 825.

Accounts (USofA)[2] that must be followed by these jurisdictional entities.

The Commission also has authority under section 302 of the FPA[3] over the depreciation accounting practices of public utilities and licensees. This includes the authority to determine and fix proper and adequate depreciation rates for accounting purposes.

The Commission believes it has a statutory obligation to ensure that proper amounts of depreciation are charged to expense in each financial reporting period. In order to fulfill this statutory obligation, the Commission had required public utilities and licensees to obtain Commission approval prior to changing their depreciation rates for accounting purposes. *See, e.g., MidAmerican Energy Co.*, 79 FERC ¶ 61,169 (1997), *reh'g denied*, 81 ¶ FERC 61,081 (1997). However, a recent decision of the U.S. Court of Appeals for the District of Columbia Circuit, *Alabama Power Company, et al.* v. *FERC*, 160 F.3d 7 (D.C. Cir. 1998) (*Alabama Power*), overturned the Commission's action on procedural grounds.

In light of *Alabama Power*, we decide here to proceed with a rulemaking to establish the principles that public utilities and licensees subject to Part 101 must follow in determining depreciation rates for accounting purposes.[4] We are not proposing to ascertain, determine, and fix individual company depreciation rates as part of this rulemaking. Instead, we provide a regulatory framework for monitoring depreciation accounting practices and for taking action in individual cases if and when the need arises—to ensure that public utilities' and licensees'[5] books reflect proper depreciation amounts.

B. Utility Depreciation Principles

Expenditures for utility plant and other long-lived assets that will be used in the production of utility products and services are typically made in one year but are expected to produce benefits over a number of years. These assets also have finite useful lives, and their value will be substantially diminished at the end of their useful lives.[6] Depreciation represents the cost of using up the assets' service potential during their useful lives.

Depreciation is a process of cost allocation, not of valuation.[7] The primary objective of depreciation accounting is to allocate the cost of utility property to the periods during which the property is used in utility operations, *i.e.*, over the useful service life, in a systematic and rational manner.[8]

Generally, the amount of annual depreciation is determined by multiplying the asset's depreciable base (original cost less estimated salvage value) by a depreciation rate. The depreciation rate is a function of the chosen depreciation method and the asset's useful service life. The depreciation method (*e.g.*, straight line, double-declining balance, sum of the years digits, etc.) determines the timing of the recognition of depreciation expenses. The asset's useful service life, expressed in units of time or production, is based on estimates of the physical, economic or productive life of the asset.

Depreciation accounting is not intended to achieve a desired financial objective, such as an increase or decrease in reported net income or an adjustment in plant costs to perceived market values. Rather, depreciation accounting reflects the decrease in service value, *i.e.*, the using up of the productive capacity of the asset, over its service life. The decrease in service value is estimated using a systematic and rational method to allocate the original cost of assets to the periods over which they are used in utility service—factors that are independent of both an entity's profitability and asset market values.

Recognition of depreciation expenses for accounting purposes is not dependent on the rate recovery of the cost of utility plant. When differences arise between accounting depreciation and rate recovery of the cost of utility plant, the USofA requires utilities with cost-based rates to account for the differences as regulatory assets and liabilities.[9] In this way, utilities can easily keep track of any differences between accounting depreciation and ratemaking recovery of plant costs in their various regulatory jurisdictions.

C. Reasons for This Rule

The Commission believes it must standardize depreciation accounting practices in order to maintain its ability to determine just and reasonable, cost-based utility rates and to ensure the reasonableness and reliability of financial information used by regulators, investors, consumers, and the general public.

Since depreciation is a significant portion of the total cost of providing utility service, the determination of the appropriate amount of depreciation is of concern to this Commission, State commissions, utility management, investors, consumers and others who have an interest in or are affected by the financial performance of these entities. Because the Commission uses depreciation recorded on a utility's books as a starting point for determining cost-based utility rates,[10] to protect consumers and to guard against abuses, the Commission must have assurance that such depreciation expenses are proper.[11] Moreover, standardizing depreciation accounting practices will better ensure that utilities' financial information, reported to regulators, utility investors, utility consumers and the general public, is reasonable and reliable.

Additionally, by establishing generally applicable rules relating to depreciation accounting, this rulemaking is intended to satisfy the procedural prerequisite of FPA section 302 that the Court, in *Alabama Power, supra*, found necessary to enable the Commission to set individual utility

[2] *See* 18 CFR Part 101.

[3] 16 U.S.C. 825a.

[4] The proposed rules would not apply to public utilities and licensees that have obtained waivers from our accounting requirements under 18 CFR Part 101.

[5] Henceforth in this narrative preamble, our use of ''utilities'' is intended to encompass both public utilities and licensees; we will refer to ''utilities'' for ease of reading. *See* 18 CFR Part 101 Definition No. 39.

[6] In some cases, assets have negative salvage value, *i.e.*, the utility will have to pay additional costs to remove the asset and restore the plant site at the end of the asset's life.

[7] *See FASB Original Pronouncements*, Accounting Research Bulletin No. 43, Chapter 9, Section C, para. 5 (1998).

[8] The Commission's Uniform System of Accounts for electric utilities defines depreciation as follows:

Depreciation, as applied to depreciable electric plant, means the loss in service value not restored by current maintenance, incurred in connection with the consumption or prospective retirement of electric plant in the course of service from causes which are known to be in current operation and against which the utility is not protected by insurance. Among the causes to be given consideration are wear and tear, decay, action of the elements, inadequacy, obsolescence, changes in the art, changes in demand, and requirements of public authorities.

18 CFR Part 101 Definition No. 12.

[9] *See* 18 CFR Part 101 Definition No. 30, Accounts 182.3 and 254.

[10] The Commission typically permits a utility to recover its investment in utility property over its useful life through inclusion of depreciation expense in the cost of service used to set the utility's cost-based rates. The Commission also typically allows a utility to earn a return on its undepreciated investment in utility property.

[11] For example, a utility could, through inappropriate depreciation practices, over-recover the cost of utility plant, inappropriately attempt to mitigate stranded costs or shift benefits from asset sales to shareholders or particular customer groups. *See, e.g.*, Midwest Power Systems Inc., 67 FERC ¶ 61,076 at 61,208 (1994); South Carolina Electric & Gas Co., 76 FERC ¶ 61,338 at 62,616–19 (1996), *reh'g denied*, 79 FERC ¶ 61,083 (1997); *accord*, Ohio Edison Co., *et al.*, 84 FERC ¶ 61,157 at 61,860–63 (1998).

depreciation rates for accounting purposes.

Therefore, we are proposing here that utilities subject to Part 101 follow uniform standards in determining depreciation rates for accounting purposes. This will ensure that depreciation for accounting purposes is recorded in accordance with sound depreciation principles and thus, in particular, meets this Commission's regulatory needs.[12]

We invite interested parties to present their views on this proposal through the written comment procedures outlined below.

III. Discussion

The current USofA for utilities contains limited guidance on depreciation accounting. The USofA defines depreciation and its related components,[13] and provides various accounts for the recording of depreciation,[14] but does not state how utilities are to determine the rates used to calculate the amount of depreciation to be recorded in the accounts.

In light of the foregoing, the Commission proposes to revise its USofA to require uniform and consistent determinations of depreciation rates for accounting purposes. We also take this opportunity to outline how we intend to oversee utility depreciation practices in the foreseeable future.

A. Regulatory Framework

The Commission proposes to require utilities subject to Part 101 to use depreciation rates for accounting purposes that are based on the straight-line method of depreciation and the assets' estimated useful service lives.[15]

A straight-line method of depreciation is one that allocates the service value[16] of depreciable property to expense in equal monthly charges over the property's useful service life. It is the method typically used by utilities today.[17]

The Commission proposes that the depreciation period for utility property be its estimated useful service life. The current practice of estimating useful service lives of assets based on engineering or other studies of the expected physical, economic, or productive lives over which the assets will provide utility service, would continue.[18]

Where composite depreciation rates are used, they would be based on the weighted average estimated useful service lives of the assets comprising the composite group.

The Commission believes that computing depreciation on a straight-line basis over assets' estimated useful service lives will produce more relevant and reliable financial information for regulatory and financial reporting purposes than other depreciation techniques (*e.g.*, accelerated depreciation, retirement method, sinking fund depreciation, etc.) that do not ratably allocate plant costs to each accounting period. Because of the relatively consistent operation of utility plant over time, the use of the straight-line method and estimated useful service lives appears to provide the most practical way to measure the amount of depreciation consumed each year in producing utility products and services. The straight-line method is also simple in its application in contrast to other depreciation techniques. It is, as well, the standard method for business in general, conforms to generally accepted accounting principles (*i.e.*, systematic and rational) and, as noted, is the method typically used by utilities today.[19]

B. Future Commission Action

We also take this opportunity to explain how the Commission intends to exercise its authority over depreciation accounting in the foreseeable future.

On a case by case basis, *e.g.*, in conjunction with audits, complaints, etc., it may become necessary, as a result of these proceedings, for the Commission from time to time to ascertain and determine, and by order fix, the accounting depreciation rates for individual utilities pursuant to FPA section 302. However, unless otherwise ordered by the Commission, individual utilities will *not* be required to file their accounting depreciation rates with us for our approval. This approach is consistent with our efforts to reduce regulatory burdens to the degree possible and facilitate the transition to competition in the electric utility industry.

IV. Environmental Statement

The Commission excludes certain actions not having a significant effect on the human environment from the requirement to prepare an environmental assessment or an environmental impact statement.[20] The promulgation of a rule that is procedural or that does not substantially change the effect of legislation or regulations being amended raises no environmental considerations.[21] The instant proposed rule amends Part 101 of the Commission's regulations to codify prevalent utility practice and does not substantially change the effect of the underlying legislation or the regulations being revised. Likewise, approval of actions under section 301 of the FPA, relating to accounting orders, also raises no environmental considerations. The instant rule fundamentally involves accounting matters, establishing standardized depreciation accounting practices. Accordingly, no environmental consideration is necessary.

V. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires rulemakings to contain either a description and analysis of the effect that the proposed rule will have on small entities or a certification that the rule will not have a significant economic impact on a substantial number of small entities.

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[12] Standardizing utilities' depreciation accounting practices will, for example, provide a greater level of assurance that depreciation accounting will not be used to achieve inappropriate ends. *See supra* note 10.

[13] *See, e.g.*, 18 CFR Part 101, Definition Nos. 10, 12, 19, 34–36 (1999).

[14] *See, e.g.*, 18 CFR Part 101, Accounts 108, 110, 119, and 403 (1999).

[15] The USofA defines service life as ''the time between the date electric plant is includible in electric plant in service, or electric plant leased to others, and the date of its retirement. If depreciation is accounted for on a production basis rather than on a time basis, then service life should be measured in terms of the appropriate unit of production.'' 18 CFR Part 101 Definition No. 35.

[16] The USofA defines service value as ''the difference between original cost and net salvage value of electric plant.'' 18 CFR Part 101 Definition No. 36.

[17] *See, e.g.*, J. Suelflow, Public Utility Accounting: Theory and Application 96 (1973) (''Straight line is the predominant method used by utilities and sanctioned by most regulatory bodies.''); Deloitte Haskins & Sells, Public Utilities Manual 23 (1980) (''[T]he straight-line concept is applied almost universally for both accounting and rulemaking. * * *''); C. Phillips, The Regulation of Public Utilities: Theory and Practice 272 (3d ed. 1993) (The straight line method * * * is the simplest and most commonly used.''); L. Hyman, America's Electric Utilities: Past, Present and Future 292 (5th ed. 1994) (''The book depreciation rate is a straight line rate for most utility companies.''); accord Depreciation Subcommittee of the NARUC Committee on Engineering, Depreciation, and Valuation of the National Association of Regulatory Utility Commissioners, Public Utility Depreciation Practices 12 (1968) (''In the two decades, since the Report of the Committee on Depreciation of the NARUC was published in 1943, the use of the straight-line method for accounting and rate-making purposes has became almost universal for public utilities.'').

[18] Changes in estimated useful service lives would be based on updated depreciation study results that demonstrated different service lives (shorter or longer) were appropriate.

[19] *See* supra note 17.

[20] 18 CFR 380.4.

[21] 18 CFR 380.4(a)(2)(ii).

In *Mid-Tex Elec. Coop.* v. *FERC*, 773 F.2d 327 (D.C. Cir. 1985), the court found that Congress, in passing the RFA, intended agencies to limit their consideration ''to small entities that would be directly regulated'' by proposed rules. *Id.* at 342. The court further concluded that ''the relevant 'economic impact' was the impact of compliance with the proposed rule on regulated small entities.'' *Id.* at 342.

The Commission certifies that, given the entities subject to this proposed rule and their current depreciation accounting practices, this proposed rule will not have a significant economic impact upon a substantial number of small entities.

VI. Public Reporting Burden and Information Collection Statement

The Commission proposes to amend 18 CFR Part 101 by standardizing the method for determining depreciation rates for accounting purposes. Because the proposed rule simply standardizes the method of calculating depreciation rates, without adding or changing any reporting requirements, it does not impose any additional public reporting burden.

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, Capital Planning and Policy Group, Phone: (202) 208–1415, Fax: (202) 208–2425, E-mail: mike.miller@ferc.fed.us].

To submit comments concerning collections of information and associated burden estimate(s), please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, [Attention: Desk Officer for the Federal Energy Regulatory Commission, Phone: (202) 395–3087, Fax: (202) 395–7285].

VII. Public Comment Procedures

Prior to taking final action on this proposed rulemaking, we are inviting written comments from interested persons. The Commission also is notifying each State commission having jurisdiction with respect to any public utility involved and is giving reasonable opportunity to each State commission to present its views for our consideration. All comments in response to this notice should be submitted to the Office of Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and should refer to Docket No. RM99–7–000. An original and fourteen (14) copies of such comments should be filed with the Commission on or before October 4, 1999.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 8.0 or lower version, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM99–7–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to ''comment.rm@ferc.fed.us'' in the following format. On the subject line, specify Docket No. RM99–7–000. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comments to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at: 202–501–8145, E-Mail address: brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, N.E., Washington D.C. 20426, during regular business hours. Additionally, comments may be viewed, printed or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS link. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at 202–208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

List of Subjects in 18 CFR Part 101

Electric power, electric utilities, reporting and recordkeeping requirements, Uniform System of Accounts.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 101, Chapter I, Title 18 of the *Code of Federal Regulations*, as set forth below.

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

1. The authority citation for Part 101 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7102–7352, 7651–7651o.

2. In Part 101, General Instructions, paragraph 22 is added to read as follows:

General Instructions

* * * * *

22. *Depreciation Accounting*

A. *Method.* Utilities must use the straight-line method of depreciation. The straight-line method allocates equal amounts of the service value of utility property to expense during each year of the property's useful service life.

B. *Service Lives.* Estimated useful service lives of depreciable property must be supported by engineering or other depreciation studies.

C. *Rate.* Utilities must use percentage rates of depreciation that are based on the straight-line method and the estimated useful service lives of depreciable property. Where composite depreciation rates are used, they should be based on the weighted average estimated useful service lives of the depreciable property comprising the composite group.

[FR Doc. 99–20010 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM99–9–000]

Designation of Corporate Officials or Other Persons to Receive Service

July 28, 1999.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend Rule 2010 of its

regulations on practice and procedure to require that all entities regulated by the Commission designate a corporate official or other person to receive service of certain types of pleadings where a person to receive service has not otherwise been designated under the Commission's regulations. Each regulated entity would be required to file with the Commission: The name of the corporate official or other person that is to receive service, the title of the corporate official or person, if applicable, the address of the official, including, where applicable, department, room number, or mail routing code, the telephone number of the corporate official or person, the facsimile number of the corporate official or person, if applicable, and the electronic mail address of the corporate official or person, if applicable. Each regulated entity would have a continuing obligation to file updated information with the Commission. The intended effect is to facilitate timely notification to responsible corporate officials.

The Commission also proposes to maintain a list of designated officials in the Office of the Secretary of the Commission and to make the list available to the public in hard copy and through the Commission's web site.

DATES: Comments are due October 4, 1999.

ADDRESSES: Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. For further instructions on submittal of comments see section VI. of **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1275.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home Page (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. Documents will be available on CIPS in ASCII and WordPerfect 6.1. User assistance is available at 202–208–2474 or by E-mail to cips.master@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202-208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

The Federal Energy Regulatory Commission (Commission) is proposing to revise its regulations to require that all entities regulated by the Commission designate a corporate official or other person to receive service.

I. Background

On March 31, 1999, the Commission issued a final rule (Order No. 602) revising its regulations governing complaints filed with the Commission under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, the Public Utility Regulatory Policies Act of 1978, the Interstate Commerce Act, and the Outer Continental Shelf Lands Act.[1] Order No. 602 was designed to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner.

A number of requests for rehearing of Order No. 602 were filed. Among the parties filing for rehearing was the Interstate Natural Gas Association of America (INGAA). INGAA sought clarification of the service requirements of the final rule contained in section 385.206(c) of the Commission's regulations.[2] That section currently reads as follows:

> Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents and affected entities in the same metropolitan area as the complainant. Simultaneous or overnight service is acceptable for respondents and affected entities outside the complainant's metropolitan area. Simultaneous service can be accomplished through electronic mail, fax, express delivery, or messenger.[3]

On rehearing, INGAA asserted that all Commission regulated entities should be required to appoint an official to receive service of complaints, which official is to be designated on the company's electronic bulletin board (EBB) or web site. INGAA requested that, as part of the service requirement of section 385.206(c), parties must serve the complaint on the corporate official appointed to receive such service by the regulated entity. INGAA contended that, absent such a requirement, a complaint served on a corporation without identifying a specific individual recipient could be misrouted or its significance overlooked. INGAA submitted that by the time the responsible officials become aware that a complaint has been filed, a large portion of time may have been lost, adversely affecting the completeness and timeliness of the answer.

INGAA asserts that a uniform requirement that every regulated entity appoint a corporate official responsible for receiving service of complaints, and a corollary requirement that complainants serve that official directly, will ensure that responses to those complaints are filed expeditiously, thus further the goals of Order No. 602. INGAA states that, regardless of whether service must be issued electronically—an issue that INGAA understands is reserved for determination in Docket No. PL98–1–000[4]—this requirement will ensure expeditious receipt and handling of a complaint by each regulated entity.

II. Discussion

In the Commission's view, INGAA's suggestion has merit and should not be limited to service of complaints. Under § 385.203 of the Commission's existing regulations (Rule 203), the initial pleading or tariff or rate filing of a person must contain, among other things, the name, address and telephone number of at least one person on whom service is to be made.[5] In most cases, a regulated entity initiates a proceeding with a filing such as a rate change filing.

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[1] Complaint Procedures, Order No. 602, III FERC Stats. & Regs. ¶31,071 (1999), 64 FR 17087 (April 8, 1999).

[2] 18 CFR 385.206(c).

[3] Certain aspects of the service requirements have been raised on rehearing of Order No. 602 and are being modified in Order No. 602–A, which is being issued contemporaneously with this NOPR.

[4] Public Access to Information and Electronic Filing.

[5] 18 CFR 385.203.

As part of the initial filing, it is required to designate a person to receive service under Rule 203. That person will be placed on the official service list of the proceeding. In addition, when a party makes a filing in a docketed proceeding, it is required to designate a person to receive service. That person's name is also placed on the official service list of the proceeding. The requirements and procedures currently followed under Rule 203 will not be changed.

There are, however, certain situations in which the Commission or another entity initiates a proceeding or some other action and a person to receive service has not otherwise been designated by the regulated entity under the Commission regulations. The filing of a complaint is one such situation. Other examples are petitions for declaratory order, show cause orders, data requests, investigatory letters, or where the Commission *sua sponte* initiates action under section 206 of the Federal Power Act or section 5 of the Natural Gas Act. In these situations, it would be efficient for persons wishing to serve pleadings on regulated entities, as well as the Commission, to be able to serve specific corporate officials. Designating a corporate official to receive service of complaints, declaratory orders, show cause orders, data requests, and investigatory letters would also allow regulated entities to receive pleadings as quickly as possible. This is especially important where the regulated entity has a short time to respond, for example when answering complaints or responding to Commission data requests.

Therefore, the Commission is proposing to add a new paragraph (i) to § 385.2010 (Rule 2010) to require that all entities regulated by the Commission designate at least one, but not more than two, corporate officials or other persons to receive service of certain types of pleadings where a person to receive service has not otherwise been designated under the Commission's regulations. Each regulated entity would be required to file with the Commission (1) the name of the corporate official or other person that is to receive service, (2) the title of the corporate official or person, if applicable, (3) the address of the official, including, where applicable, department, room number, or mail routing code, (4) the telephone number of the corporate official or person, (5) the facsimile number of the corporate official or person, if applicable, and (6) the electronic mail address of the corporate official or person, if applicable. Each regulated entity would have a continuing obligation to file updated information with the Commission.

The Commission also proposes to maintain a list of designated officials in the Office of the Secretary of the Commission and to make the list available to the public in hard copy and through the Commission's web site. For ease of use, the list will be divided by industry. This list will be separate and apart from the official service lists that the Secretary maintains for each proceeding pursuant to § 385.2010(c) of the Commission's regulations (Rule 2010). Thus, in situations where an official service list is maintained for an existing proceeding, a party would be required to serve the person designated by the regulated entity for that proceeding. Where there is no service list because, for example, the proceeding is initiated by the Commission or another entity, a party would be required to serve the person designated pursuant to proposed section 385.2010(i).

In addition, the Commission invites comments on what other ways the names of designated officials could be made available to interested persons. For example, should regulated entities be required to post the names of designated corporate officials on a company's EBB or web site? The Commission recognizes that certain entities regulated by the Commission may not have EBBs, web sites, or other electronic methods to make names of designated officials available to the public. Therefore, the Commission requests comments on what other methods of distribution, if any, are appropriate. For example, should a company be required to periodically mail the names of the designated corporate officials to its customers or other persons otherwise affected by its operations. The Commission realizes that if regulated entities are required to distribute the names of their designated corporate officials, the methods of distribution will likely have to be tailored to the particular industry. The Commission is also interested in receiving comments on what level of burden, if any, will a distribution requirement place on a regulated entity.

As discussed above, in order to implement the new service requirements, the Commission proposes to add a new section (i) to § 385.2010 (Rule 2010).[6] Placement of the requirements in the Rules of Practice and Procedure should provide sufficient notice of the obligations of both regulated entities and parties who desire to serve pleadings on regulated entities for purposes of initiating a proceeding before the Commission. However, the Commission requests comments on whether it is appropriate to place the new requirements in that section of the regulations or whether there may be other places in the regulations which would be more appropriate.

[6] 18 CFR 385.2010.

II. Information Collection Statement

The Commission finds that the information required to be provided by regulated entities is so minimal that it does not impose any measurable additional burden on regulated entities. Therefore, no public reporting burden estimates are being made.

IV. Environmental Analysis

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.[7] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[8] The actions proposed to be taken 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 that requires no construction of facilities.[9] Therefore, an environmental assessment is unnecessary and has not been prepared in this notice of proposed rulemaking.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.[10] The Commission is not required to make such analyses if a proposed rule would not have such an effect.[11]

In the Commission's view, this proposed rule would not have a significant economic impact on small entities. The companies that are regulated by the Commission, who would have to designate a corporate official to receive service, generally do

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

[8] 18 CFR 380.4.

[9] See 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[10] 5 U.S.C. 601–612 (1994).

[11] 5 U.S.C. 605(b) (1994).

not meet the RFA's definition of a small entity.[12] Further, it would be easier for any small entity to serve a pleading on a regulated company if that company had a specific official designated to receive service. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VI. Comment Procedures

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss.

The original and 14 copies of such comments must be received by the Commission before 5:00 p.m. October 4, 1999. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426 and should refer to Docket No. RM99–9–000.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 8.0 or below, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM99–9–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of a contact person.

For Internet E-Mail submittal, comments should be submitted to ''comment.rm@ferc.fed.us'' in the following format. On the subject line, specify Docket No. RM99–9–000. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202–501–8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, N.E., Washington D.C. 20426, during regular business hours. Additionally, comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS links. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at 202–208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

List of Subjects in 18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 385, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In § 385.2010, new paragraph (i) is added to read as follows:

§ 385.2010 Service (Rule 2010).

* * * * *

(i) *Designation of corporate officials to receive service.* (1) Any entity subject to regulation by the Commission must designate at least one, but not more than two, corporate officials or other persons to receive service of complaints, petitions for declaratory order, show cause orders, data requests, investigatory letters or other documents where a person to receive service has not otherwise been designated under Commission regulations. Each entity must file with the Secretary of the Commission:

(i) The name of the corporate official or person that is to receive service;

(ii) The title of the corporate official or person, if applicable;

(iii) The address of the corporate official or person, including, where applicable, department, room number, or mail routing code;

(iv) The telephone number of the corporate official or person;

(v) The facsimile number of the corporate official or person, if applicable; and

(vi) The electronic mail address of the corporate official or person, if applicable.

(2) Each regulated entity has a continuing obligation to file with the Secretary of the Commission updated information concerning the corporate official or person designated to receive service.

(3) A list of corporate officials and persons designated to receive service pursuant to this paragraph (i) will be maintained by the Secretary of the Commission and will be made available to the public in hard copy upon request and through the Commission's web site at http://www.ferc.fed.us.

(4) Any person who wishes to serve a complaint or petition for declaratory order on any entity regulated by the Commission must serve the corporate official or person designated pursuant to this paragraph (i).

(5) The Commission will serve show cause orders, data requests, investigatory letters or other documents on the corporate official or person designated under this paragraph (i).

[FR Doc. 99–19882 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–P

[12] 5 U.S.C. 601(3)(1994).

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations No. 4 and 16]

RIN 0960–AE96

Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Determining Disability and Blindness; Clarification of ''Age'' as a Vocational Factor

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise the Social Security and Supplemental Security Income (SSI) disability regulations to clarify our consideration of ''age'' as a vocational factor at the last step of our sequential evaluation process for determining whether an individual is disabled under title II or title XVI of the Social Security Act (the Act). We also propose to amend our rules to better explain how we consider transferability of skills for individuals who are of ''advanced age'' (age 55 or older) in deciding whether such

individuals can make an adjustment to other work.

DATES: To be sure that your comments are considered, we must receive them no later than October 4, 1999.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 17703, Baltimore, MD 21235–7703; sent by telefax to (410) 966–2830, sent by E-mail to *regulations@ssa.gov*; or delivered to the Office of Process and Innovating Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Georgia E. Myers, Acting Regulations Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, 1–(410) 965–3632 or TTY 1–(800) 988–5906 for information about these rules. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION:

Background

The Act provides, in title II, for the payment of disability benefits to persons insured under the Act. Title II also provides for the payment of child's insurance benefits for persons who become disabled before age 22, and for the payment of widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured persons. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources.

For adults (including persons claiming child's insurance benefits based on disability under title II), ''disability'' is defined in the Act under both title II and title XVI as the ''inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.'' Sections 223(d) and 1614(a) of the Act also state that an individual ''shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work.''

To implement the process for determining whether an individual is disabled based upon this statutory definition, our regulations at §§ 404.1520 ad 416.920 provide for a five-step sequential evaluation process as follows:

1. Is the individual engaging in substantial gainful activity? If the individual is working and the work is substantial gainful activity, we find that he or she is not disabled. Otherwise, we proceed to step 2 of the sequence.

2. Does the individual have an impairment or combination of impairments that is severe? If the individual does not have an impairment or combination of impairments that is severe, we find that he or she is not disabled. If the individual has an impairment or combination of impairments that is severe, we proceed to step 3 of the sequence.

3. Does the individual's impairment(s) meet or equal the severity of an impairment listed in appendix 1 of subpart P of part 404 of our regulations? If so, and the duration requirement is met, we find that he or she is disabled. If not, we proceed to step 4 of the sequence.

4. Does the individual's impairment(s) prevent him or her from doing his or her past relevant work, considering his or her residual functional capacity? If not, we find that he or she is not disabled. If so, we proceed to step 5 of the sequence.

5. Does the individual's impairment(s) prevent him or her from performing other work that exists in the national economy, considering his or her residual functional capacity together with the ''vocational factors'' of age, education, and work experience? If so, and if the duration requirement is met, we find that the individual is disabled. If not, we find that he or she is not disabled.

As discussed in §§ 404.1569 and 416.969, at step 5 of the sequential evaluation process we used the medical-vocational rules that are set out in appendix 2 of subpart P of part 404. (By reference, § 416.969 provides that appendix 2 is also applicable to adults claiming SSI payments based on disability.) In general, the rules in appendix 2 take administrative notice of the existence of numerous, unskilled occupations at exertional levels defined in the regulations, such as ''sedentary,'' ''light,'' and ''medium.'' Based upon a consideration of an individual's residual functional capacity, age, education, and work experience, the rules either direct a conclusion as to whether an individual is disabled at step 5 of the sequential evaluation process or provide a framework for making a decision at this step. Some rules in appendix 2 also direct a conclusion when an individual has ''skills'' acquired from previous skilled or semiskilled work that are ''transferable'' to other skilled or semiskilled work.

Our rules regarding age and skills are set out in §§ 404.1563, 404.1568, 416.963, and 416.968. The rules and explanatory text of appendix 2 of subpart) of part 404 also provide guidance for considering the vocational factors of age, education, and work experience that supplement the information on consideration of these vocational factors in §§ 404.1560–404.1569a and 416.960–416.969a.

The revisions we are proposing would clarify a number of our rules on the consideration of one of the vocational factors, ''age,'' in §§ 404.1563 and 416.963. They would also clarify in new §§ 404.1568(d)(4) and 416.969(d)(4) how we determine whether individuals who are of ''advanced age'' (i.e., age 55 or older), including individuals in a subcategory of advanced age called ''closely approaching retirement age'' (i.e., age 60–64), have skills that are transferable to other work.

Summary of Proposed Changes

Sections 404.1563 and 416.963 Your Age as a Vocational Factor

We propose to revise the first sentence of paragraph (a) of §§ 404.1563 and 416.963, ''General,'' to state more clearly that ''age'' means chronological age. We propose to do this because there has been some misunderstanding about how we consider the vocational factor of ''age'' at step 5 of the sequential evaluation process. In current paragraph (a) we state, in part, that ''*Age* refers to how old you are (your chronological age) * * *.'' We use an individual's chronological age when we use the medical-vocational guidelines in appendix 2 to decide whether the individual can do other work. We do this because we built consideration of chronological age and its impact on an individual's ability to make an adjustment to other work into the medical-vocational guidelines in appendix 2, which also consider the person's education and work experience, as well as the person's

physical and mental functioning (i.e., residual functional capacity).

In addition to defining ''age'' as how old you are (your chronological age), the first sentence of current paragraph (a) of §§ 404.1563 and 416.963, explains that ''age'' refers to the extent to which age affects an individual's ability to adapt to a new work situation and ''to do work in competition with others.'' We propose to incorporate the principle intended in this statement into a new third sentence that clarifies our intent, as explained below.

The second sentence of proposed §§ 404.1563(a) and 416.963(a) would combine the second and third sentences of current paragraph (a). It would clarify our intent that, when we decide whether a person is disabled, we will not consider the person's age alone, but will consider his or her residual functional capacity, education, and work experience together with age.

The proposed new third sentence of paragraph (a) of §§ 404.1563 and 416.963 explains that, when we consider the vocational factor of ''age'' in determining an individual's ability to adjust to other work, we consider advancing age to be an increasingly limiting factor in the ability to make such an adjustment.

The new third sentence we are proposing in paragraph (a) of §§ 404.1563 and 416.963, incorporates the rule we intended in the first sentence of current §§ 404.1563(a) and 416.963(a), indicating that we consider the effects of age on an individual's ability ''to do work in competition with others.'' This current provision, together with a provision regarding skills that are ''highly marketable'' in current §§ 404.1563(d) and 416.963(d) that we also propose to replace, has been interpreted by some United States Courts of Appeals contrary to our intent, to support holdings that our regulations provide for consideration of an individual's employability. The circuit courts in these cases did not hold that their conclusions were required by the Act, which prohibits consideration of whether an individual would be hired if he or she applied for work. See sections 223(d)(2) and 1614(a)(3)(B) of the Act. Rather, the courts relied on the language in these current provisions of our regulations. These proposed changes in the regulations are, therefore, necessary to clarify our intent in this area.

The fourth and fifth sentences of proposed §§ 404.1563(a) and 416.963(a) are substantially the same as the fourth and fifth sentences of the current rules. In the fourth sentence of the proposed rules, we propose to replace the current rules' reference to the ability to ''do a significant number of jobs which exist in the national economy'' with a reference to ''the ability to do substantial gainful activity'' to better reflect the definition of disability in the Act.

We propose to move the last sentence of paragraph (a) of §§ 404.1563 and 416.963 of the current rules to proposed §§ 404.1563(b) and 416.963(b). This sentence explains that we will not apply the age categories mechanically in a borderline situation, and we believe it will fit more logically with the provisions in proposed new paragraph (b), which would explain more fully how we apply the age categories.

We propose to add a new paragraph (b), entitled ''How we apply the age categories,'' to §§ 404.1563 and 416.963. The new paragraph would explain that, if a person's age category changes during the period for which we are adjudicating a disability claim, we will use each of the age categories that is applicable to the person during the period for which we are deciding if the person is disabled. As already noted, we would also explain that in borderline age situations we will not apply the age categories mechanically. We also propose to explain that a ''borderline'' situation means that the individual is ''within a few days to a few months'' of reaching a higher age category, consistent with our current policy interpretation in Social Security Ruling 83–10, ''Titles II and XVI: Determining Capability To Do Other Work—The Medical-Vocational Rules of Appendix 2,'' Social Security Rulings (C.E. 1983, p. 174). As we explain in that Social Security Ruling, we are unable to provide ''fixed'' guidelines since such guidelines themselves would reflect a mechanical approach. (See Social Security Ruling 83–10, ibid., p. 182.)

Because we propose to include a new paragraph (b) in §§ 404.1563 and 416.963, we would redesignate the remaining paragraphs, i.e., current paragraphs (b) through (e), as paragraphs (c) through (f) in the proposed rules.

Proposed paragraph (c) of §§ 404.1563 and 416.963, ''Younger person,'' incorporates the rules for individuals who have not yet attained age 50 that are in current §§ 404.1563(b) and 416.963(b). The reference to ''age 45'' in the second sentence of current §§ 404.1563(b) and 416.963(b), in which we explain that in some circumstances ''we consider age 45 a handicap in adapting to a new work setting,'' is actually a reference to individuals who are age 45 through 49, because the category ''younger person'' ends upon attainment of age 50. We propose to state this meaning plainly by changing ''age 45'' to ''age 45–49.'' We also propose to revise the second sentence to remove the word ''handicap,'' to make the language of paragraphs (c), (d), and (e) of the proposed rules consistent and to clarify our intent; i.e., to discuss the effects of age on the ability to make an adjustment to other work.

Proposed paragraph (d) of §§ 404.1563 and 416.963, ''Person closely approaching advanced age,'' incorporates the rule for individuals age 50 through 54 that is in current §§ 404.1563(c) and 416.963(c). We propose to add the word ''closely'' to the heading of this paragraph for consistency with the text of the paragraph. We propose to replace the phrase at the end of the sentence in the current rule, ''a significant number of jobs in the national economy,'' with the phrase, ''other work,'' for consistency of language among the provisions of proposed paragraphs (c), (d), and (e) of §§ 404.1563 and 416.963. This is not intended to be a change in the standard, only a change for consistency among the provisions of these sections of the regulations.

Proposed paragraph (e) of §§ 404.1563 and 416.963, ''Person of advanced age,'' incorporates the rules for individuals age 55 or older that are in the first sentence of current §§ 404.1563(d) and 416.963(d). As in the preceding paragraphs, we propose the replace the phrase, ''ability to do substantial gainful activity,'' in the first sentence of the current rules with the phrase ''ability to adjust to other work,'' so that paragraphs (c), (d), and (e) of §§ 404.1563 and 416.963 will contain consistent language.

We propose to revise the provisions that are in the second and third sentences of current §§ 404.1563(d) and 416.963(d) and to move these provisions to proposed new §§ 404.1568(d)(4) and 416.968(d)(4). We explain these proposed changes below, under the explanation of proposed §§ 404.1568(d)(4) and 416.968(d)(4). We propose to include in §§ 404.1563(e) and 416.963(e) an appropriate cross-reference to proposed § 404.1568(d) or § 416.968(d) to make it easier to find the provisions in their new location.

Sections 404.1568 and 416.968 Skill Requirements

We are proposing to add new §§ 404.1568(d)(4) and 416.968(d)(4), ''Transferability of skills for individuals of advanced age,'' to our regulations addressing skills and their transferability. The proposed new paragraph would incorporate and clarify the provisions in the second and third

sentences of current §§ 404.1563(d) and 416.963(d). In the current regulations, these sentences provide rules regarding skills and their transferability for individuals of ''advanced age'' (i.e., age 55 or older) who have the residual functional capacity for no more than ''sedentary'' work, and for individuals who are ''closely approaching retirement age'' (i.e., age 60–64) who have the residual functional capacity for no more than ''light'' work. We believe that they more logically belong in the sections of our regulations that discuss our rules regarding skills and their transferability; i.e., §§ 404.1568 and 416.968. We are also proposing to revise these provisions to clarify our intent, to make their language consistent with current provisions in our regulations, and to be consistent with other provisions in these proposed rules.

The second sentence of current §§ 404.1563(d) and 416.963(d) states that if a person of advanced age has a severe impairment(s) and cannot do medium work (i.e., the person is limited to light or sedentary work), the person ''may'' not be able to work unless he or she has transferable skills. In fact, under our current rules, we will find that such a person cannot make an adjustment to other work (i.e., is disabled) unless he or she has skills that can be transferred to other jobs the person can do despite his or her impairment(s). We propose to modify the provision to make this clear.

We are proposing to incorporate in proposed new §§ 404.1568(d)(4) and 416.968(d)(4) provisions from §§ 201.00(f) and 202.00(f) of appendix 2 to subpart P of part 404 of our regulations, the Medical-Vocational Guildelines, to clarify our original intent regarding the last sentence of current §§ 404.1563(d) and 416.963(d) and for consistency in our rules. The proposed revisions explain that, for an individual of advanced age (i.e., age 55 or older) whose residual functional capacity permits him or her to do no more than sedentary work, we will find that such individual's skills are transferable to skilled or semiskilled sedentary work only if the sedentary work is so similar to the individual's previous work that the individual would need to make ''very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry.'' In addition, we propose to include in proposed new §§ 404.1568(d)(4) and 416.986(d)(4) a provision to clarify how we consider the transferability of skills for a person who is of advanced age but has not attained age 60 (i.e., a person age 55–59) and who has a severe impairment(s) that limits him or her to no more than light work. We explain that for such a person we will apply the rules in paragraphs (d)(1) through (d)(3) of current §§ 404.1568 and 416.968 to determine if the person has skills that are transferable to skilled or semiskilled light work. The revisions also explain that, for an individual of advanced age who is ''closely approaching retirement age'' (i.e., age 60–64) and whose residual functional capacity permits him or her to do no more than light work, we will find that such individual's skills are transferable to skilled or semiskilled light work only if the light work is so similar to the individual's previous work that the individual would need to make ''very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry.''

In making these revisions, we would replace the statement in current §§ 404.1563(d) and 416.963(d), ''unless you have skills which are highly marketable,'' with the foregoing language taken from §§ 201.00(f) and 202.00(f) of appendix 2. This will clarify our original intent that the provisions of current §§ 404.1563(d) and 416.963(d) are consistent with, and must be read in the context of, the provisions of §§ 201.00(f) and 202.00(f) or appendix 2.

There is no reference to ''highly marketable'' skills in the Act, which prohibits consideration of whether an individual would be hired if he or she applied for work. (See sections 223(d)(2) and 1614(a)(3)(B) of the Act.) The phrase was one of the additions we made to the regulations under the ''common sense'' redodification in 1980. (See 45 FR 55566, August 20, 1980.) When we issued those regulations, we did not intent to introduce the term as a statement of a new rule or as a change in existing rules. We intended only to contribute to public understanding of the provisions regarding transferability of skills for older workers in the Medical-Vocational Guidelines in appendix 2. (The language in appendix 2 was not changed by the ''common sense'' redocification in 1980.) However, by using different language in current §§ 404.1563(d) and 416.963(d) from that in appendix 2, we have inadvertently given the mistaken impression that we meant to establish a separate criterion for these individuals beyond what we already provide in appendix 2. That was not our intent. (See, e.g., Social Security Ruling 82–41, ''Titles II and XVI: Work Skills and Their Transferability as Intended by the Expanded Vocational Factors Regulations Effective February 26, 1979,'' Social Security Rulings (C.E. 1982, pp. 196, 202); Final Rules for Adjudicating Disability Claims in Which Vocational Factors Must Be Considered, 43 FR 55349, 55353–55354 (November 28, 1978).)

Electronic Version

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Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order (E.O.) 12866. Thus, they were not subject to OMB review. We have also determined that these proposed rules meet the plain language requirement of E.O. 12866 and the President's memorandum of June 1, 1998.

Clarity Of These Proposed Rules

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make these proposed rules easier to understand. For example:

- Have we organized the material to suit your needs?
- Are the requirements in the rules clearly stated?
- Do the rules contain technical language or jargon that isn't clear?
- Woule a different format (grouping and order of sections, use of headings, paragraphing) make the rules easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?

Regulatory Flexibility Act

We certify that these regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: July 23, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart P of part 404 and subpart I of part 416 of 20 CFR chapter III as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Section 404.1563 is amended by revising paragraph (a), redesignating paragraphs (b) through (e) as paragraphs (c) through (f), adding a new paragraph (b), and revising redesignated paragraphs (c), (d) and (e) to read as follows:

§ 404.1563 Your age as a vocational factor.

(a) *General.* ''Age'' means your chronological age. When we decide whether you are disabled under § 404.1520(f)(1), we will consider your chronological age in combination with your residual functional capacity, education, and work experience; we will not consider your ability to adjust to other work on the basis of your age alone. In determining the extent to which age affects a person's ability to adjust to other work, we consider advancing age to be an increasingly limiting factor in the person's ability to make such an adjustment, as we explain in paragraphs (c) through (e) of this section. If you are unemployed because of your age, but you still have the ability to do substantial gainful activity, we will find that you are not disabled. In paragraphs (b) through (e) of this section and in appendix 2, we explain in more detail how we consider your age as a vocational factor.

(b) *How we apply the age categories.* When we make a finding about your ability to do other work under § 404.1520(f)(1), we will use the age categories in paragraphs (c) through (e) of this section. We will use each of the age categories that applies to you during the period for which we must determine if you are disabled. We will not apply the age categories mechanically in a borderline situation. If you are within a few days to a few months of reaching an older age category, and using the older age category could result in a determination or decision that you are disabled, we will consider whether to use the older age category after evaluating the overall impact of all of your vocational factors.

(c) *Younger person.* If you are a younger person (under age 50), we generally do not consider that your age will seriously affect your ability to adjust to other work. However, in some circumstances, we consider that persons age 45–49 are more limited in their ability to adjust to other work than persons who have not attained age 45. See Rule 201.17 in appendix 2.

(d) *Person closely approaching advanced age.* If you are closely approaching advanced age (age 50–54), we will consider that your age along with a severe impairment(s) and limited work experience may seriously affect your ability to adjust to other work.

(e) *Person of advanced age.* We consider that at advanced age (age 55 or older) chronological age significantly affects a person's ability to adjust to other work. We have special rules for persons of advanced age and for persons in this category who are closely approaching retirement age (age 60–64). See § 404.1568(d)(4).

* * * * *

3. Section 404.1568 is amended by adding a new paragraph (d)(4) to read as follows:

§ 404.1568 Skill requirements.

* * * * *

(d) *Skills that can be used in other work (transferability)* * * *.

* * * * *

(4) *Transferability of skills for individuals of advanced age.* If you are of advanced age (age 55 or older), and you have a severe impairment(s) that limits you to sedentary or light work, we will find that you cannot make an adjustment to other work unless you have skills that you can use in (transfer to) other skilled or semiskilled work that you can do despite your impairment(s). We will decide if you have transferable skills as follows. If you are of advanced age and you have a severe impairment(s) that limits you to no more than sedentary work, we will find that you have skills that are transferable to skilled or semiskilled sedentary work only if the sedentary work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 404.1567(a) and § 201.00(f) of appendix 2.) If you are of advanced age but have not attained age 60, and you have a severe impairment(s) that limits you to no more than light work, we will apply the rules in paragraphs (d)(1) through (d)(3) of this section to decide if you have skills that are transferable to skilled or semiskilled light work (see § 404.1567(b)). If you are closely approaching retirement age (age 60–64) and you have a severe impairment(s) that limits you to no more than light work, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 404.1567(b) and § 202.00(f)) of appendix 2.)

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

4. The authority citation for subpart I of part 416 continues to read as follows:

AUTHORITY: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

5. Section 416.963 is amended by revising paragraph (a), redesignating paragraphs (b) through (e) as paragraphs (c) through (f), adding a new paragraph (b), and revising redesignated paragraphs (c), (d) and (e) to read as follows:

§ 416.963 Your age as a vocational factor.

(a) *General.* ''Age'' means your chronological age. When we decide

whether you are disabled under § 416.920(f)(1), we will consider your chronological age in combination with your residual functional capacity, education, and work experience; we will not consider your ability to adjust to other work on the basis of your age alone. In determining the extent to which age affects a person's ability to adjust to other work, we consider advancing age to be an increasingly limiting factor in the person's ability to make such an adjustment, as we explain in paragraphs (c) through (e) of this section. If you are unemployed because of your age, but you still have the ability to do substantial gainful activity, we will find that you are not disabled. In paragraphs (b) through (e) of this section and in appendix 2 of subpart P of part 404 of this chapter, we explain in more detail how we consider your age as a vocational factor.

(b) *How we apply the age categories.* When we make a finding about your ability to do other work under § 416.920(f)(1), we ill use the age categories in paragraphs (c) through (e) of this section. We will use each of the age categories that applies to you during the period for which we must determine if you are disabled. We will not apply the age categories mechanically in a borderline situation. If you are within a few days to a few months of reaching an older age category, and using the older age category could result in a determination or decision that you are disabled, we will consider whether to use the older age category after evaluation the overall impact of all of your vocational factors.

(c) *Younger person.* If you are a younger person (under age 50), we generally do not consider that your age will seriously affect your ability to adjust to other work. However, in some circumstances, we consider that persons age 45–49 are more limited in their ability to adjust to other work than persons who have not attained age 45. See Rule 201.17 in appendix 2 of subpart P of part 404 of this chapter.

(d) *Person closely approaching advanced age.* If you are closely approaching advanced age (age 50–54), we will consider that your age along with a severe impairment(s) and limited work experience may seriously affect your ability to adjust to other work.

(e) *Person of advanced age.* We consider that at advanced age (age 55 or older) chronological age significantly affects a person's ability to adjust to other work. We have special rules for persons of advanced age and for persons in this category who are closely approaching retirement age (age 60–64). See § 16.968(d)(4).

* * * * *

6. Section 416.96 is amended by adding a new paragraph (d)(4) to read as follows:

§ 416.968 Skill requirements.

* * * * *

(d) *Skills that can be used in other work (transferability)* * * *.

* * * * *

(4) *Transferability of skills for individuals of advanced age.* If you are of advanced age (age 55 or older), and you have a severe impairment(s) that limits you to sedentary or light work, we will find that you cannot make an adjustment to other work unless you have skills that you can use in (transfer to) other skilled or semiskilled work that you can do despite your impairment(s). We will decide if you have transferable skills as follows. If you are of advanced age and you have a severe impairment(s) that limits you to no more than sedentary work, we will find that you have skills that are transferable to skilled or semiskilled sedentary work only if the sedentary work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 416.967(a) and § 201.00(f) of appendix 2 of subpart P of part 404 of this chapter.) If you are of advanced age but have not attained age 60, and you have a severe impairment(s) that limits you to not more than *light* work, we will apply the rules in paragraphs (d)(1) through (d)(3) of this section to decide if you have skills that are transferable to skilled or semiskilled light work (see § 416.967(b)). If you are closely approaching retirement age (age 60–64) and you have a severe impairment(s) that limits you to no more than *light* work, we will find that you have skills that are transferable to skilled or semiskilled light work only if the light work is so similar to your previous work that you would need to make very little, if any, vocational adjustment in terms of tools, work processes, work settings, or the industry. (See § 416.967(b) and § 202.00(f) of appendix 2 of subpart P of part 404 of this chapter.)

[FR Doc. 99–19989 Filed 8–3–99; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 98P–0683]

Food Labeling: Health Claims; Soy Protein and Coronary Heart Disease

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; notice of extension of period for issuance of final rule.

SUMMARY: The Food and Drug Administration (FDA) is extending, for 80 days, the period for issuance of a final rule in response to its proposal of November 10, 1998, entitled 'Food Labeling: Health Claims; Soy Protein and Coronary Heart Disease.'' FDA's regulations require the agency to issue a notice of such extension if it finds, for cause, that it is unable to issue a final rule within 270 days from the November 10, 1998, date of publication of the proposal. Comments to that proposal have persuaded the agency of the need to propose an alternative procedure to assess compliance with qualifying amounts of soy protein in foods that may bear the proposed health claim. FDA will publish a reproposal of the procedure for compliance assessment in the **Federal Register** shortly. The agency then intends to issue one final rule in response to both proposals on or before October 25, 1999.

FOR FURTHER INFORMATION CONTACT: Susan M. Pilch, Center for Food Safety and Applied Nutrition (HFS–465), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4500.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 22, 1997 (62 FR 28229), FDA published a final rule to amend § 101.70 (21 CFR 101.70) of its regulations to provide a timeframe in which it will issue, in rulemakings on health claims, final rules announcing whether it will authorize the use of the claim at issue and to provide for extensions of that timeframe for cause. In that final rule, FDA adopted § 101.70(j)(4)(i), which provides that within 270 days of the date of publication of a proposal to authorize a health claim, the agency will publish a final rule that either authorizes the use of a health claim or explains why the agency has decided not to authorize one. FDA also adopted § 101.70(j)(4)(ii), which provides that, for cause, the agency may extend, no more than twice, the period in which it will publish a final rule and that each such extension

will be for no more than 90 days. This regulation further requires that FDA publish a notice of any such extension in the **Federal Register**, and that it explain in that notice the basis for the extension, the length of the extension, and the date by which the final rule will be published (§ 101.70(j)(4)(ii)).

In the **Federal Register** of May 14, 1998 (63 FR 26717), FDA published a final rule in part to amend § 101.70 in response to section 302 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) . Section 302 of FDAMA amended section 403(r)(4)(A)(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(4)(A)(i)) to provide, in part, that FDA must publish a final rule on a health claim petition within 540 days of receipt of the petition or FDA is required to provide the relevant House and Senate legislative committees with the reason for failing to do so. Accordingly, FDA amended § 101.70(j)(4)(ii) to state that rulemakings on health claim petitions shall be completed within 540 days of receipt of those petitions. FDA noted that, depending upon how much time the agency uses to file a petition and publish a proposed rule in response to it, the agency may be limited to only one extension under § 101.70(j)(4)(ii), and the extension may be limited to fewer than 90 days (63 FR 26717 at 26718).

In the **Federal Register** of November 10, 1998 (63 FR 62977), FDA proposed adding § 101.82 to authorize the use, on food labels and in food labeling, of health claims on the association between soy protein and reduced risk of coronary heart disease (CHD) (the soy protein proposed rule). In the soy protein proposed rule, the agency presented the rationale for a health claim on this food-disease relationship as provided for under the standard in section 403(r)(3)(B)(i) of the act and 21 CFR 101.14(c) of FDA's regulations. The agency tentatively concluded that, based on the totality of publicly available scientific evidence, soy protein included in a diet low in saturated fat and cholesterol may reduce the risk of CHD. The soy protein proposed rule included qualifying criteria for the purpose of identifying soy protein-containing foods eligible to bear the proposed health claim and a proposed analytical method for assessing compliance with the qualifying criteria. Comments received in response to the soy protein proposed rule have persuaded FDA that the proposed method for assessment of compliance is inadequate for many products. Accordingly, FDA intends to publish, in a separate document, a reproposal for an alternative procedure. This procedure would rely on measurement of total protein and require manufacturers, in certain circumstances, to maintain records that document the amount of soy protein in products and to make these records available to appropriate regulatory officials for inspection and copying upon request.

To publish a final rule regarding a health claim for soy protein and CHD within 270 days of the date of publication of the proposed rule, which was November 10, 1998, the agency should publish the final rule on or before August 6, 1999. However, because of the need to provide for public notice and comment on the reproposal, FDA hereby gives notice that there is cause to extend the period for publication of the final rule for a period of 80 days. FDA will, thus, publish a single final rule in response to both proposals on or before October 25, 1999, which is within 540 days of the date of receipt of the petition.

Dated: July 28, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–19979 Filed 8–3–99; 8:45 am]

BILLING CODE 4160–01–F

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 99–5]

Notice and Recordkeeping for Subscription Digital Transmissions

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office of the Library of Congress is proposing to amend the regulation that requires the filing of an initial notice of digital transmissions of sound recordings under statutory license with the Copyright Office to adjust for changes brought about by the passage of the Digital Millennium Copyright Act of 1998.

DATES: Comments are due September 3, 1999.

ADDRESSES: An original and ten copies of the comments shall be delivered to: Office of General Counsel, Copyright Office, LM–403, James Madison Memorial Building, 101 Independence Avenue, S.E., Washington, D.C. 20559–6000, or mailed to: David O. Carson, General Counsel, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

On November 1, 1995, Congress enacted the Digital Performance Act in Sound Recordings Act of 1995 (''DPRA''), Public Law 104–39, 109 Stat. 336 (1995). The DPRA gave to sound recording copyright owners an exclusive right to perform their works publicly by means of a digital audio transmission. 17 U.S.C. 106(6). The new right, however, was subject to certain limitations, including exemptions for certain digital transmissions, 17 U.S.C. 114(d)(1), and the creation of a statutory license for nonexempt digital subscription services. 17 U.S.C. 114(d)(2).

The statutory license requires adherence to regulations under which copyright owners may receive reasonable notice of use of their sound recordings under the statutory license, and under which entities performing the sound recordings shall keep and make available records of such use. 17 U.S.C. 114(f)(2). On May 13, 1996, the Copyright Office initiated a rulemaking proceeding to promulgate regulations to govern the notice and recordkeeping requirements. 61 FR 22004 (May 13, 1996). This rulemaking concluded with the issuance of interim rules to govern the filing of an initial notice of digital transmissions of sound recordings under statutory license, 37 CFR 201.35, and the filing of reports of use of sound recordings under statutory license, 37 CFR 201.36. *See* 63 FR 34289 (June 24, 1998).

At the time these regulations were announced, only three noninteractive, nonsubscription, digital transmissions services (DMX, Inc., Digital Cable Radio Associates/Music Choice, and Muzak, Inc.) were in operation and considered eligible for the license. Consequently, the Office prescribed a period for filing initial notices such that all existing services, which were already operating in accordance with the section 114 license, had to submit their notices within 45 days of the effective date of the regulation. Section 201.35(f) reads, in part, as follows: ''A Service shall file the Initial Notice with the Licensing Division of the Copyright Office prior to the first transmission of sound

recordings under the license, *or within 45 days of the effective date of this regulation.*'' (Emphasis added).

Subsequently, the President signed into law the Digital Millennium Copyright Act of 1998 (''DMCA''). Among other things, the DMCA expanded the section 114 compulsory license to allow a nonexempt, eligible nonsubscription transmission service and a pre-existing satellite digital audio radio service to perform publicly a sound recording by means of certain digital audio transmissions, subject to notice and recordkeeping requirements. 17 U.S.C. 114(f).

The notice and recordkeeping requirements found in §§ 201.35 and 201.36 would appear to apply to any service eligible for the section 114 license, including those newly eligible to use the license under the amended provisions of the license. However, these regulations provide no opportunity for a newly eligible nonsubscription transmission service which was in service prior to the passage of the DMCA to make a timely filing of its initial notice of transmission.

Therefore, the Copyright Office is proposing an amendment to § 201.35(f) which would extend the period for filing the initial notice to October 15, 1999, in order to allow the eligible nonsubscription services which were in operation prior to the passage of the DMCA an opportunity to file their initial notice timely. Comments on the extension of the filing period must be filed with the Copyright Office within September 3, 1999.

The Office also recognizes that § 201.36, which prescribes rules detailing how services shall notify copyright owners of the use of their sound recordings, what to include in that notice, and how to maintain and make available such records, does not apply to those services newly eligible for the section 114 license under the DMCA. Currently, § 201.36(c) requires ''Reports of Use [to] be served upon Collectives that are identified in the records of the Licensing Division of the Copyright Office as having been designated under the statutory license, either by settlement agreement . . ., or by decision of a Copyright Arbitration Royalty Panel . . ., or by an order of the Librarian . . . .'' At this time, no collective has been designated in accordance with any of the methods enumerated in § 201.36(c) for the purpose of collecting royalty fees from the newly eligible services, nor have any rates or terms been set for the use of the license by these services. *See* 63 FR 65555 (November 27, 1998). The newly eligible services and the interested copyright owners, however, continue negotiations to reach industry-wide agreement on rates and terms for the expanded section 114 license. In deference to these negotiations, the Office will refrain from initiating at this time a rulemaking proceeding to consider amendments to the recordkeeping regulations.

Regulatory Flexibility Act

Although the Copyright Office, located in the Library of Congress which is part of the legislative branch, is not an ''agency'' subject to the Regulatory Flexibility Act, 5 U.S.C. 601–612, the Register of Copyrights has considered the effect of the proposed amendment on small businesses. The Register has determined that the amendment would not have a significant economic impact on a substantial number of small entities that would require provision of special relief for small entities. The proposed amendment is designed to minimize any significant economic impact on small entities.

List of Subjects in 37 CFR Part 201

Copyright.

Proposed Regulations

For the reasons set forth in the preamble, part 201 of title 37 of the Code of Federal Regulations is proposed to be amended as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

2. Section 201.35(f) is amended by removing the phrase ''or within 45 days of the effective date of this regulation.'' and adding in its place ''or by October 15, 1999.''

Dated: July 30, 1999.

Marybeth Peters,

Register of Copyrights.

[FR Doc. 99–19988 Filed 8–3–99; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–6413–1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant a petition submitted by BWX Technologies, Inc. (formerly Babcock & Wilcox), to exclude (or ''delist'') certain solid wastes generated at its Lynchburg, Virginia, facility from the lists of hazardous wastes contained in Subpart D of Title 40 of the Code of Federal Regulations Part 261. This action responds to a ''delisting'' petition submitted pursuant to 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of 40 CFR Parts 260 through 266, 268, and 273, and pursuant to 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. This proposed decision is based on an evaluation of waste-specific information provided by the petitioner. If this proposed decision is finalized, the petitioned waste will be excluded from the requirements of the hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA).

DATES: EPA is requesting public comments on this proposed decision. Comments will be accepted until September 20, 1999. Comments postmarked after the close of the comment period will be stamped ''late.''

Any person may request a hearing on this proposed decision by filing a request by August 19, 1999. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Two copies of any comments should be sent to David M. Friedman, Technical Support Branch (3WC11), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103–2029.

Requests for a hearing should be addressed to John A. Armstead, Director, Waste and Chemicals Management Division (3WC00), U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103–2029.

The RCRA regulatory docket for this proposed rule is located at the offices of U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA, 19103–2029, and is available for viewing from 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding Federal holidays. Call David M. Friedman at (215) 814–3395 for appointments. The public may copy material from the regulatory docket at $0.15 per page. The docket for this proposed rule is also located at the offices of the Campbell County Administrator's Office, P.O. Box 100,

Main Street—Haberer Building 2nd floor, Rustburg, VA, 24588, and is available for viewing from 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding holidays. Call Kathy Elliot at (804) 332–9619 for appointments.

FOR FURTHER INFORMATION CONTACT: For technical information concerning this document, contact David M. Friedman at the address above or at (215) 814–3395.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published at 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of 40 CFR Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and toxicity) or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have its wastes excluded, a petitioner must show that wastes generated at its facility do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a)(1) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require EPA to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. See 40 CFR 260.22(a)(2). Accordingly, a petitioner must demonstrate that the waste does not exhibit any of the hazardous waste characteristics defined in Subpart C of 40 CFR Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and toxicity), and must present sufficient information for EPA to determine whether the waste contains any other constituents at hazardous levels. Although wastes which are ''delisted'' (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated under RCRA to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics defined in Subpart C of 40 CFR Part 261.

In addition, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing listed hazardous wastes are also considered hazardous wastes. See 40 CFR 261.3(a)(2)(iv) and (c)(2)(i), referred to as the ''mixture'' and ''derived-from'' rules, respectively. Such wastes are also eligible for exclusion and remain hazardous wastes until excluded. On December 6, 1991, the U.S. Court of Appeals for the District of Columbia vacated the ''mixture/derived-from'' rules and remanded them to EPA on procedural grounds. *Shell Oil Co.* v. *EPA*, 950 F.2d 741 (D.C. Cir. 1991). On March 3, 1992, EPA reinstated the ''mixture'' and ''derived-from'' rules, and solicited comments on other ways to regulate waste mixtures and residues (57 FR 7628). EPA plans to address issues related to waste mixtures and residues in a future rulemaking.

B. Approach Used To Evaluate This Petition

BWX Technologies, Inc.'s (hereinafter, BWX Technologies') petition requests a delisting for a listed hazardous waste. In making the initial delisting determination, EPA evaluated the petitioned waste against the listing criteria and factors cited in 40 CFR 261.11(a)(2) and (a)(3). Based on this review, EPA tentatively agreed with the petitioner, pending public comment, that the waste is non-hazardous with respect to the original listing criteria. If EPA had found, based on this review, that the waste remained hazardous based on the factors for which the waste was originally listed, EPA would have proposed to deny the petition.

EPA then evaluated the waste with respect to other factors or criteria to assess whether there is a reasonable basis to believe that other factors could cause the waste to be hazardous. EPA considered whether the waste is acutely toxic, and considered the concentration of the constituents in the waste, the toxicity of the constituents, their tendency to migrate and to bioaccumulate, their persistence in the environment if released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and waste variability.

For this delisting determination, EPA used such information gathered to identify plausible exposure routes (*i.e.*, ground water, surface water, air) for hazardous constituents present in the petitioned waste. Since BWX Technologies' waste is presently landfilled, EPA determined that the major exposure route of concern would be ingestion of contaminated ground water. Therefore, EPA used a fate and transport model to predict the maximum concentrations of hazardous constituents that may be released from the petitioned waste and to determine the potential impact of BWX Technologies' petitioned waste on human health and the environment. Specifically, EPA used the estimated waste volume and the maximum reported extract concentrations as inputs to estimate the constituent concentrations in the ground water at a hypothetical receptor well downgradient from the disposal site. The calculated receptor well concentrations were then compared directly to the health-based levels at an assumed excess cancer risk of 10^{-6}, which is the target risk level used in delisting decision-making for the hazardous constituents of concern.

EPA believes that this fate and transport model represents a reasonable worst-case scenario for the petitioned waste, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C (40 CFR Parts 260 through 266 and 268). The use of a reasonable worst-case scenario results in conservative values for the compliance-point concentrations and ensures that the waste, once removed from hazardous waste regulation, should not pose a threat to human health or the environment.

EPA also considers the applicability of ground water monitoring data during the evaluation of delisting petitions. In this case, EPA determined that it would be inappropriate to request ground water monitoring data because BWX Technologies currently disposes of the petitioned waste off-site. For petitioners using off-site management, EPA believes that, in most cases, the ground water monitoring data would not be meaningful. Most commercial land disposal facilities accept waste from numerous generators. Any ground water contamination or leachate would be characteristic of the total volume of waste disposed of at the facility. In most cases, EPA believes that it would be impossible to isolate ground water

impacts associated with any one waste disposed of in a commercial landfill. Therefore, EPA did not request ground water monitoring data from BWX Technologies.

Based on its evaluation of BWX Technologies' delisting petition, EPA developed a list of constituents for the verification testing program. Proposed maximum allowable leachate concentrations for these constituents were derived by back-calculating from the delisting health-based levels through the proposed fate and transport model for a landfill management scenario. These concentrations (*i.e.*, ''delisting levels'') are part of the proposed verification testing conditions of the exclusion.

Like other facilities seeking exclusions, BWX Technologies' exclusion (if granted) would be contingent upon the facility conducting analytical testing of representative samples of the petitioned waste at the Lynchburg, VA facility. This testing would be necessary to verify that the treatment system is operating as demonstrated in the petition submitted on September 30, 1994, and in subsequent submissions. Specifically, the verification testing requirements would be implemented to demonstrate that the facility will continue to generate nonhazardous waste (*i.e.*, waste that meets the EPA's verification testing conditions).

EPA's proposed decision to delist waste from BWX Technologies' facility is based on the information submitted in support of today's proposed rule. This information includes descriptions of the waste generation processes and the wastewater treatment system at the Lynchburg, VA facility, and data from the analysis of representative samples of the petitioned waste. HSWA specifically requires EPA to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all timely public comments (including those at public hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

BWX Technologies, Inc., Naval Nuclear Fuel Division, Mount Athos Road, Lynchburg, Virginia 24505–0785.

A. Petition for Exclusion

Babcock & Wilcox acquired the Mt. Athos site and began operations there in 1955. BWX Technologies, Inc. (an affiliate of the Babcock & Wilcox Company) was created as the result of an internal corporate reorganization on July 1, 1997. BWX Technologies, Naval Nuclear Fuel Division, located in Lynchburg, Virginia, is engaged in the production of nuclear fuel assemblies for the United States Department of Energy. They manufacture nuclear fuels and reactor components for commercial and military use. The BWX Technologies facility generates wastewaters which are treated in an on-site wastewater treatment plant that consists of four (4) discrete wastewater treatment systems. These are the pickle acid, low-level radioactive, sanitary, and Lamella systems. Filter cake solids were originally generated from the combined flows of the pickle acid and the Lamella systems. However, these systems were separated with the introduction of a microfiltration system to the pickle acid system in 1992. The metal finishing operations, which consist of cleaning, hydrofluoric and nitric acid pickling, and anodizing, generate wastewaters that are treated in the pickle acid treatment system. The treatment of these wastewaters in the pickle acid treatment system ultimately generates a wastewater treatment sludge in the form of a filter cake which is listed as EPA Hazardous Waste No. F006—''Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.'' The hazardous waste F006 is listed for cadmium, hexavalent chromium, nickel and complexed cyanide (40 CFR Part 261, Appendix VII). The filter cake from the pickle acid system is the only waste stream that is the subject of the BWX Technologies' petition.

Review of this petition included consideration of the original listing criteria, as well as the additional factors required by HSWA. See Section 3001(f) of RCRA, 42 U.S.C. 6921(f), and 40 CFR 260.22.

B. Background

On September 30, 1994, BWX Technologies (then Babcock & Wilcox) petitioned EPA to exclude from the lists of hazardous waste listed at 40 CFR 261.31 both past and currently generated filter cake solids produced by its wastewater treatment facility from the treatment of wastewaters in the pickle acid treatment system because it believed that the petitioned waste did not meet any of the criteria under which the waste was listed and that there were no additional constituents or factors that would cause the waste to be hazardous. Subsequently, BWX Technologies provided additional information to complete its petition. Specifically, in its petition, BWX Technologies requested that EPA grant an exclusion for its past generated filter cake consisting of 551 cubic yards per calendar year (1991 generation rate) and the currently generated filter cake consisting of 247 cubic yards per calendar year (1993 generation rate). BWX Technologies divided its request into these two categories based on the installation of a microfiltration system in 1992 which minimized the volume of filter cake production from the treatment of the pickle acid wastewaters. More recently, BWX Technologies updated the filter cake generation rate. Based on additional information submitted by BWX Technologies on December 17, 1998, the facility is currently generating filter cake solids at a maximum rate of 267 cubic yards per calendar year. By letter dated March 11, 1999, BWX Technologies requested that the delisting be based on a waste volume of 300 cubic yards per calendar year to allow for an increase in the waste generation rate. In support of its petition, BWX Technologies submitted detailed descriptions of its manufacturing and wastewater treatment process, a schematic diagram of the wastewater treatment process, and analytical testing results for representative samples of the petitioned wastes, including: (1) the hazardous characteristics of ignitability and corrosivity; (2) total oil and grease; (3) Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311) analysis for volatile and semi-volatile organic compounds and Toxicity Characteristic (TC) metals plus antimony, beryllium, cobalt, copper, nickel, thallium, tin, vanadium and zinc; (4) total constituent analysis for volatile and semi-volatile organic compounds and TC metals plus antimony, beryllium, cobalt, copper, nickel, thallium, tin, vanadium and zinc; (5) total cyanide, total sulfide, total fluoride and total formaldehyde; and (6) TCLP analysis for fluoride. BWX Technologies developed a list of constituents of concern by comparing a list of all raw materials used in the plant that could possibly appear in the petitioned waste with those found in 40 CFR Part 261, Appendix VIII and 40 CFR part 264, Appendix IX. Based on a knowledge of their metal working processes and other processes at the facility and of the treatment operation, BWX Technologies determined that certain classes of chemical constituents would not be anticipated to be present

in the filter cake. These chemicals include semi-volatile organic constituents (except those constituents listed in 40 CFR 261.24), pesticides, herbicides, dioxins and furans.

In June, 1990, the filter cake was found to contain trace levels of special nuclear materials (*i.e.*, uranium at typically less than 30 picocuries per gram). As of October 1991, this special nuclear material contamination was eliminated from the filter cake. Because the past generated filter cake was contaminated with special nuclear materials, it was placed in drums and roll-off boxes and disposed of at a Nuclear Regulatory Commission (NRC) approved hazardous waste landfill after the NRC granted an exemption for filter cake as a low-level radioactive material. Beginning in 1992, a Memtek Advanced Membrane Filtration System has been utilized as part of the BWX Technologies' wastewater treatment process for the pickling acid system. Currently generated filter cake from the Memtek system is not contaminated by special nuclear materials and is being disposed off-site at a RCRA Subtitle C permitted facility.

In BWX Technologies' petition, the past generated filter cake contains a radioactive component; therefore, it is classified as a ''mixed waste'' under RCRA. A ''mixed waste'' is defined as a waste that contains both a radioactive component subject to the Atomic Energy Act (AEA), and a hazardous component subject to RCRA. There are two parts of the RCRA program that states implement. These are the RCRA-base program (pre-HSWA) and HSWA. The hazardous components of mixed wastes come under RCRA base program. Under Section 3006 of RCRA, EPA may authorize qualified states to administer and enforce the RCRA hazardous waste program within the state. When new, more stringent federal requirements were promulgated or enacted, the state was obligated to enact equivalent authority within specified time frames. New federal requirements did not take effect in authorized states until the state adopted the requirements as state law. Up until 1986, the applicability of RCRA to mixed waste was unclear. To clarify the applicability of RCRA to mixed waste, EPA issued a clarification notice on July 3, 1986 (51 FR 24504). In that notice, EPA announced that the hazardous component of mixed waste is subject to RCRA jurisdiction and that the radioactive portion of the waste (source, special nuclear, and by-product material) is subject to the Atomic Energy Act (AEA). EPA also required states which had obtained RCRA base program authorization prior to the July 3, 1986 notice to revise their programs to clarify the regulatory status of mixed waste (*i.e.*, to include the hazardous component of mixed waste in their program definition of solid waste), and to apply for EPA authorization to their revised program. The Commonwealth of Virginia had been granted authorization to administer the RCRA base program prior to July 3, 1986. However, as of this date, Virginia has not been specifically authorized for mixed waste. In a State which is authorized for the RCRA base program, but not specifically authorized for mixed waste, this waste is not subject to the Federal hazardous waste requirements until the State revises its program and receives authorization specifically for mixed waste. Therefore, EPA cannot consider for exclusion the past generated filter cake solids at BWX Technologies.

BWX Technologies' Naval Nuclear Fuel Division includes several operations which generate wastewaters which are influent to the pickle acid treatment system. A brief description of these operations follows.

(1) Metal Processing—Metal components undergo a metal forming operation and subsequent heat treatment. Solvents, including acetone, xylene, and trichloroethylene (TCE), were used for pre- and post-cleaning to remove various substances. Grit blasting is conducted to remove the oxide film or scale which develops during heat treatment. Prior to 1994, metal components were degreased using ultrasonic detergent cleaning or TCE. In 1994, BWX Technologies eliminated the use of xylene, and the use of acetone and TCE have been strictly limited. None the these solvents (acetone, xylene and TCE) is currently used for pre- or post-cleaning of metal components. Metal components are currently cleaned with aqueous-based cleaning solutions and soaps. Other metal processing operations include corrosion testing, welding, and component inspection.

(2) Metal Pickling—Once cleaned and inspected, metal components are pickled in an aqueous acid solution containing hydrofluoric acid and nitric acid. The metal is then passed through cold and hot water rinse baths.

(3) Metal Anodizing—The final metal components are anodized with a caustic solution followed by water rinses.

(4) Copper Recovery—BWX Technologies conducts a copper dissolution operation using a concentrated nitric acid solution. The process combines the copper-laden spent nitric acid solution with dilute nitric acid rinses. In the past, the resultant solution was treated in an on-site copper recovery process. The copper was removed and sold as a copper oxide product. Non-acidic waste solutions from the copper recovery process were treated in the wastewater treatment plant (WWTP). The copper recovery system ceased operation in 1993. Since December 1993 spent copper nitrate solutions have been collected and shipped off-site as a hazardous waste for recovery.

(5) Hafnium and Inconel Pickling—Hafnium is pickled in the bath used for metal components (after the metal components have been pickled) or in a bath containing fresh nitric and hydrofluoric acid solutions. Inconel (a corrosion-resistant alloy of nickel and chromium) components are cleaned in an aqueous solution of hydrofluoric and nitric acids, and subsequently rinsed in cold and hot water.

(6) Aluminum Pickling and Anodizing—Aluminum components are pickled using a caustic solution, cleaned with an aqueous acid solution consisting of nitric and hydrofluoric acids, and rinsed in cold and hot water. Aluminum is anodized with a caustic solution followed by water rinses.

(7) Other Wastewater Streams Entering the WWTP—Four (4) intermittent wastewater streams have also been treated as part of the pickle acid wastewater system. These included: (a) rinsewater from the aluminum oxide grit blasting operation; (b) backwash of the softener, demineralizer, and sand filter components of the deionized water supply system; (c) effluent from the x-ray photography laboratory silver recovery process; and (d) a low flow sub-surface creek (*i.e.*, ground water seep) intercepted and treated for pH adjustment. Of these four (4) intermittent waste streams, the grit blasting operation is the only one that now discharges to the pickle acid wastewater system. The sub-surface creek, filter plant backwash and silver recovery flows are all treated in the Lamella System. According to BWX Technologies, the three (3) intermittent waste streams that are now treated in the Lamella System did not have an impact on the pickle acid system, and the removal of these streams has had no significant effect on the characteristics of the filter cake.

(8) Acid clean line—This line was added in 1994 as part of a new manufacturing process. It consists of a series of adjacent tanks including hot detergent cleaning, acid cleaning and a variety of rinse tanks. The acid tanks which utilize a mixture of nitric, hydrofluoric, hydrochloric and phosphoric acids, as well as ferric chloride, are used to clean Inconel metal

components. The spent acid mixtures are sent off-site for disposal. The detergent and rinse tanks discharge to the pickle acid system.

(9) An industrial water jet cutting operation was added to the manufacturing facility in 1995. The water jet cutter uses a high-pressure jet of water/garnet sand to cut Inconel metal. Wastewater from the cutter flows through a cyclone separator to remove sand and metal fines, and then flows to the pickle acid system.

The current wastewater treatment system is a Memtek Advanced Filtration System which was put into operation in 1992 to minimize the volume of filter cake produced from the neutralization of the pickling wastewaters. Bench-scale and pilot plant testing of the Memtek System indicated that this system reduced the volume of waste generated by 75 percent. The actual reduction attributable to the Memtek System is between 50 and 75 percent.

The pickling wastewaters are first held in a recirculated equalization tank to reduce fluctuations in the fluoride concentration. From the equalization tank, the pickling wastewaters flow to a 2,000-gallon tank where lime is added for initial pH adjustment. The lime causes the fluoride in the wastewater to precipitate. The bulk of the neutralization or final adjustment to obtain a pH of 10.5 is made with sodium hydroxide in a series of two 500-gallon reaction tanks. The sodium hydroxide does not produce any additional neutralization sludge since most sodium salts are soluble. The treated wastewater is transferred to a 650-gallon concentration tank. The wastewater is pumped out of the concentration tank and through a bank of microfilters. Effluent from the filters discharges to a day tank and then to an equalization tank. The equalization tanks are monitored for pH and fluoride prior to reprocessing or discharge to an outfall. Concentrated solids from the filter banks are returned to the concentration tank. The concentration of solids in the concentration tank gradually increases as more solids are added. A timed pump transfers solids from the bottom of the concentration tank to the plate and frame filter press. At the filter press, the slurry is dewatered to produce a 50 to 60 percent solids filter cake.

C. Waste Analysis

BWX Technologies developed a list of analytical constituents based on a review of facility processes, Material Safety Data Sheets for raw materials and chemical additives used in the manufacturing process, and recommendations contained in EPA delisting guidance (Petitions to Delist Hazardous Waste: A Guidance Manual, 2nd Edition, EPA/530–R–93–007, NTIS Publication Number PB 93–169 365, March 1993). For the delisting petition, BWX Technologies collected four (4) weekly composite samples of the filter cake solids. In order to ensure the representativeness of samples collected in 1992 and to detect any variability over time in the concentration of constituents of concern within the filter cake, time-composite sampling was conducted. BWX Technologies provided data which shows that the samples collected take into account all wastes that are discharged to the pickle acid treatment system.

Composite samples were collected beginning September 3, 1992, and continuing through September 29, 1992. Each composite sample consisted of bore hole grab samples taken directly from the filled filter press troughs. The daily grab samples were collected from different filter press troughs each day they were collected so that any variations through the filter press were characterized in the weekly composite sample. At the end of each week, the containers holding the daily grab samples were emptied into a clean stainless steel bucket and mixed thoroughly. Each sample was packed in an appropriately labeled container. Composite samples for most analyses were prepared in the field. However, samples for volatile organic compound (VOC) analysis were sent to the analytical laboratory to be composited under controlled conditions in order to prevent the loss of VOCs.

To supplement the data in its petition, BWX Technologies also collected additional samples as part of an annual sampling program. Composite samples of the filter cake were collected and analyzed for the years 1993, 1994, 1995, 1996, 1997 and 1998.

To quantify the total constituent and leachate concentrations in the four (4) composite samples that were analyzed in 1992, BWX Technologies used SW–846 methods 7040 for antimony, 7061 for arsenic, 6010 for barium, 7091 for beryllium, 7130 for cadmium, 7190 for chromium, 7201 for cobalt, 7210 for copper, 7421 for lead, 7470 and 7471 for mercury, 7520 for nickel, 6010 for selenium, 6010 for silver, 7841 for thallium, 7870 for tin, 7911 for vanadium, 7950 for zinc, 9010 for cyanide, 9030 for sulfide, 8010 for halogenated volatile organics, 8020 for aromatic volatile organics, and 8270 for semivolatile organic compounds. BWX Technologies used EPA method 340.2 to determine fluoride concentrations and NIOSH method 3500 to determine formaldehyde concentrations. Using SW–846 method 9071, BWX Technologies determined that the samples of the petitioned waste had a maximum oil and grease content of less than one (1) percent. (If the total oil and grease concentrations had been greater than or equal to one (1) percent, the Oily Waste Extraction Procedure, Method 1330, would have been required.) BWX Technologies also used these methods on the leachate obtained using the Toxicity Characteristic Leaching Procedure or TCLP (SW–846 method 1311), as described below, to determine leachable levels of metals and selected volatile organic compounds.

Composite samples analyzed during the BWX Technologies' annual sampling program were done using the same analytical methods as the 1992 composites with the following changes: concentrations for all metal analytes were determined using method 6010 with the exception of mercury (which continued to be determined using methods 7470 and 7471), and volatile organic compounds which were determined using method 8260.

EPA has reviewed the sampling procedures used by BWX Technologies and has determined that they satisfy EPA criteria for collecting representative samples.

Table 1 presents the maximum total and leachate concentrations for 17 metals and fluoride, total cyanide and total sulfide. The detection limits presented in Table 1 represent the lowest concentrations quantifiable by BWX Technologies when using appropriate SW–846 methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed.)

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1] WWTP FILTER CAKE

Inorganic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/nl)
Antimony	28.0	*0.7
Arsenic	0.13	0.017
Barium	120.0	0.46
Beryllium	<0.01	0.004
Cadmium	1.14	0.018
Chromium	1100.0	1.8
Cobalt	34.0	2.2
Copper	1850.0	79.3
Lead	12.3	0.22
Mercury	0.5	0.0036
Nickel	260.0	12.5
Selenium	<0.05	<0.016
Silver	419	0.11
Thallium	<0.1	**0.159
Tin	1170	0.107
Vanadium	18.5	<0.004

TABLE 1.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1] WWTP FILTER CAKE—Continued

Inorganic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/nl)
Zinc	130	1.8
Fluoride	11875.0	22.6
Cyanide (total)	<0.02	NA
Sulfide (total)	14.1	NA

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

< Denotes that the constituent was not detected at the detection limit specified in the table.

*Value represents 1 sample analysis out of 4 done in 1992. Since then, process improvements have resulted in all values for antimony being <0.069.

** Maximum TCLP concentration for this constituent occurred in a sample that was not analyzed for total constituent concentration.

BWX Technologies also analyzed samples of the petitioned waste for volatile and semivolatile organic compounds. Table 2 presents the maximum total and leachate concentrations for all detected organic constituents in BWX Technologies' waste samples.

TABLE 2.—MAXIMUM TOTAL CONSTITUENT AND LEACHATE CONCENTRATIONS [1] WWTP FILTER CAKE

Organic constituents	Total constituent analyses (mg/kg)	TCLP leachate analyses (mg/l)
Acetone	0.181	0.062
Benzene	0.007	<0.005
Methyl Ethyl Ketone (2-Butanone) ..	0.017	<0.05
Methylene Chloride	<0.01	*0.12
Toluene	0.008	<0.005
1,1,1-Trichloroethane	0.004	<0.005

[1] These levels represent the highest concentration of each constituent found in any one sample. These levels do not necessarily represent the specific levels found in one sample.

< Denotes that the constituent was not detected at the detection limit specified in the table.

* Maximum TCLP concentration for this constituent occurred in a sample that was not analyzed for total constituent concentration.

BWX Technologies submitted a signed Certification of Accuracy and Responsibility statement found at 40 CFR 260.22(i)(12) as required for the information contained in the petition submitted on September 30, 1994, as well as for the information contained in all subsequent submissions.

EPA does not generally verify submitted test data before proposing delisting actions. The sworn affidavit submitted with the petition requires that the petitioner present truthful and accurate results. Failure to do so can subject the petitioner to significant penalties, including the possibility of fine and imprisonment.

D. EPA Evaluation

Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. EPA, therefore, evaluated BWX Technologies' petitioned waste using the modified EPA Composite Model for Landfills (EPACML) which predicts the potential for ground water contamination from wastes that are landfilled. See 56 FR 32993 (July 18, 1991), 56 FR 67197 (December 30, 1991), and the RCRA public docket for these notices for a detailed description of the EPACML model, the disposal assumptions, and the modifications made for delisting. This model, which includes both unsaturated and saturated zone transport modules, was used to predict reasonable worst-case contaminant levels in ground water at a compliance point (*i.e.*, a receptor well serving as a drinking-water supply). Specifically, the model estimated the dilution/attenuation factor (DAF) resulting from subsurface processes such as three-dimensional dispersion and dilution from ground-water recharge for a specific volume of waste. The DAFs generated using the EPACML vary from a maximum of 100 for smaller annual volumes of waste (*i.e.*, less than 1,000 cubic yards per year) to DAFs approaching ten for larger annual volume wastes (*i.e.*, 400,000 cubic yards per year). EPA requests comments on the use of the EPACML as applied to the evaluation of BWX Technologies' waste.

Typically, EPA uses the maximum annual waste volume to derive a petition-specific DAF. The DAFs are currently calculated assuming an ongoing process that generates wastes for 20 years. BWX Technologies' maximum waste volume of 300 cubic yards per year corresponds to a DAF of 100. EPA's evaluation of the BWX Technologies' filter cake using a DAF of 100, a maximum waste volume of 300 cubic yards, and the maximum reported TCLP concentrations (see Tables 1 and 2) yielded the following compliance point concentrations (see Table 3).

TABLE 3.—EPACML: CALCULATED COMPLIANCE-POINT CONCENTRATIONS WWTP FILTER CAKE

Inorganic and organic constituents	Compliance point concentrations (mg/l) [1]	Levels of concern (mg/l) [2]
Antimony	0.007	0.006
Arsenic	0.00017	0.05
Barium	0.0046	2.0
Beryllium	0.00004	0.004
Cadmium	0.00018	0.005
Chromium	0.018	0.1
Cobalt	0.022	2.1
Copper	0.793	1.3
Lead	0.0022	0.015
Mercury	0.000036	0.002
Nickel	0.125	0.7
Silver	0.0011	0.2
Thallium	0.00159	0.002
Tin	0.00107	21.0
Zinc	0.018	10.0
Fluoride	0.226	4.0
Acetone	0.00062	4.0
Methylene Chloride	0.0012	0.005

[1] Using the maximum TCLP leachate concentration, based on a DAF of 100 for a maximum annual volume of 300 cubic yards.

[2] See "Docket Report on Health-Based Levels and Solubilities Used in the Evaluation of Delisting Petitions," May 1996 located in the RCRA Public Docket for today's notice.

The compliance point concentrations presented in Table 3 are below the current health-based levels (HBLs) for all inorganic and organic constituents except for the metal antimony. EPA does not consider the maximum reported TCLP concentration of 0.7 mg/l for antimony to be representative of the BWX Technologies' currently generated filter cake. EPA came to this conclusion because the one TCLP result that exceeded the HBL occurred in only one (1) sample (out of four (4)) collected and analyzed by BWX Technologies in 1992. Because antimony was detected in the method blank for this sample, there is not a high degree of confidence in the reported concentration. In addition, since 1992, TCLP concentrations for antimony in the filter cake have been below detection levels in all subsequent analyses for 1993, 1994, 1995, 1996, 1997 and 1998.

BWX Technologies performed total constituent analyses for cyanide (total), but did not submit TCLP results. EPA has determined that TCLP results are not required for this demonstration since cyanide is not used in any of the processes at BWX Technologies, and since total constituent analysis for cyanide (total) concentrations in the filter cake have all been below the reported detection limit of 0.02 mg/kg.

BWX Technologies performed total constituent analyses for fluoride, but

did not submit TCLP results until 1998. In evaluating the possibility that fluoride concentrations could be present in sufficient concentrations to be of concern, EPA initially evaluated BWX Technologies' filter cake assuming the extreme worst case situation; that is that all of the fluoride present in the filter cake would leach out of the filter cake during a TCLP test (*i.e.*, the fluoride present in the filter cake was 100 percent leachable). While some of the earlier total constituent analyses results for fluoride could, hypothetically, result in an exceedence of the 4 mg/l HBL concentration for fluoride when evaluating the ground water contamination pathway using the modified EPACML model described earlier, EPA considered this result to be highly unlikely because the fluoride in BWX Technologies' filter cake is present as calcium fluoride (a very insoluble form). Additionally, BWX Technologies has certified that waste minimization efforts at its facility have reduced influent fluoride concentrations to the wastewater treatment facility. Total fluoride concentrations for the filter cake generated in more recent years are more than 50 percent lower that past generation. Total fluoride concentrations in the current filter cake have been less than 5000 mg/kg since 1995. At this level, assuming the extreme worst case situation evaluated above (that the fluoride is 100 percent leachable), and using a DAF of 100 based on a maximum annual waste volume of 300 cubic yards, fluoride levels could not exceed the HBL of 4.0 mg/l. To support this conclusion, BWX Technologies submitted TCLP results for fluoride for the most recent samples collected and analyzed in 1998. The results confirm that leachable fluoride levels are below delisting levels of concern (see the maximum compliance point concentration in Table 3).

For the other inorganic constituents, the maximum reported or calculated leachate concentrations of arsenic, barium, beryllium, cadmium, chromium, cobalt, copper, lead, mercury, nickel, silver, thallium, tin and zinc in BWX Technologies' filter cake yielded compliance point concentrations well below the health-based levels used in delisting decision-making. EPA did not evaluate the mobility of the remaining inorganic constituents (*i.e.*, selenium, and vanadium) from BWX Technologies' filter cake because they were not detected in the leachate using the appropriate analytical test methods (see Table 1). EPA believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. If a constituent cannot be detected when using the appropriate analytical method with an adequate detection limit, EPA assumes that the constituent is not present and, therefore, does not present a threat to human health or the environment.

EPA also evaluated the potential hazards of the organic constituents detected in the TCLP leachate of BWX Technologies' filter cake. The maximum reported leachate concentrations of acetone and methylene chloride yielded compliance point concentrations well below the health-based levels used in delisting decision-making.

After reviewing BWX Technologies' process information, EPA concluded that no other hazardous constituents of concern, other than those tested for, are likely to be present in the filter cake, and that any migration of constituents from the waste would result in concentrations below delisting health-based levels of concern. In addition, on the basis of test results and information provided by BWX Technologies pursuant to 40 CFR 260.22, EPA concludes that the petitioned waste does not exhibit any of the characteristics of ignitability, corrosivity, reactivity or toxicity.

During the evaluation of BWX Technologies' petition, EPA also considered the potential impact of the petitioned wastes via non-ground water routes (*i.e.*, air emission and surface runoff). With regard to airborne dispersion in particular, EPA believes that exposure to airborne contaminants from BWX Technologies' petitioned waste is unlikely. Therefore, no appreciable air releases are likely from BWX Technologies' waste under any likely disposal conditions. EPA evaluated the potential hazards resulting from the unlikely scenario of airborne exposure to hazardous constituents released from BWX Technologies' waste in an open landfill. The results of this worst-case analysis indicated that there is no substantial present or potential hazard to human health and the environment from airborne exposure to constituents from BWX Technologies' filter cake. A description of EPA's assessment of the potential impact of BWX Technologies' waste, regarding airborne dispersion of waste contaminants, is presented in the RCRA public docket for today's proposed rule.

EPA also considered the potential impact of the petitioned waste via a surface water route. EPA believes that containment structures at municipal solid waste landfills can effectively control surface water runoff, as the Subtitle D regulations (See 56 FR 50978, October 9, 1991) prohibit pollutant discharges into surface waters. Furthermore, the concentrations of any hazardous constituents dissolved in the run-off will tend to be lower than the levels in the TCLP leachate analyses reported in today's notice due to the aggressive acidic medium used for extraction in the TCLP. EPA believes that, in general, leachate derived from the wastes is unlikely to directly enter a surface water body without first traveling through the saturated subsurface where dilution and attenuation of hazardous constituents will also occur. Leachable concentrations provide a direct measure of solubility of a toxic constituent in water and are indicative of the fraction of the constituent that may be mobilized in surface water as well as ground water.

Based on the reasons discussed above, EPA believes that the contamination of surface water through runoff from the waste disposal area is very unlikely. Nevertheless, EPA evaluated the potential impacts on surface water if BWX Technologies' waste were released from a municipal solid waste landfill through runoff and erosion. (See ''Docket Report on Evaluation of Contaminant Releases to Surface Water from BWX Technologies' Petitioned Waste,'' April 1999, in the RCRA public docket for today's proposed rule.) The estimated levels of the hazardous constituents of concern in surface water would be well below health-based levels for human health, as well as below EPA Recommended Chronic Water Quality Criteria for aquatic organisms (63 FR 68354 (December 10, 1998)). EPA, therefore, concluded that BWX Technologies' filter cake is not a substantial present or potential hazard to human health and the environment via the surface water exposure pathway.

E. Conclusion

EPA believes that the descriptions of BWX Technologies' hazardous waste process and analytical characterization, in conjunction with the proposed verification testing requirements (as discussed later in this notice), provide a reasonable basis to grant BWX Technologies' petition for an exclusion of the filter cake. The EPA believes the data submitted in support of the petition show BWX Technologies' process can render the filter cake non-hazardous. EPA has reviewed the sampling procedures used by BWX Technologies and has determined they satisfy EPA

criteria for collecting representative samples for purposes of characterizing the filter cake. The data submitted in support of the petition show that constituents in BWX Technologies' waste are present below health-based levels used in the delisting decision-making. EPA believes that BWX Technologies has successfully demonstrated that the filter cake is non-hazardous.

EPA, therefore, proposes to grant an exclusion to BWX Technologies for the filter cake from its pickle acid treatment system described in its petition as EPA Hazardous Waste No. F006. If made final, the proposed exclusion will apply only to 300 cubic yards of petitioned waste generated annually, on a calendar year basis. The facility must treat waste generated in excess of 300 cubic yards per year as hazardous. If either the manufacturing or treatment processes are altered such that an adverse change in waste composition occurs (*e.g.*, higher levels of hazardous constituents are present in the waste), this exclusion is no longer valid.

Although management of the waste covered by this petition would be removed from Subtitle C jurisdiction upon final promulgation of an exclusion, this exclusion applies only if this waste is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste, a permitted Subtitle C landfill or a Subtitle C landfill which is operating under interim status.

F. Verification Testing Conditions

(1) Delisting Levels: All leachable concentrations for the following constituents measured using SW–846 method 1311 (the TCLP) must not exceed the following levels (mg/l).

(a) Inorganic constituents—Antimony-0.6; Arsenic-5.0; Barium-100; Beryllium-0.4; Cadmium-0.5; Chromium-5.0; Cobalt-210; Copper-130; Lead-1.5; Mercury-0.2; Nickel-70; Silver-5.0; Thallium-0.2; Tin-2100; Zinc-1000; Fluoride-400.

(b) Organic constituents—Acetone-400; Methylene Chloride-0.5.

BWX Technologies must test its filter cake by determining the levels of constituents in the TCLP leachate. Below these levels (also known as the Maximum Allowable Leachate (MAL) Concentrations), the filter cake would be considered non-hazardous. This exclusion is effective when the final rule is signed by the Regional Administrator. If the annual testing of the filter cake does not meet the delisting levels or MALs described in Paragraph 1 of this Section, the facility must notify the Agency according to the provisions in Paragraph 4 of this Section. In such case, the exclusion will be suspended until a decision is reached by the Agency. The facility shall provide sampling results which support the rationale that the delisting exclusion should not be withdrawn. EPA selected the set of inorganic and organic constituents specified in Paragraph 1 of this Section after reviewing information about the composition of the waste, descriptions of BWX Technologies' treatment process, and previous test data provided for the filter cake. EPA established the proposed delisting levels for this Paragraph by back-calculating MAL concentrations from the health-based levels (HBLs) for the constituents of concern using the EPACML model previously described and a DAF of 100 (see, previous discussions in Section D—Agency Evaluation). These delisting levels correspond to the allowable levels measured in the TCLP extract of the waste.

(2) Verification testing schedule: BWX Technologies must analyze a representative composite sample of the filter cake from the pickle acid treatment system on an annual, calendar year basis using methods with appropriate detection levels and quality control procedures. If the level of any constituent measured in the sample of filter cake exceeds the levels set forth in Paragraph 1 of this Section, then the waste is hazardous and must be managed in accordance with Subtitle C of RCRA. Data from the annual verification testing must be submitted to EPA within 60 days of the sampling event.

(3) Changes in Operating Conditions: If BWX Technologies significantly changes the manufacturing or treatment process described in the petition, or the chemicals used in the manufacturing or treatment process, BWX Technologies may not manage the filter cake generated from the new process under this exclusion until it has met the following conditions: (a) BWX Technologies must demonstrate that the waste meets the delisting levels set forth in Paragraph 1 of this Section; (b) it must demonstrate that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced into the manufacturing or treatment process; and (c) it must obtain prior written approval from EPA to manage the waste under this exclusion. This condition allows BWX Technologies the flexibility to modify its process (*e.g.*, changes in equipment or operating conditions). However, if any significant change is made which may affect the composition of the waste, BWX Technologies must demonstrate that the waste continues to meet the delisting criteria and must obtain prior written approval from EPA.

(4) Data Submittals: The data obtained under Paragraphs 2 and 3 of this Section must be submitted to The Waste and Chemicals Management Division, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. Records of operating conditions and analytical data must be compiled, summarized, and maintained on site for a minimum of five years and must be furnished upon request by EPA or the Commonwealth of Virginia, and made available for inspection. Failure to submit the required data within the specified time period or to maintain the required records on site for the specified time period will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent determined necessary by EPA. All data must be accompanied by a signed copy of the certification statement set forth in 40 CFR 260.22(i)(12) to attest to the truth and accuracy of the data submitted. Although management of the wastes covered by this petition would not be subject to Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility or ensure that the waste is delivered to an off-site treatment, storage, or disposal facility. In either case, the facility must be permitted, licensed, or registered by a State to manage municipal or industrial solid waste. The generator may also elect to continue to manage the delisted waste in a facility with a permit or interim status under Subtitle C.

(5) Reopener:

(a) If BWX Technologies discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then BWX Technologies must report any information relevant to that condition, in writing, to the Regional Administrator or his delegate within 10 days of discovering that condition.

(b) Upon receiving information described in paragraph (a) of this Section, regardless of its source, the Regional Administrator or his delegate will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.

The purpose of Paragraph 5 of this Section is to require BWX Technologies

to disclose new or different information related to a condition at the facility or disposal of the waste if it had or has bearing on the delisting. This will allow EPA to reevaluate the exclusion if new or additional information is provided to the Agency by BWX Technologies which indicates that information on which EPA's decision was based was incorrect or circumstances have changed such that the information evaluated for the delisting is no longer correct or would cause EPA to deny the petition if then presented. Further, although this provision expressly requires BWX Technologies to report differing site conditions or assumptions used in the petition within 10 days of discovery, if EPA discovers such information itself or from a third party, EPA will act upon such information as appropriate. The language being proposed is similar to those provisions found in RCRA regulations governing no-migration petitions located at 40 CFR 268.6. EPA has recognized that current delisting regulations contain no express procedure for reopening a decision if additional information is received and although it believes that it has the authority under RCRA and the Administrative Procedures Act, 5 U.S.C. 551 (1978), *et seq.* (APA), to take this action, EPA believes that a clear statement of its authority in the context of delistings is merited in light of Agency experience. Until such time as EPA codifies an express reopener provision in the exclusion regulations, EPA will include language similar to that presented above in delistings. EPA is considering the inclusion of a more specific regulatory process both defining when a delisting should be reopened and the result of reopening a granted exclusion and is soliciting comments on this process. Since each delisting is waste-specific and facility-specific or process-specific, EPA is currently reluctant to adopt a rule which might inadvertently cause an immediate repeal where specific circumstances would not merit so precipitous a result. In the meantime, in the event that an immediate threat to human health or the environment presents itself, EPA will continue to rely on its authority under the APA to make a good cause finding to justify an emergency rulemaking suspending notice and comment. APA Section 553(b).

(6) Notification Requirements: BWX Technologies must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will be deemed to be a violation of this exclusion and may result in a revocation of the decision.

III. Effect on State Authorizations

This proposed exclusion, if promulgated, would be issued under the Federal RCRA delisting program. States, however, may impose more stringent regulatory requirements than EPA, pursuant to Section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact State regulatory authorities to determine the current status of their wastes under the State laws.

Furthermore, some States are authorized to administer a delisting program in lieu of the Federal program (*i.e.*, to make their own delisting decisions). Therefore, this proposed exclusion, if promulgated, may not apply in those authorized States. If the petitioned waste will be transported to any State with delisting authorization, BWX Technologies must obtain delisting authorization from that State before the waste may be managed as nonhazardous in that State.

IV. Effective Date

This rule, if made final, will become effective immediately upon such final publication. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if finalized, would reduce the existing requirements for a facility generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after publication and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon final publication. These reasons also provide a basis for making this rule effective immediately, upon final publication, under the Administrative Procedures Act, 5 U.S.C. 553(d).

V. Regulatory Planning and Review (Executive Order 12866)

Under Executive Order 12866, EPA must determine whether a regulatory action is ''significant'' and, therefore, subject to OMB review and the other provisions of the Executive Order. A ''significant regulatory action'' is one that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to Executive Order 12866 it has been determined that this rule is not a ''significant regulatory action'' and is therefore not subject to OMB review.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act(5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency or delegated representative certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal Agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. This rule, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste rules. Accordingly, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and record-keeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. 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 of 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 proposed rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The proposed delisting decision is deregulatory, and imposes no enforceable duty on any State, local or tribal governments or the private sector. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA. In addition, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments and, therefore, no small government agency plan is required under Section 203 of the UMRA.

IX. Children's Health Protection

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule 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 or safety risks addressed by this action present a disproportionate risk to children.

X. Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting with these governments, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's proposed rule does not create a mandate on State, local or tribal governments. The proposed rule does not impose any enforceable duties on these entities. Accordingly, the requirements of Section 1(a) of Executive Order 12875 do not apply.

XI. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not establish any new technical standards and thus, the Agency has no need to consider the use of voluntary consensus standards in developing this proposed rule.

XII. Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting with these governments, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. There is no impact to tribal governments as the result of today's proposed delisting decision. Accordingly, the requirements of Section 3(b) of Executive Order 13084 do not apply to this proposed rule.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: July 26, 1999.

Stanely Laskowski,

Acting Regional Administrator, Region III.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. Table 1 of Appendix IX of Part 261 is amended to add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	*	*
BWX Technologies	Lynchburg, VA	Wastewater treatment sludge from electroplating operations (EPA Hazardous Waste No. F006) generated at a maximum annual rate of 300 cubic yards per year, after (insert publication date of the final rule), and disposed of in a Subtitle D landfill. BWX Technologies must meet the following conditions for the exclusion to be valid: (1) Delisting Levels: All leachable concentrations for the following constituents measure using the SW–846 method 1311 (the TCLP) must not exceed the following levels (mg/l). (a) Inorganic constituents—Antimony-0.6; Arsenic-5.0; Barium-100; Beryllium-0.4; Cadmium-0.5; Chromium-5.0; Cobalt-210; Copper-130; Lead-1.5; Mercury-0.2; Nickel-70; Silver-5.0; Thallium-0.2; Tin-2100; Zinc-1000; Fluoride-400. (b) Organic constituents—Acetone-400; Methylene Chloride-0.5. (2) Verification testing schedule: BWX Technologies must analyze a representative sample of the filter cake from the pickle acid treatment system on an annual, calendar year basis using methods with appropriate detection levels and quality control procedures. If the level of any constituent measured in the sample of filter cake exceeds the levels set forth in Paragraph 1, then the waste is hazardous and must be managed in accordance with Subtitle C of RCRA. Data from the annual verification testing must be submitted to EPA within 60 days of the sampling event. (3) Changes in Operating Conditions: If BWX Technologies significantly changes the manufacturing or treatment process described in the petition, or the chemicals used in the manufacturing or treatment process, BWX Technologies may not manage the filter cake generated from the new process under this exclusion until it has met the following conditions: (a) BWX Technologies must demonstrate that the waste meets the delisting levels set forth in Paragraph 1; (b) it must demonstrate that no new hazardous constituents listed in Appendix VIII of Part 261 have been introduced into the manufacturing or treatment process; and (c) it must obtain prior written approval from EPA to manage the waste under this exclusion. (4) Data Submittals: The data obtained under Paragraphs 2 and 3 must be submitted to The Waste and Chemicals Management Division, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103. Records of operating conditions and analytical data must be compiled, summarized, and maintained on site for a minimum of five years and must be furnished upon request by EPA or the Commonwealth of Virginia, and made available for inspection. Failure to submit the required data within the specified time period or to maintain the required records on site for the specified time period will be considered by EPA, at its discretion, sufficient basis to revoke the exclusion to the extent determined necessary by EPA. All data must be accompanied by a signed copy of the certification statement set forth in 40 CFR § 260.22(i)(12) to attest to the truth and accuracy of the data submitted. (5) Reopener: (a) If BWX Technologies discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then BWX Technologies must report any information relevant to that condition, in writing, to the Regional Administrator or his delegate within 10 days of discovering that condition. (b) Upon receiving information described in paragraph (a) of this section, regardless of its source, the Regional Administrator or his delegate will determine whether the reported condition requires further action. Further action may include repealing the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(6) Notification Requirements: BWX Technologies must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will be deemed to be a violation of this exclusion and may result in a revocation of the decision.

[FR Doc. 99–20040 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6411–7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the 62nd Street Superfund site from the National Priorities List: request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region 4 announces its intent to delete the 62nd Street Superfund Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the Florida Department of Environmental Protection (FDEP) have determined that the site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning the proposed deletion of this site from the NPL may be submitted on or before September 3, 1999.

ADDRESSES: Comments may be mailed to: Richard D. Green, Director, Waste Management Division, United States Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–8651.

Comprehensive information on this site is available through the EPA Region 4 public docket, which is available for viewing at the information repositories at two locations. Locations, contacts, phone numbers and viewing hours are: Record Center, U.S. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–9530, hours: 8 a.m. to 4 p.m., Monday through Friday by appointment only; Tampa/Hillsborough County Public Library/Special Collections, 900 North Ashley, Tampa, Florida 33602, (813) 273–3652, hours: 9 a.m. to 9 p.m. Monday through Thursday, 9 a.m. to 5 p.m., Friday through Saturday.

FOR FURTHER INFORMATION CONTACT: Randa Chichakli, U.S. EPA Region 4, Waste Management Division, 61 Forsyth Street, Atlanta, Georgia 30303–8909, (404) 562–8928.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

EPA Region 4 announces its intent to delete the 62nd Street Superfund Site, Hillsborough County, Tampa, Florida, from the NPL, which constitutes Appendix B of the NCP, 40 CFR part 300, and requests comments on this deletion. The EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Trust Fund. Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this site from the NPL for thirty calendar days after publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how this site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites maybe deleted from or re-categorized on the NPL where no further response is appropriate. In making this determination, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

1. Responsible parties or other persons have implemented all appropriate response actions required;
2. All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or
3. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

If a site is deleted from the NPL where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazardous Ranking System.

III. Deletion Procedures

EPA will accept and evaluate public comments before making a final decision on deletion from the NPL. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of the Site:

1. EPA has recommended deletion and has prepared the relevant documents;

2. FDEP has concurred with the deletion decision;

3. Concurrently with this Notice of Intent to Delete, notices have been published in local newspapers and have been distributed to appropriate federal, state and local officials and other interested parties announcing a 30-day public comment period on the proposed deletion from the NPL;

4. EPA has made all relevant documents available at the information repositories; and

5. EPA will respond to significant comments, if any, submitted during the public comment period.

Deletion of the site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management. EPA will prepare a Responsiveness Summary, if necessary, which will address the comments received during the public comment period.

A deletion occurs when the Regional Administrator places a Notice of Deletion in the **Federal Register**. Any deletions from the NPL will be reflected in the next NPL update. Public notices and copies of the Responsiveness Summary, if necessary, will be made available to local residents by the Regional office.

IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the intention to delete this Site from the National Priorities List.

The 62nd Street Superfund Site is located in Hillsborough County, north of Columbus Drive and just west of 62nd Street on the east side of the city of Tampa. The five and one-half acre site was formerly used for the disposal of industrial waste and is located in an area with mixed residential and light industrial land use. The site is bounded on the west by a series of what were small, shallow fish breeding ponds. To the east and south of the site are residential areas interspersed with light commercial and industrial operations. To the north of the site is undeveloped land.

In the late 1960's the 62nd Street Site was operated as a borrow pit where sand was removed for use as fill material. When the borrow operations ceased, the owner of the site allowed several companies in the Tampa area to use the excavated pits for disposal of various waste materials, including construction and demolition debris, cement kiln dust, battery wastes, waste materials from an automobile shredder and other wastes. In 1976, the Hillsborough County Environmental Protection Commission (HCEPC) issued a notice to cease all disposal activities at the site due to fish kills which occurred in the fish breeding ponds located west of the 62nd Street Site. However, unauthorized disposal of household garbage and construction debris continued after that date.

Between 1979 and 1980, the site was investigated by many contractors on behalf of Peninsular Fisheries, Inc. These studies concluded that the 62nd Street Site had a hydraulic connection to the fish breeding ponds and was adversely impacting the water quality in these ponds. Environmental sampling was conducted periodically by HCEPC and the Florida Department of Environmental Regulation (FDER) at private wells, fish breeding ponds, a shallow sand point well installed by FDER and various other areas surrounding the site. An analysis of a sample from the shallow sand point well showed levels of chromium which exceeded the FDER groundwater standard. In December 1982, the site was proposed for inclusion on the National Priority List (NPL) which became final in September 1983.

In March 1984, the FDER and EPA entered into a Cooperative Agreement for FDER to conduct a Remedial Investigation/Feasibility Study (RI/FS) at the site. For study purposes, the wastes present at the site were divided into two groups: cement waste and non-cement waste. The waste consisting of cement, cement kiln dust, and cement slag was designated as cement waste and the wastes from the automobile shredder, battery wastes, and other wastes were designated as non-cement wastes.

The RI was conducted between February 1986 and September 1987. The major RI activities at the site consisted of the excavation of 12 test pits and installation of 14 groundwater monitoring wells which were designed to screen within the surficial aquifer and the underlying artesian Floridan aquifer. Chemical analyses were performed on soil, sediment, surface water and groundwater samples recovered from the site as well as from surrounding areas as part of the RI.

The soil and groundwater investigations at the 62nd Street site revealed that the non-cement waste containing antimony, arsenic, cadmium, chromium, copper, lead, nickel and polychlorinated biphenyls (PCBs) could be a potential risk to human health, but the cement waste presented little threat through direct contact or leaching into the groundwater. During the RI/FS, unfiltered groundwater samples from the surficial aquifer at, and downgradient of the site were found to contain cadmium, chromium and lead at levels exceeding the Maximum Concentration Levels (MCLs) of the Safe Drinking Water Act (SDWA). Chromium was the most common contaminant that exceeded the MCLs and the second most common was lead.

On June 27, 1990, consistent with the remedy proposed in the RI/FS, the EPA Region 4 Administrator approved a Record of Decision (ROD). The chosen remedy specified in the ROD called for:

(1) Solidification/stabilization (S/S) of the battery wastes, shredded auto parts, and contaminated soils,

(2) No treatment of the on-site cement wastes, since they presented little threat through either direct contact or leaching to groundwater,

(3) Capping of the entire site with a two-foot vegetative soil cover underlain by an impermeable membrane,

(4) Extraction and treatment of the groundwater from the surficial aquifer both on-site and off-site, and

(5) Institutional controls or other land use restrictions to ensure the integrity of the cap and preclude exposure to the treated soils.

The selected remedy established clean-up levels for contaminants in the groundwater based on the MCLs for cadmium and chromium. The clean-up levels for lead were based on the EPA recommended clean-up level for lead in groundwater. The clean-up criteria for contaminated soils were based on consideration of health effects and leaching to groundwater.

The EPA issued a Unilateral Administrative Order in April 1991 to several Potentially Responsible Parties (PRPs) including David J. Joseph Company and Lafarge Corporation. This order directed the PRPs to develop a Remedial Design for the remedy as described in the ROD and then to implement that remedy by performing a Remedial Action. A Consent Decree for the Remedial Design/Remedial Action was signed by the PRPs in August 1991. The Remedial Design began in November 1991, by the PRPs' contractor Ardaman & Associates, Inc. The Remedial Design considered all design elements required by the directives of the ROD plus a soil-bentonite cut-off wall around the perimeter of the site to facilitate dewatering during remediation and to reduce long term migration of groundwater through the solidified materials beneath the site after remediation.

In September 1991 an Explanation of Significant Difference (ESD) was issued which revised the lead clean-up criteria

and provided for the disposal of non-contaminated construction-type debris.

On June 29, 1995, the ROD was amended to eliminate the requirement to extract and treat groundwater from the surficial aquifer on-site and off-site, since monitoring of the groundwater in monitor wells located hydraulically downgradient of the site revealed the concentrations of cadmium, chromium, and lead were below the established clean-up levels.

A Pre-Final Inspection was conducted on May 24, 1994, when the S/S activities were near completion. A Final Inspection was conducted at the site on June 13, 1995, upon completion of the top cover. As a result of this Final Inspection, it was determined that all outstanding remedial tasks noted in the Pre-Final Inspection Report had been resolved and all outstanding construction activities had been completed.

As a result of the activities, all objectives of ROD have been met with the exception of the requirement to extract and treat groundwater which was eliminated in a ROD amendment on June 29, 1995.

No specific operational tasks are required for the 62nd Street Site. However, periodic maintenance activities are anticipated to control vegetation and to repair any erosional damage to exposed areas of the top cover and ditches. Routine maintenance of the top cover and drainage ditches will incorporate mowing, weed control and erosion damage repair. Also, once annually during the month of December, groundwater sampling and analysis will be performed to confirm that the cadmium, chromium, and lead concentrations in both filtered and unfiltered groundwater remain below the respective clean-up levels for these parameters.

EPA conducted a five-year review on June 18, 1999 and concluded that the Remedial Action Objectives have been achieved, the remedy is effective and functioning as designed, and continues to remain protective of human health and the environment. EPA has determined that all completion requirements and appropriate actions at the 62nd Street Superfund Site have been completed, and that no further remedial action is necessary. Therefore, EPA is proposing deletion of the site from the NPL.

Dated: July 12, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–19906 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–6024, Notice 1]

RIN 2127–AH08

Federal Motor Vehicle Safety Standards; Glazing Materials; Low Speed Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to update the Federal motor vehicle safety standard on glazing materials so that it incorporates by reference the 1996 version of the industry standard on motor vehicle glazing. Currently, the Federal standard incorporates the 1977 version. The industry standard was issued by the American National Standards Institute (ANSI). We are taking this action in response to a petition from the American Automobile Manufacturers Association.

In addition, this proposal addresses a few issues not covered by the 1996 ANSI standard. Among these issues are limiting the size of the shade band that glazing manufacturers place at the top of windshields, and we seek comments on how to update the list of code marks or numbers we assign to glazing manufacturers. This action also proposes minor conforming amendments to our standard on low-speed vehicles.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than October 4, 1999. The proposed effective date of the final rule is 45 days after its publication in the **Federal Register**.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, D.C., 20590.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues, you may call John Lee, of the NHTSA Office of Crashworthiness Standards at telephone (202) 366–2264, facsimile (202) 493–2739, electronic mail ''jlee@nhtsa.dot.gov''.

For legal issues, you may call Steve Wood of the NHTSA Office of Chief Counsel at 202–366–2992, facsimile (202) 366–3820.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

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I. Background on Standard No. 205 and ANSI Z26.1

Federal Motor Vehicle Safety Standard No. 205, *Glazing materials,* specifies requirements and test procedures for windows in motor vehicles. However, most of the requirements and test procedures for the standard are not within the Code of Federal Regulations. Instead, Standard No. 205 incorporates by reference the requirements and test procedures in the industry standard published by the American National Standards Institute (ANSI). The industry standard is American National Standard, Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways—ANSI Z26.1–1977).

ANSI Z26.1 describes different types of glazing that may be used in motor vehicles. These types, or ''items,'' of glazing are generally defined by their ability to pass a specified set of tests. [1] The set of tests that the glazing must pass varies from item to item, based in part on the type of vehicle, and location within that vehicle, for which the

[1] Certain items of glazing are also defined according to their construction characteristics. For example, item 1 glazing may be a multiple glazed unit, which is more than one sheet of glazing in a common mounting. Multiple glazed unit item 1 glazing needs to meet a different set of tests than glazing that is not a multiple glazed unit.

glazing will be used. General descriptions of the material typically used to meet an item's required tests, such as ''tempered glass'' or ''rigid plastics,'' are sometimes listed in Standard No. 205 and ANSI Z26.1. However, any material that meets the tests for Item ''X'' glazing can be certified as Item ''X'' glazing. The tests are listed in a chart in the ANSI standard. The detailed test procedures are also set forth there.

The ANSI standard has been revised periodically by the Society of Automotive Engineers (SAE) Glazing Committee, acting under the sponsorship of ANSI. The Committee is composed of individuals knowledgeable in the field of automotive glazing.

Since the Federal motor vehicle safety standards cannot be changed except through rulemaking, revisions to the ANSI standard do not become part of Standard No. 205 unless we conduct a rulemaking that expressly identifies and incorporates them. The most recent revision we incorporated into Standard No. 205 was ANSI Z26.1a-1980, which supplemented the 1977 version. We incorporated it by a final rule published on February 23, 1984 (49 FR 6732). SAE subsequently petitioned us to upgrade ANSI Z26.1 with 1983 and 1990 revisions. However, we denied those petitions.

In addition to incorporating some of the revisions of the ANSI standard, we have occasionally updated Standard No. 205 directly by adding provisions similar or identical to those in the revisions of the standard.

Consequently, a person wanting an overview of the federal glazing requirements has to read ANSI Z26.1–1977, the 1980 ANSI supplement, and the text of Standard No. 205 in the **Federal Register** together. This rulemaking would simplify the task by shortening the text in Standard No. 205 to a few paragraphs that point the reader to outside publications (the 1996 ANSI Z26.1, and occasionally SAE J100) and define the manufacturer's certification and marking responsiblilities. If this proposal is issued as a final rule, a review of ANSI Z26.1 would provide a single source of Federal glazing requirements for most purposes.

On August 12, 1997, the American Automobile Manufacturers Association (AAMA) petitioned us to amend Standard No. 205 ''Glazing Materials'' to incorporate the most recent update of the ANSI standard (American National Standard for Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways—ANSI/SAE Z26.1–1996). On January 2, 1998, we granted the AAMA's petition.

II. Benefits of Incorporating the 1996 Version of ANSI Z26.1

AAMA stated in its petition that incorporating ANSI Z26.1–1996 would improve safety, achieve international harmonization, streamline and clarify Standard No. 205, and eliminate wire glass as an approved safety glazing option.

The following is a summary of the reasons why we tentatively conclude that incorporating ANSI Z26.1–1996, instead of ANSI Z26.1–1977 as supplemented by ANSI Z26.1 1980, would be beneficial.

A. Improved Safety

ANSI Z26.1–1977 requires a fracture test (Test No. 7) of a 12 inch square, flat sample of glazing. In contrast, ANSI Z26.1–1996 requires the use of a full-size production piece of vehicle window glass. In addition, 5.7.2 of ANSI Z26.1–1996 states that the specimens of glazing selected for testing ''. . . shall be of the most difficult part or pattern designation within the model number.'' This means the portion of the glazing which we consider most likely to fail the test. AAMA believes that ''[t]he new fracture test is both more stringent and more field-relevant when compared to the fracture test currently specified in Standard No. 205.''

ANSI Z26.1–1996 also improves safety by eliminating wire glass as an approved glazing material. Wire glass is flat-rolled glass reinforced with wire mesh. It is used mostly for architectural applications (primarily for security and fire doors). The wire mesh is intended to prevent objects from penetrating the glass and to hold pieces of broken glass together. Wire glass has been used in past automotive applications for theft protection, in prison buses, and in the lower windows of emergency doors. In 1990, this practice was discontinued. Today's more modern anti-theft glazing is more appealing and safer than wire glass. Wire glass is known to shatter more readily at lower impact speeds and is more lacerative than laminated glass. Moreover, to our knowledge, no company currently produces wire glass for motor vehicle use.

B. Harmonization With Foreign Glazing Standards

Incorporating ANSI Z26.1–1996 would improve harmonization between U.S., Canadian, and European glazing standards in the following ways:

1. The test fixture for the impact, fracture and penetration resistance tests (Tests 6, 7, 8, 9, 10, 11, 12, 13, 14 and 26) is identical to the support frame required in Economic Commission for Europe (ECE) regulation R43.

2. The equipment used for the abrasion test (Tests 17 and 18) is similar to that used under ECE R43.

3. The Weathering Test (Test 16) is similar to ISO Standard 3917, which requires a xenon light source, rather than the carbon arc light source currently specified in Standard No. 205.

4. The solvents specified in the chemical resistance test (Test 20) have been revised to conform with American Society for Testing and Materials (ASTM) and Occupant Safety and Health Administration (OSHA) requirements. These are the same chemicals specified in ECE R43. This will also result in consistency with the NTTAA (National Technology Transfer Advancement Act), which requires use of voluntary consensus standards unless such use is infeasible or otherwise inconsistent with law.

5. Transport Canada's Canadian Motor Vehicle Safety Standard 205 ''Glazing Materials'' incorporates ANSI Z26.1–1990, which allows production parts to be used for the fracture test. As explained above, ANSI Z26.1–1977 only calls for the use of surrogate samples. By adopting ANSI Z26.1–1996, we would achieve closer harmonization of Standard No. 205 and Canadian Standard No. 205.

C. Streamlining and Clarification

This proposed incorporation by reference of ANSI Z26.1–1996 would permit the deletion of most of the existing text of Standard No. 205. The amendments of the past 20 years have resulted in a patchwork of requirements that must be read alongside the ANSI Z26.1 in order to gain a comprehensive understanding of the overall requirements of Standard No. 205. Adoption of this proposal would simplify Standard No. 205, consistent with our's regulatory reform efforts.

III. Discussion of the Proposed Changes

A. General Nature of the Textual Changes to ANSI Z26.1

The principal difference between the two versions of the ANSI standard is that the 1996 version contains provisions regarding new types of glazing and other matters not in the 1977 version. In general, the substantive differences between the 1977 and 1996 versions of ANSI Z26.1 are that the newer version includes new types of glazing , e.g., items 4A, 11C, 12, 13, 14, 15A, 15B, 16A, and 16B.

Our substitution of the 1996 version for the 1977 version of the ANSI

standard would not, however, make many substantive changes to our standard since our standard already contains most of those provisions. We directly added them to our standard in various rulemaking proceedings between 1977 and 1996 to supplement the 1977 version of the ANSI standard. Thus, the practical effect of our incorporation by reference of the 1996 ANSI standard is that it would enable us to eliminate the language added by those amendments made to our standard between 1977 and 1996.

Z26.1–1996 also includes numerous editorial and minor substantive changes made to be consistent with Standard No. 205 or to be internally consistent. Although these changes are too numerous and too minor to warrant mention in this NPRM, we have listed them in a table that we have submitted to the docket.

B. Applicability of the Standard to Vehicle Manufacturers

Standard No. 205 is often thought of as strictly an equipment standard because the application section states that the standard applies to glazing materials and not to vehicles. Further, the vehicle manufacturer does not apply the ''DOT'' mark to certify compliance of the glazing. Paragraph S6 specifies that the prime glazing manufacturer or manufacturers or distributors who cut motor vehicle glazing have the responsibility for certification and marking. We require marking and certification of each piece of glazing because motor vehicle glazing is often sold in the aftermarket, after the vehicle manufacturer no longer controls it.

However, our glazing standard does not operate, and never has operated, strictly as an equipment standard under the statute authorizing its issuance or under other regulations implementing that statute. Vehicle manufacturers are required by 49 USC 30115 and by 49 CFR 567.4 to certify that their vehicles, including the glazing they contain, conform with all applicable Federal motor vehicle safety standards, including Standard No. 205. For example, it would be the vehicle manufacturer's sole responsibility if it installed an otherwise conforming piece of glazing in a location not permitted by Standard No. 205. Pursuant to 49 U.S.C. 30112(b)(2)(B), a vehicle manufacturer may rely on the equipment manufacturer's certification, unless it knows that the certification is false. However, the vehicle manufacturer still retains ultimate responsibility for any recalls that may be required in the event of a noncompliance with the glazing requirements, according to 49 U.S.C. 30102(b)(1)(F) and (G).

For consistency and clarity, we propose to modify the applicability section of Standard No. 205 to explicitly apply it to vehicles. Most of our other standards that apply to separately marked motor vehicle equipment, such as brake hoses and brake fluids, also explicitly apply to vehicles.

C. Meaning of ''Most Difficult Part or Pattern'' for the Fracture Test

The requirement for specimens to be tested for the fracture test in 5.7.2 of ANSI Z26.1–1996 states, ''The number of specimens selected from each model number of glazing shall be six (6) and shall all be of the most difficult part or pattern designation within the model number.''

The phrase ''the most difficult part or pattern'' does not specify the type of difficulty contemplated, nor does it explain how we select the most difficult part or pattern in our compliance testing. Nevertheless, we believe that the phrase ''the most difficult part or pattern'' was intended to mean the part of the glazing that provides for ''worst case'' testing. Normally, this would refer to the portion of the glazing that is most curved, but it might mean another part of the glazing that is not tempered properly or that is otherwise more likely to fail.

Although this language might seem subjective, in fact it means that all portions of the glazing surface must be able to pass the test requirements. If the glazing fails a test in a portion we select in our compliance testing, then even if there were another area where compliance would have been more ''difficult,'' by definition the glazing would not pass at that location either. We have made this interpretation explicit in the regulatory text of Standard No. 205.

D. Residual Differences With Foreign Standards

Incorporating ANSI Z26.1–1996 in Standard No. 205 would not eliminate all differences between Standard No. 205, Canadian Motor Vehicle Safety Standard 205, and ECE R43. There would still be differences in the tempered glass fracture test performance requirements, the windshield luminous transmittance test requirement, and the laminated windshield test samples for the optical and impact tests. The differences are summarized in the following table:

Test	Difference
Luminous Transmittance Test 2	ANSI Z26.1 requires 70 percent transmittance. ECE R43 requires 75 percent transmittance.
Fracture Test 7	Standard No. 205 and Z26–1996 require fragments to have a maximum allowable mass of 4.25g. ECE R43 requires a minimum number of particles to be included in a 5 cm × 5 cm square.
Shot Bag Test 8	ECE R43 does not have a shot bag test.
Dart Test 9, 10 & 11	R43 does not have a dart test.
Weathering Test 16	ECE R43 requires a mercury vapor arc lamp. ANSI Z26.1–1996 requires a xenon lamp. Current Standard No. 205 and Canadian Standard No. 205 require a carbon arc lamp.
Wire Glass	Canadian Standard No. 205 allows wire glass to be used, while ANSI Z26.1–1996 does not.

E. Xenon Light Source for Weathering Test

Laboratory-accelerated weathering tests are used to test the durability of glazing materials by simulating the damaging effects of sunlight over an extended period of time. The weathering tests are used to identify materials that are more susceptible to sun damage, such as rigid plastics, flexible plastics and glass-plastics (annealed and tempered).

The weathering test procedures of ANSI Z26.1–1977 simulate sunlight using a carbon arc lamp. Carbon arc technology was developed in 1919 for the textile and printing industries. This is no longer the best light source for simulating sunlight. The spectral power distribution of carbon arc is unlike that of natural sunlight. Narrow spikes of energy in the ultraviolet range of the electromagnetic spectrum (wavelengths of 400 nm and below) can affect how some materials will degrade. We tentatively conclude that a xenon arc light source produces a spectral power distribution closer to that of sunlight, but we request comment on that issue. We note that most of the testing industry is currently using xenon-arc

lamp test devices to simulate weathering.

F. Limiting the Width of the Shade Band

ANSI Z26.1 requires most passenger car windows to pass a light transmittance test that assures that they transmit 70 percent of the incident light. However, the standard permits those parts of vehicle glazing that are not needed for driving visibility to be tinted more darkly. The most familiar location for those more darkly tinted areas is the top several inches of the windshield. This area is typically called a ''shade band.''

Since we need to be able, for the purposes of compliance testing, to differentiate between those areas of a window that are intended to meet the 70 percent transmittance requirement and those areas that are not so intended, the limit of the shade band needs to be marked on the glazing. Section 7 of ANSI Z26.1–1996 requires that if an area of glazing intentionally made with a luminous transmittance less than 70 percent adjoins an area that has 70 percent or more luminous transmittance, the former area must be permanently marked at the edge to show the limits of the area that are supposed to comply with the test. The markings have a line parallel to the edge of the tinted area, and an arrow perpendicular to that line showing the item number of the glazing in the direction of the arrow. For example, with a marking (i.e., glazing that must meet the test), the direction of the arrow indicates the portion of the material that complies with transmittance requirement.

A visibility requirement needs to be set to establish boundaries for shade bands on glazed surfaces. The size of the shade band is not explicitly defined by Standard No. 205. Even the updated ANSI Z26.1–1996 does not set boundaries for the area of glazing that does not have to meet the 70 percent light transmittance. Hypothetically, if the shade band covers 99 percent of the windshield and has the proper markings, it would comply with ANSI Z26.1–1996 even though the windshield needs to be clear for driving visibility.

Fortunately, an industry standard exists, SAE J100 ''Class ''A'' Vehicle Glazing Shade Bands.'' That standard is based on the eyellipse of a 95th percentile male. The eyellipse is a statistical representation of the 95th percentile male driver's eye positions in a vehicle. That eyellipse is specified because it is the highest eyellipse, and therefore is the eyellipse most likely to be blocked by the shade band. The SAE J100 standard sets limits for the shade band on the windshield, rear window and fixed side windows. Therefore, we have modified Standard No. 205 to incorporate the June 1995 version of SAE J100. We request comment on the appropriateness of SAE J100 and on whether there are other, alternative industry standards we should consider.

G. Conforming Amendment to the Low-speed Vehicle Standard

The standard needs to be updated to account for a new vehicle type. On June 17, 1998, we published (63 FR 33194) a new standard for ''low speed vehicles'' (49 CFR 571.500). The rule defines low speed vehicles as a separate vehicle type, and S5(b)(8) of the rule specifies the use of either AS–1 or AS–5 glazing for the windshield of these vehicles. The rule also separately incorporates by reference the 1977/1980 version of ANSI Z26.1, rather than cross-referencing Standard No. 205.

Rather than separately proposing to update the incorporation by reference of ANSI Z26.1 in Standard No. 500 and Standard No. 205, we have decided that the specifications should appear only in Standard No. 205. Accordingly, this notice proposes modifying S5(b)(8) of Standard No. 500, to eliminate the incorporation by reference of ANSI Z26.1 and any reference to the permitted types of glazing. Instead, S5(b)(8) would simply state that low speed vehicles must have windshield glazing that meets the specifications of Standard No. 205.

We have revised the applicability paragraph of Standard No. 205 to add low speed vehicles to the list of vehicles to which the standard applies. This will assure that manufacturers of glazing materials in low speed vehicles certify compliance with Standard No. 205. In addition, we propose adding a paragraph to the requirements specifying the use of AS–1 or AS–4 glazing in the windshields of low speed vehicles. This section is necessary because the descriptions of the locations of glazing specified by the ANSI standard would not otherwise allow for AS–5 glazing.

We are also correcting a technical error made when Standard No. 500 was issued. We are replacing AS–5 glazing with AS–4 glazing as a permitted glazing type in low speed vehicles. AS–5 glazing has no light transmittance requirement, because it is specified for locations not requisite for driving visibility. Obviously, windshields are vital for driving visibility, so the equivalent glazing with a light transmittance requirement, or AS–4 glazing, is what we intended to permit.

H. Verification of DOT Numbers

Paragraph S6.2 of Standard No. 205 requires that the prime glazing manufacturer mark the glazing with, among other things, a manufacturer's code mark. The mark is assigned by us upon the written request of the manufacturer. We maintain a list of glazing manufacturers and the marks assigned to them. One use of these code marks (often referred to as a ''DOT number'') is during an enforcement action to identify the manufacturer that produced a particular piece of glazing.

The SAE Glazing Standards Committee is concerned about the accuracy of our Glazing Manufacturers list. Only 25 percent of the manufacturers listed with DOT numbers are currently active, according to the SAE. SAE further contends that some of the manufacturers have gone out of business without notifying us and that many other manufacturers have moved or merged. Moreover, SAE believes that some of these DOT numbers are being improperly used.

Therefore, we are requesting comments on the need to verify the DOT numbers.

IV. Comments

How do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Electronic comment filings need only submit one copy of the document, which must conform to the submission requirements given in the electronic filing instructions at the DOT website (http://dms.dot.gov). Electronically submitted documents may be rejected if they are found to be frivolous, abusive, and/or repetitious filings.

How Can I Be Sure That my Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope

containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will We Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

A. Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

B. On that page, click on ''search.''

C. On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

D. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

V. Proposed Effective Date

Since the purpose of the amendments is to clarify and consolidate existing requirements and since we believe that the adoption of the amendments would not impose any additional burden on any person, we tentatively find for good cause that an effective date earlier than 180 days after issuance of a final rule would be in the public interest. The proposed amendment would become effective 45 days after publication.

VI. Plain Language

In accordance with the President's June 1, 1998 directive on ''Plain Language in government writing,'' we have rewritten or reorganized portions of the regulatory text for clarity and conformance to Plain Language practices. These include portions of the regulatory text that are not being substantively changed by this rule. For example, we have replaced passive verbs with active verbs, replaced ''shall'' with ''must,'' and made explicitly clear who has the responsibility for acting.

Rewriting is especially apparent in the certification and marking requirements of section 6. We eliminated the marking requirement of former S6.1 because it is already incorporated in section 7 of ANS Z26. We moved the definition of prime glazing manufacturer in S6.1 into the S4 definitions section. To eliminate redundancy, former S6.2 and S6.3 have been combined in S6.1, and former S6.4 and S6.5 have been combined in S6.3. We do not intend by this proposal to make any substantive changes in S6.

VII. Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under Executive Order 12866. The rulemaking action is not significant under Department of Transportation regulatory policies and procedures. The effect of the rulemaking action would be to clarify existing requirements. It would not impose any additional burden upon any person. Impacts of the proposed rule are, therefore, so minimal that preparation of a full regulatory evaluation is not warranted.

Regulatory Flexibility Act

We have considered the impacts of this rulemaking action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*). I certify that this rulemaking action would not have a significant economic impact upon a substantial number of small entities.

The following is our statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The final rule affects manufacturers of motor vehicles and motor vehicle glazing. According to the size standards of the Small Business Association (at 13 CFR Part 121.601), manufacturers of glazing are considered manufacturers of ''Motor Vehicle Parts and Accessories'' (SIC Code 3714). The size standard for SIC Code 3714 is 750 employees or fewer. The size standard for manufacturers of ''Motor Vehicles and Passenger Car Bodies'' (SIC Code 3711) is 1,000 employees or fewer. This NPRM would have no significant economic impact of a small business in these industries because, if made final, the rule would make no significant substantive change to requirements currently specified in Standard No. 205. Small organizations and governmental jurisdictions that purchase glazing would not be significantly affected because this rulemaking should not cause price increases. Accordingly, we have not prepared a Regulatory Flexibility Analysis.

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 on ''Federalism.'' We have determined that the rulemaking action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This rule would not have any retroactive effect. According to 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative

proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, we propose that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.205 would be amended by:

a. Revising paragraph S3,
b. Amending paragraph S4 by adding a new definition in alphabetical order,
c. Revising paragraph S5.1.1,
d. Removing paragraphs S5.1.1.1 through S5.1.1.7,
e. Revising paragraph S5.1.2,
f. Removing paragraphs S5.1.2.1 through S5.1.2.11,
g. Revising paragraph S5.2,
h. Adding paragraph S5.3,
i. Adding paragraph S5.4,
j. Revising paragraphs S6.1 through S6.3,
k. Removing paragraphs S6.4 and S6.5, and
l. Removing Figure 1 at the end of the section.

The additions and revisions read as follows:

§ 571.205 Standard No. 205, Glazing materials.

* * * * *

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, motorcycles, slide-in campers, pickup covers designed to carry persons while in motion, and low speed vehicles and to glazing materials for use in those vehicles.

S4. Definitions. * * *

Prime glazing manufacturer means a manufacturer that fabricates, laminates, or tempers glazing materials.

* * * * *

S5. Requirements.

S5.1 Materials.

S5.1.1 Glazing materials for use in motor vehicles must conform to the October 1996 version of American National Standard Safety Code for Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways, Z–26.1 (ANS Z26), unless this standard provides otherwise.

S5.1.2 NHTSA may test any portion of the glazing when doing the fracture test (Test No. 7) described in section 5.7 of ANS Z26.

S5.2 *Edges.* In vehicles except schoolbuses, the prime glazing manufacturer must treat exposed edges of the glazing in accordance with the August 1967 version of SAE Recommended Practice J673a, ''Automotive Glazing.'' In schoolbuses, the vehicle manufacturer must enclose exposed edges of the glazing in a channel.

S5.3 *Shade bands.* The portion of the glazing at the top of the windshield, fixed side windows, and rear windows, as defined in section 4 of the June 1995 version of SAE Recommended Practice J100, is not required for driving visibility.

S5.4 *Low speed vehicles.* Windshields of low speed vehicles must meet the ANS Z26 specifications for either AS–1 or AS–4 glazing.

S6. *Certification and marking.*

S6.1 A prime glazing material manufacturer must certify, in accordance with 49 USC 30115, each piece of glazing material to which this standard applies that is designed—

(a) As a component of any specific motor vehicle or camper; or

(b) To be cut into components for use in motor vehicles or items of motor vehicle equipment.

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANS Z26, in letters and numerals of the same size, the symbol ''DOT'' and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in S4.

S6.3 A manufacturer or distributor who cuts a section of glazing material to which this standard applies, for use in a motor vehicle or camper, must—

(a) Mark that material in accordance with section 7 of ANS Z26; and

(b) Certify that its product complies with this standard in accordance with 49 USC 30115.

3. Section 571.500 would be amended by revising paragraph (b)(8) of S5, to read as follows:

§ 571.500 Standard No. 500; low speed vehicles.

* * * * *

S5. *Requirements*

* * * * *

(b) * * *

(8) A windshield that conforms with the Federal Motor Vehicle Safety Standard on glazing materials (49 CFR 571.205)

* * * * *

Issued on: July 28, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–19913 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 072199C]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Exempted Fishing Permits (EFPs)

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

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS announces that the Regional Administrator, Northeast Region, NMFS (Regional Administrator), is considering approval of EFPs for two vessels to conduct exempted experimental fishing activities otherwise restricted by regulations governing the Fisheries of the Northeastern United States. These EFPs to conduct experimental fishing would involve the possession and retention of Atlantic sea scallops (*Placopecten magellanicus*), including the possible capture and release of regulated multispecies and other bycatch (monkfish, skates, invertebrates, and elasmobranchs), in the Mid-Atlantic Regulated Mesh Area; specifically, within the Hudson Canyon South Sea Scallop Closure Area and the Virginia Beach Sea Scallop Closure Area. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act provisions require publication in the **Federal Register** to provide interested parties the opportunity to comment on the proposed EFPs.

DATES: Comments on this document must be received by August 19, 1999.

ADDRESSES: Comments should be sent to the Regional Administrator, NMFS,

Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Proposed Experimental Fisheries.''

Copies of the Environmental Assessment for these activities are available from the Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Bonnie VanPelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: The Virginia Institute of Marine Science (VIMS) has submitted a proposal to target and assess Atlantic sea scallop resources (density and length frequency distribution), commercial sea scallop dredge performance, and harvest efficiencies within the Mid-Atlantic Sea Scallop Closure Areas (Hudson Canyon and Virginia Beach). This systematic survey would coordinate closely with NMFS' Northeast Fisheries Science Center's scallop dredge survey to evaluate differences in scallop research dredge performance relative to commercial dredge operation by conducting simultaneous tows and/or same-station comparative tows. The study also proposes to investigate the impacts of scallop dredge activity on bottom habitat and to quantify and compare the bio-fouling of scallops in both closed and open areas. In addition, the habitat assessment portion of the study would look at transitional changes in habitat components from within, on the boundary, and outside the closed areas. In this portion of the study VIMS would closely collaborate with a Rutgers University habitat assessment study being conducted in the Hudson Canyon South Closure Area to avoid station overlap and ensure data integrity.

On a tow-by-tow basis, scientific staff and designated crew members would enumerate bycatch and estimate quantities of non-bycatch debris (mollusk shells), and would report on their general physical condition. The overall objective of the study is to assess the increased availability of commercial sea scallop biomass resulting from the area closures that commenced 16 months ago. A similar study in Georges Bank Closed Area II was not performed until 4 years after the closure. It is thought that more knowledge could be gained from a post-dredge survey conducted closer to the cessation of mobile gear activity.

The survey would be conducted during the period mid-August through September 1999 and would employ the use of two 15–ft (4.6–m) commercial sea scallop dredges at 400 pre-designated stations. Sampling densities of approximately one station per 7.5 nm^2 in the Hudson Canyon South Closure Area and one station of 5.0 nm^2 density in the Virginia Beach Closure Area are proposed. Sampling frequency would be increased to 5.0 nm^2 on or near the edges of closed area boundaries. Set-tow times of 10 minutes at 4.5 knots would calibrate area gear coverage (width of gear x length of dredge path). The dredge gear used would comply with all mesh size and gear configuration provisions of Amendment 4 to the Atlantic Sea Scallop Fishery Management Plan. Therefore, no special twine-top configurations or rock chains would be used.

No other species other than Atlantic sea scallops would be retained or landed, except for unusual specimens of interest to scientists and only at the discretion of the chief scientist in charge of at-sea cruise operations. Participants would be limited to retaining and landing no more than 14,000 lb (6,350 kg) (1,000 lb (454 kg) per day) of Atlantic sea scallops, and would be required to fish under an Atlantic Sea Scallop day-at-sea (DAS) when fishing under the EFP. Based on this landing limit, participants would be required to commit a maximum of 14 sea scallop DAS to the study.

Each vessel's crew would be instructed that low value sea scallops may not be discarded in favor of retaining high value sea scallops (high grading). VIMS' chief scientist would be charged with monitoring all stages of the proposed cruise operations in support of the study objectives and would ensure maximum integrity of data collection and organization of deck operations. EFPs would be issued to participating vessels to exempt them from the Mid-Atlantic Closed Areas.

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

Dated: July 29, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–20030 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 149
Wednesday, August 4, 1999

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

Farm Service Agency

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act, this notice announces the Farm Service Agency's (FSA) intention to request an extension and revision to a currently approved information collection. The information is used to administer operations of the FSA under the United States Warehouse Act (USWA), and the Commodity Credit Corporation (CCC) Charter Act. The information collection package relates to reporting and recordkeeping requirements for the USWA and the Standards for Approval of Warehouses.

DATES: Comments on this notice must be received on or before October 4, 1999 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Judy Fry, Farm Service Agency, Warehouse and Inventory Division, U.S. Department of Agriculture, STOP 0553, 1400 Independence Avenue, SW., Washington, DC 20250–0553; telephone 202–720–3822; e-mail comments may be sent: Judy__Fry@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Regulations Under the United States Warehouse Act, Related Reporting and Recordkeeping Requirements, and Standards for Approval of Warehouses Under the CCC Charter Act.

OMB Control Number: 0560–0120.

Expiration Date of Approval: July 31, 1999.

Type of Request: Extension and Revision of Currently Approved Information Collection.

Abstract: The information collected under Office of Management and Budget (OMB) Control Number 0560–0120, as identified above, allows FSA to effectively administer the regulations under the USWA, related reporting and recordkeeping requirements, and Standards for Approval under the CCC Charter Act.

USWA and CCC activities are administered by FSA. The reporting requirements for warehouses covered by USWA and CCC functions, are essentially the same for all types of warehouses. Therefore, the same forms are used for both USWA licensing and for execution of CCC contracts. These forms are furnished to warehouse operators and used by the warehouse examiners employed by FSA to secure and record information about the warehouse operator and the warehouse. The general purpose of the forms is to provide those charged with issuing licenses under the USWA or executing contracts for CCC a basis upon which to determine whether the warehouse and the warehouse operator meet applicable standards to receive a license or contract and to determine compliance once a license is issued or a contract is approved.

Estimate of Burden: Public reporting burden for this information collection is estimated to average 1.84 hours per response.

Respondents: Business or other for profit: Warehouse Operators

Estimated Number of Respondents: 6,283.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 11,549.

Proposed topics for comments include: (a) Whether the continued collection of information is necessary for the proper performance of USWA functions and CCC contracting activities, including whether the information will have practical utility; (b) the accuracy of FSA's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the information to be collected; and (d) minimizing the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Judy Fry, Warehouse and Inventory Division, Farm Service Agency, STOP 0553, 1400 Independence Avenue, SW, Washington, DC 20250–0553; telephone (202) 720–3822 or FAX 202–690–3123.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC, on July 29, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

[FR Doc. 99–20027 Filed 8–3–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Current Population Survey—October 1999 School Enrollment Supplement.

Form Number(s): None (computer instrument).

Agency Approval Number: 0607–0464.

Type of Request: Revision of a currently approved collection.

Burden: 6,400 hours.

Number of Respondents: 48,000.

Avg Hours Per Response: 8 minutes.

Needs and Uses: The Census Bureau is requesting clearance for the collection of data concerning the School Enrollment Supplement to be conducted in conjunction with the October 1999 Current Population Survey (CPS). The Census Bureau, the Bureau of Labor Statistics, and the National Center for Education Statistics (NCES) sponsor the basic annual school enrollment questions which have been collected annually in the CPS for 40 years. This year's supplement will also contain questions that were last asked in October 1995 concerning language proficiency, disabilities, and grade retention for persons 3–24 years of age.

These additional questions are sponsored by the NCES.

This survey provides information on public/private elementary and secondary school enrollment, and characteristics of private school students and their families, which is used for tracking historical trends and for policy planning and support. This survey is the only source of national data on the age distribution and family characteristics of college students, and the only source of demographic data on preprimary school enrollment. As part of the Federal Government's efforts to collect data and provide timely information to local governments for policymaking decisions, the survey provides national trends in employment and progress in school.

The data are used by Federal agencies; state, county, and city governments; and private organizations responsible for education to formulate and implement education policy. They are also used by employers and analysts to anticipate the composition of the labor force in the future. The NCES will use the data concerning language proficiency, disabilities, and grade retention to study the phenomenon of children being retained in grade.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Linda Hutton, (202) 395–7858.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Linda Hutton, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 28, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–20050 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Survey of Income and Program Participation 1996 Panel Wave 12.

Form Number(s): SIPP/CAPI Automated Instrument; SIPP–161205(L) Director's Letter.

Agency Approval Number: 0607–0813.

Type of Request: Revision of a currently approved collection.

Burden: 44,228 hours.

Number of Respondents: 77,700.

Average Hours Per Response: 100,250.

Needs and Uses: The Census Bureau conducts the Survey of Income and Program Participation (SIPP) to collect information from a sample of households concerning the distribution of income received directly as money or indirectly as in-kind benefits. SIPP data are use by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare and transfer payment programs such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Agriculture.

The SIPP is a longitudinal survey, in that households in the panel are interviewed at 4-month intervals or waves over the life of the panel, making the duration of the panel about 4 years. The next panel of households will be introduced in the year 2000.

The survey is molded around a central core of labor force and income questions, health insurance questions, and questions concerning government program participation that remain fixed throughout the life of the panel. The core questions are asked at Wave 1 and are updated during subsequent interviews. The core is supplemented with additional questions or topical modules designed to answer specific needs.

This request is for clearance of the topical modules to be asked during Wave 12 of the 1996 Panel. The core questions and topical modules for Waves 1–11 have already been cleared. The topical modules for Wave 12 are: Assets, Liabilities, and Eligibility; Children's Well-Being; Medical Expenses/Utilization of Health Care; Work-Related Expenses; and Child Support Paid. Wave 12 interviews will be conducted from December 1999 through March 2000. Additionally, we will conduct a Wave 13 interview with a ¼ portion of the 1996 SIPP panel during April 2000 in order to obtain complete calendar year data for 1999. This interview will collect only core data; no topical module will be administered.

Monetary incentives to encourage non-respondents have been incorporated into the 1996 Panel since Wave 1. The incentives have been approved by OMB for use on a test basis. Wave 12 also includes an incentive plan.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Linda Hutton, (202) 395–7858.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or by the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Linda Hutton, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 29, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–20051 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822 and A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits for Preliminary Results of Antidumping Administrative Review.

EFFECTIVE DATE: August 4, 1999.

FOR FURTHER INFORMATION CONTACT: Elfie Blum-Page, Mark Hoadly, or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone: (202) 482–0197, (202) 482–0666 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351 (1999).

Background

On August 19, 1993, the Department published in the **Federal Register** (58 FR 44162) the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. Based on timely requests by petitioners and respondents in both proceedings, the Department published its initiation of these antidumping duty administrative reviews covering the period of August 1, 1997 through July 31, 1998 (63 FR 51893) on September 29, 1998.

Extension of Time Limits for Preliminary Results

Because of the complexities enumerated in the Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Extension of Time Limit for the Preliminary Results of Antidumping Administrative Reviews: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada, dated July 30, 1999, it is not practicable to complete these reviews within the time limits mandated by section 751(a)(3)(A) of the Act.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limits for the preliminary results 7 days to August 6, 1999. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: July 30, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–20185 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of Coast Zone Management Programs and National Estuarine Research Reserves

AGENCY: Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), DOC.

ACTION: Notice of intent to evaluate.

SUMMARY: The NOAA Office of Ocean and Coastal Resource Management (OCRM) announces its intent to evaluate the performance of the Florida Coastal Zone Management Program and the Elkhorn Slough (CA), Padilla Bay (WA), and Narragansett Bay (RI) National Estuarine Research Reserves.

These evaluations will be conducted pursuant to sections 312 and 315 of the Coastal Zone Management Act of 1972 (CZMA), as amended. The CZMA requires a continuing review of the performance of states with respect to coastal program and research reserve program implementation. Evaluation of Coastal Zone Management Programs and National Estuarine Research Reserves require findings concerning the extent to which a state has met the national objectives, adhered to its coastal program document or the Reserve's final management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance awards funded under the CZMA. The evaluations will include a site visit, consideration of public comments, and consultations with interested Federal, State, and local agencies and members of the public. Public meetings are held as part of the site visits.

Notice is hereby given of the dates of the site visits for the listed evaluations, and the dates, local times, and locations of public meetings during the site visits.

The Elkhorn Slough National Estuarine Research Reserve in California site visit will be from September 13–17, 1999. One public meeting will be held during the week. The public meeting will be held on Tuesday, September 14, 1999, at 6:00 P.M., at the Reserve's Visitor Center, 1700 Elkhorn Road, Watsonville, California.

The Padilla Bay National Estuarine Research Reserve in Washington site visit will be from September 20–24, 1999. One public meeting will be held during the week. This public meeting will be held on Tuesday, September 21, 1999, at 7:00 P.M., at the Padilla Bay Reserve Auditorium, 1043 Bayview-Edison road, Mt. Vernon, Washington.

The Narragansett Bay National Estuarine Research Reserve in Rhode Island site visit will be from September 20–24, 1999. One public meeting will be held during the week. This public meeting will be held on Wednesday, September 22, 1999, at 11:00 A.M., at the Narragansett Bay National Estuarine Research Reserve's Field Station, 55 South Reserve Drive, Prudence Island, Rhode Island.

The Florida Coastal Zone Management Program evaluation site visit will be from September 27–October 1, 1999. One public meeting will be held during the week. The public meeting will be held on Tuesday, September 28, 1999, at 7:00 p.m. in Classroom 243 in the Student Union East Building, Gulf Coast Community College, 5230 West Highway 98, Panama City, Florida.

The States will issue notice of the public meeting(s) in a local newspaper(s) at least 45 days prior to the public meeting(s), and will issue other timely notices as appropriate.

Copies of the State's most recent performance reports, as well as OCRM's notifications and supplemental request letters to the States, are available upon request from OCRM. Written comments from interested parties regarding these Programs are encouraged and will be accepted until 15 days after the public meeting. Please direct written comments to Margo E. Jackson, Deputy Director, Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, 10th Floor, Silver Spring, Maryland 20910. When the evaluation is completed, OCRM will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

FOR FURTHER INFORMATION CONTACT: Margo E. Jackson, Deputy Director, Office of Ocean and Coastal Resource Management, NOS/NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, (301) 713–3155, ext. 114.

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: July 30, 1999.

John Oliver,

Chief, Office of Management and Budget, National Ocean Service.

[FR Doc. 99–20033 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072899C]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting via teleconference.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Salmon Nonretention Mortality Committee will confer by telephone.

DATES: The teleconference call will begin Friday, August 20, 1999, at 9 a.m. PDT.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for call locations.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: John Coon, Salmon Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The public may participate at the following call locations:

1. Pacific Fishery Management Council office, 2130 SW Fifth Avenue, Suite 224, Portland, OR
2. Washington Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA
   Contact: Phil Anderson, (360) 902–2720;
3. Oregon Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, OR
   Contact: Rod Kaiser, (541) 867–4741 extension 240;
4. California Department of Fish and Game, 1416 Ninth Street, Sacramento, CA
   Contact: LB Boydstun, (916) 653–6281;
5. National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way NE, Seattle, WA
   Contact: Bill Robinson, (206) 526–6142.

The primary purpose of the conference is to review and direct the completion of work assignments in developing updated, scientifically based recommendations for reliable and consistent estimates of nonretention mortality in ocean salmon fisheries under Council management. The Ad-Hoc Committee will report the results of this conference to the Council on September 14, 1999, in Portland, OR.

Although other issues not contained in this agenda may come before this Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

The public participation sites are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the conference date.

Dated: July 28, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–20031 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980817219–8219–01. I.D. 073099A]

RIN 0648–AL58

Procedures Implementing the National Environmental Policy Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of Availability; final revised environmental review procedures for NOAA.

SUMMARY: This document announces the availability of final revised environmental review procedures for implementing the National Environmental Policy Act (NEPA) within the National Oceanic and Atmospheric Administration. The revisions update the agency's original procedures published in 1984, based on changing Agency direction, laws, and public concerns. The revisions reflect new initiatives and mandates for NOAA, particularly involving the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Endangered Species Act, and Marine Mammal Protection Act. The revisions provide information on preparing NEPA documents and streamlining of NEPA and other analyses or documents within NOAA.

DATES: September 3, 1999.

FOR FURTHER INFORMATION CONTACT: Ramona Schreiber or Steve Kokkinakis, Office of Policy and Strategic Planning, 202–482–5181. A copy of the final revised NOAA Administrative Order (NAO) 216–6 is available from the contacts listed here or via the Internet at: http://www.rdc.noaa.gov/nao/216-6.html.

SUPPLEMENTARY INFORMATION: NOAA's existing environmental review procedures for implementing NEPA appear in NAO 216–6. These procedures are consistent with the Council on Environmental Quality's (CEQ) regulations for implementing NEPA. NOAA's procedures were last revised in 1991. Consistent with CEQ regulation (40 CFR 1507.3(a)), NOAA published a Notice of Availability in the **Federal Register** on October 28, 1998 (FR 57664). That document announced the availability of draft revisions to NAO 216–6. Three sets of public comments were received and considered in the preparation of the final revised NAO 216–6. No modifications to the draft guidelines were necessary as a result of the comments received. NOAA has also consulted with CEQ prior to finalizing the revised NAO 216–6.

Comments and Responses

Comment 1: Two comments recommended that NOAA make its procedures regarding Endangered Species Act (ESA)-related categorical exclusions consistent with those of the U.S. Fish and Wildlife Service (USFWS). Specifically, USFWS authorizes categorical exclusions for conservation agreements that require an incidental take statement; the commenter suggests that NOAA do the same. In addition, one comment suggested that NOAA align its overall ESA-related guidelines to match USFWS guidance.

Response: NOAA recognizes that its guidance regarding conservation agreements differs slightly from that of the USFWS. NOAA's procedures describe cases where an incidental take statement for a conservation agreement may receive a categorical exclusion, when the statement is considered to be a ''low-effect''. In those cases a categorical exclusion may be appropriate. Requirement of an environmental assessment for those conservation agreements that receive an incidental take statement for a greater effect is consistent with NOAA's ESA implementation guidelines. A modification of NOAA's procedures was not considered appropriate. NOAA coordinates with USFWS on many actions, however each agency has its independent policies. Thus, NOAA and USFWS may provide differing guidance

on certain actions in line with each agency's policy position.

Comment 2: A comment recommended that to facilitate public involvement, a mechanism should be provided to extend the 45-day public comment period when appropriate.

Response: NOAA recognizes that in some cases comment periods for review of draft environmental impact statements (EIS) should be extended beyond the minimum required 45-day period. NOAA's procedures recommend that this action be taken when appropriate. A mechanism to extend a comment period exists through notice of extensions via a publication of a notice of availability in the **Federal Register**.

Comment 3: A comment suggested that NOAA's procedures require consideration of impacts on state Coastal Zone Management Plans, species listed under the Endangered Species Act, and essential fish habitat as defined by the Magnuson-Stevens Act be a required part of an EIS.

Response: NOAA agrees that these areas should be considered in the development of an EIS. In fact, NOAA's procedures identify these and other factors as areas that should be considered in scoping. Where scoping identifies these areas as relevant to the specific action, these factors should be addressed within the EIS.

Comment 4: A comment stated that there is not adequate emphasis for the need to produce NEPA documents concurrently with other review documents.

Response: NOAA's procedures provide recommendations to integrate NEPA into NOAA's decisionmaking process. In addition, the procedures recommend measures to cooperate with other federal, state and tribal partners to reduce duplication in document preparation.

Comment 5: A comment suggested that the examples cited for the application of generic NEPA documents are inappropriate.

Response: The examples identified in the procedures are representative of actions by other Federal agencies that have completed generic NEPA documents or of actions that NOAA believes, in certain instances, could be best addressed in a generic EIS. Where a specific action was under review, a generic EIS would not be appropriate and NOAA would complete an EIS specific to that action with adequate review of all potential impacts.

The revisions are administrative and procedural improvements intended to enhance NOAA's ability to comply with a variety of legislative mandates and Executive Orders without unnecessarily delaying and duplicating steps in the decision-making process while ensuring public involvement in decisionmaking. These improvements will result in a better understanding of agency roles and responsibilities relative to NEPA.

Notable changes in this version of NAO–216–6 from the 1991 procedures include: reorganization of the document such that users can review the general requirements for preparing NEPA documents, as well as specific guidance on NEPA requirements for particular programs and activities within NOAA; incorporation of new policies and procedures to streamline and improve NOAA's NEPA compliance; specific guidance for NOAA's NEPA responsibilities under the Magnuson-Stevens Act, Endangered Species Act, Marine Mammal Protection Act, and Oil Pollution Act; and incorporation of NOAA's requirements under E.O. 12898 for Environmental Justice in Minority Populations and Low-Income Populations, E.O. 13112 for Invasive Species, and E.O. 13089 for Coral Reef Protection; and guidance on NOAA facilities and construction projects.

This document is available by request through the contact identified previously as well as via the Internet at: http://www.rdc.noaa.gov/nao/216-6.html.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation certified to the Chief Counsel for Advocacy, Small Business Administration, that this rule will not have a significant economic impact on a substantial number of small entities because it is a procedural rule, and it will have no economic impact on entities. Therefore, a Regulatory Flexibility Analysis is not required and was not prepared.

Dated: July 27, 1999.

Susan Fruchter,

Director, Office of Policy and Strategic Planning, National Oceanic and Atmospheric Administration.

[FR Doc. 99–20032 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

July 29, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 5, 1999.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 59946, published on November 6, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 29, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 3, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on August 5, 1999, you are directed to adjust the limits for the following

categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
219	6,766,176 square meters.
237	213,827 dozen.
239pt. [2]	678,498 kilograms.
331/631	2,876,284 dozen pairs.
334/634	277,404 dozen.
338	5,622,757 dozen.
339	1,596,443 dozen
340/640	751,448 dozen of which not more than 263,357 dozen shall be in Categories 340–D/640–D [3].
347/348	934,182 dozen.
351/651	375,723 dozen.
352/652	939,308 dozen.
359–C/659–C [4]	974,146 kilograms.
360	6,035,696 numbers.
361	7,018,250 numbers.
363	49,565,423 numbers.
369–F/369–P [5]	2,755,074 kilograms.
369–S [6]	818,012 kilograms.
638/639	521,483 dozen.
647/648	988,711 dozen.
666–P [7]	820,740 kilograms.
666–S [8]	4,525,124 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[3] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[4] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[5] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[6] Category 369–S: only HTS number 6307.10.2005.

[7] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[8] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–19952 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

July 29, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: August 5, 1999.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota reopenings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Group II is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 67050, published on December 4, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 29, 1999.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on August 5, 1999, you are directed to increase the Group II limit, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Group II 200–227, 300–326, 332, 359–O [2], 360, 362, 363, 369–O [3], 400–414, 434–438, 440, 442, 444, 448, 459pt. [4], 464, 469pt. [5], 600–607, 613–629, 644, 659–O [6], 666, 669–O [7], 670–O [8], 831, 833–838, 840–846, 850–858 and 859pt. [9], as a group.	210,216,637 square meters equivalent.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); and 6406.99.1550 (Category 359pt.).

[3] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[4] Category 459pt.: all HTS numbers except 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505 and 6406.99.1560.

[5] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010 and 6406.10.9020.

[6] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[7] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020, 6305.39.0000 (Category 669–P); 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040 (Category 669pt.).

[8] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907 (Category 670–L).

[9] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.99–19951 Filed 8–3–99; 8:45 am]

BILLING CODE 3510–DR–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Collection; Comment Request

AGENCY: Corporation for National and Community Service

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed applications entitled: AmeriCorps Education Awards Program 2000 Application Guidelines. Copies of the information collection requests can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by October 4, 1999.

ADDRESSES: Send comments to the Corporation for National and Community Service, Nancy Talbot, Director, Planning and Program Development, 1201 New York Avenue, NW, Washington, DC, 20525.

FOR FURTHER INFORMATION CONTACT: Nancy Talbot (202) 606–5000, ext. 470.

SUPPLEMENTARY INFORMATION:

Comment Request

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Background

AmeriCorps Education Awards Program 2000 Application Guidelines provide the background, requirements and instructions that potential applicants need to complete an application to the Corporation for education awards for community service programs that can support most or all of the AmeriCorps member and program costs from sources other than the Corporation.

Current Action

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application guidelines.

Type of Review: New collection.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Education Awards Program. 2000 Application Guidelines.

OMB Number: None.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding.

Total Respondents: 150.

Frequency: Twice per year.

Average Time Per Response: Eight (8) hours.

Estimated Total Burden Hours: 2,400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 29, 1999.

Thomasenia P. Duncan,

General Counsel.

[FR Doc. 99–20016 Filed 8–3–99; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Revision of Currently Approved Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed applications entitled: The 2000 Application Guidelines for Learn and Serve America Higher Education and Learn and Serve America School and Community-Based Programs. Copies of the information collection requests can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section by October 4, 1999.

ADDRESSES: Send comments to the Corporation for National and Community Service, Nancy Talbot, Director, Planning and Program Development, 1201 New York Avenue, NW, Washington, DC, 20525.

FOR FURTHER INFORMATION CONTACT: Nancy Talbot (202) 606–5000, ext. 470.

SUPPLEMENTARY INFORMATION:

Comment Request

The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Part I

Background

The 2000 Application Guidelines for Learn and Serve America Higher Education provide the background, requirements and instructions that potential applicants need to apply to the Corporation for grants to operate Learn and Serve America service-learning programs for college-age youth.

Current Action

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application guidelines. The application forms and instructions are being revised to reflect the evaluation criteria approved by the Corporation board last year. In some instances this means that questions appear under different categories than previously. In an effort to streamline and consolidate this application package, there is one title page and one budget form that all Higher Education applicants can use. Form instructions are clearer and are written in plain language. Questions that need response in the narrative section of the application are streamlined and the same for all Learn and Serve America Programs.

Type of Review: Revision of a currently approved collection.

Agency: Corporation for National and Community Service.

Title: The 2000 Application Guidelines for Learn and Serve America Higher Education.

OMB Number: 3045–0046.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding.

Total Respondents: 400.

Frequency: Once per year.

Average Time Per Response: Six (6) hours.

Estimated Total Burden Hours: 2,400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Part II

Background

The 2000 Application Guidelines for Learn and Serve America School- and Community-Based Programs provide the background, requirements and instructions that potential applicants need to apply to the Corporation for grants to operate Learn and Serve America service-learning programs for school-age youth.

Current Action

The Corporation seeks public comment on the forms, the instructions for the forms, and the instructions for the narrative portion of these application guidelines. The application forms and instructions are being revised to reflect the evaluation criteria approved by the Corporation board last year. In some instances this means that questions appear under different categories than previously. In an effort to streamline and consolidate this application package, there is one title page that all Learn and Serve America School and Community-Based Program applicants can use. Forms and form instructions are clearer and are written in plain language. Questions that need response in the narrative section of the application are streamlined and the same for all Learn and Serve America Programs.

Type of Review: Revision of a currently approved collection.

Agency: Corporation for National and Community Service.

Title: The 2000 Application Guidelines for Learn and Serve America School and Community-Based Programs.

OMB Number: 3045–0045.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding.

Total Respondents: 225

Frequency: Once per year.

Average Time Per Response: Ten (10) hours.

Estimated Total Burden Hours: 2,250 hrs.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 29, 1999.

Thomasenia P. Duncan,

General Counsel.

[FR Doc. 99–20017 Filed 8–3–99; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

DATE OF MEETING: September 15, 1999 from 0830 to 1730 and September 16, 1999 from 0830 to 1620.

PLACE: National Rural Electric Cooperative Association, 4301 Wilson Boulevard Conference Center Room 1, Arlington, VA 22203.

MATTERS TO BE CONSIDERED: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Kelly, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2124.

Dated: July 29 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–19943 Filed 8–3–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 209. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 209 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: August 1, 1999.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 208. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: July 29, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA				
ANCHORAGE [INCL NAV RES]				
05/01 - 09/30	161	63	224	03/01/1999
10/01 - 04/30	89	56	145	03/01/1999
BARROW	115	73	188	03/01/1999
BETHEL	105	60	165	03/01/1999
CLEAR AB	80	57	137	03/01/1999
COLD BAY	110	68	178	03/01/1999
CORDOVA	85	62	147	03/01/1998
CRAIG				
05/01 - 08/31	95	66	161	10/01/1998
09/01 - 04/30	79	64	143	10/01/1998
DEADHORSE	80	67	147	03/01/1999
DENALI NATIONAL PARK				
06/01 - 08/31	115	52	167	03/01/1998
09/01 - 05/31	90	50	140	03/01/1998
DILLINGHAM	95	59	154	10/01/1998
DUTCH HARBOR-UNALASKA	110	71	181	03/01/1999
EARECKSON AIR STATION	80	57	137	03/01/1999
EIELSON AFB				
05/15 - 09/15	118	58	176	03/01/1999
09/16 - 05/14	81	54	135	03/01/1999
ELMENDORF AFB				
05/01 - 09/30	161	63	224	03/01/1999
10/01 - 04/30	89	56	145	03/01/1999
FAIRBANKS				
05/15 - 09/15	118	58	176	03/01/1999
09/16 - 05/14	81	54	135	03/01/1999
FT. RICHARDSON				
05/01 - 09/30	161	63	224	03/01/1999
10/01 - 04/30	89	56	145	03/01/1999
FT. WAINWRIGHT				
05/15 - 09/15	118	58	176	03/01/1999
09/16 - 05/14	81	54	135	03/01/1999
GLENNALLEN	90	52	142	10/01/1998
HEALY				
06/01 - 08/31	115	52	167	03/01/1998
09/01 - 05/31	90	50	140	03/01/1998
HOMER				
05/15 - 09/15	115	58	173	03/01/1999
09/16 - 05/14	98	57	155	03/01/1999
JUNEAU	105	68	173	03/01/1999
KAKTOVIK	175	74	249	03/01/1999

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KAVIK CAMP	125	69	194	03/01/1999
KENAI-SOLDOTNA				
05/01 - 09/30	114	63	177	03/01/1999
10/01 - 04/30	76	59	135	03/01/1999
KENNICOTT	149	68	217	10/01/1998
KETCHIKAN				
05/01 - 09/30	110	74	184	03/01/1999
10/01 - 04/30	88	73	161	03/01/1999
KING SALMON	101	70	171	03/01/1999
KLAWOCK				
05/01 - 08/31	95	66	161	10/01/1998
09/01 - 04/30	79	64	143	10/01/1998
KODIAK	99	67	166	03/01/1999
KOTZEBUE				
05/01 - 08/31	137	75	212	03/01/1999
09/01 - 04/30	73	61	134	03/01/1999
KULIS AGS				
05/01 - 09/30	161	63	224	03/01/1999
10/01 - 04/30	89	56	145	03/01/1999
MCCARTHY	149	68	217	10/01/1998
METLAKATLA				
05/30 - 10/01	85	52	137	03/01/1999
10/02 - 05/29	78	51	129	03/01/1999
MURPHY DOME				
05/15 - 09/15	118	58	176	03/01/1999
09/16 - 05/14	81	54	135	03/01/1999
NOME				
03/01 - 03/31	117	58	175	03/01/1999
04/01 - 02/29	92	56	148	03/01/1999
NUIQSUT	120	69	189	03/01/1999
PETERSBURG	87	57	144	03/01/1999
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PRUDHOE BAY	80	67	147	03/01/1999
SEWARD				
05/01 - 09/30	122	65	187	03/01/1999
10/01 - 04/30	86	61	147	03/01/1999
SITKA-MT. EDGECOMBE				
09/05 - 03/31	83	59	142	10/01/1998
04/01 - 09/04	101	60	161	03/01/1998
SKAGWAY				
05/01 - 09/30	110	74	184	03/01/1999
10/01 - 04/30	88	73	161	03/01/1999

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SPRUCE CAPE	99	67	166	03/01/1999
TANANA				
03/01 - 03/31	117	58	175	03/01/1999
04/01 - 02/29	92	56	148	03/01/1999
UMIAT	107	33	140	03/01/1999
VALDEZ				
05/15 - 10/01	110	63	173	03/01/1999
10/02 - 05/14	84	60	144	03/01/1999
WAINWRIGHT	127	82	209	03/01/1999
WRANGELL				
05/01 - 09/30	110	74	184	03/01/1999
10/01 - 04/30	88	73	161	03/01/1999
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	57	137	03/01/1999
AMERICAN SAMOA				
AMERICAN SAMOA	73	53	126	03/01/1997
GUAM				
GUAM (INCL ALL MIL INSTAL)	150	79	229	10/01/1998
HAWAII				
CAMP H M SMITH	110	61	171	10/01/1998
EASTPAC NAVAL COMP TELE AREA	110	61	171	10/01/1998
FT. DERUSSEY	110	61	171	10/01/1998
FT. SHAFTER	110	61	171	10/01/1998
HICKAM AFB	110	61	171	10/01/1998
HONOLULU NAVAL & MC RES CTR	110	61	171	10/01/1998
ISLE OF HAWAII: HILO	80	52	132	06/01/1998
ISLE OF HAWAII: OTHER	100	54	154	10/01/1998
ISLE OF KAUAI				
12/01 - 04/30	145	64	209	06/01/1999
05/01 - 11/30	115	62	177	06/01/1998
ISLE OF KURE	65	41	106	05/01/1999
ISLE OF MAUI	112	64	176	10/01/1998
ISLE OF OAHU	110	61	171	10/01/1998
KANEOHE BAY MC BASE	110	61	171	10/01/1998
KEKAHA PACIFIC MISSILE RANGE FAC				
12/01 - 04/30	145	64	209	06/01/1999
05/01 - 11/30	115	62	177	06/01/1998
KILAUEA MILITARY CAMP	80	52	132	06/01/1998
LUALUALEI NAVAL MAGAZINE	110	61	171	10/01/1998
NAS BARBERS POINT	110	61	171	10/01/1998
PEARL HARBOR [INCL ALL MILITARY]	110	61	171	10/01/1998
SCHOFIELD BARRACKS	110	61	171	10/01/1998
WHEELER ARMY AIRFIELD	110	61	171	10/01/1998

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
[OTHER]	79	62	141	06/01/1993
JOHNSTON ATOLL				
JOHNSTON ATOLL	13	9	22	10/01/1998
MIDWAY ISLANDS				
MIDWAY ISLANDS [INCL ALL MILITAR	65	41	106	05/01/1999
NORTHERN MARIANA ISLANDS				
ROTA	88	69	157	06/01/1999
SAIPAN	154	88	242	06/01/1999
[OTHER]	61	62	123	06/01/1999
PUERTO RICO				
BAYAMON				
04/16 - 11/14	150	70	220	04/01/1999
11/15 - 04/15	167	72	239	04/01/1999
CAROLINA				
04/16 - 11/14	150	70	220	04/01/1999
11/15 - 04/15	167	72	239	04/01/1999
FAJARDO [INCL CEIBA & LUQUILLO]	82	60	142	03/01/1998
FT. BUCHANAN [INCL GSA SVC CTR,				
04/16 - 11/14	150	70	220	04/01/1999
11/15 - 04/15	167	72	239	04/01/1999
HUMACAO	82	60	142	03/01/1998
LUIS MUNOZ MARIN IAP AGS				
04/16 - 11/14	150	70	220	04/01/1999
11/15 - 04/15	167	72	239	04/01/1999
MAYAGUEZ	94	60	154	06/01/1998
PONCE	101	67	168	09/01/1998
ROOSEVELT RDS & NAV STA	82	60	142	03/01/1998
SABANA SECA [INCL ALL MILITARY]				
04/16 - 11/14	150	70	220	04/01/1999
11/15 - 04/15	167	72	239	04/01/1999
SAN JUAN & NAV RES STA				
04/16 - 11/14	150	70	220	04/01/1999
11/15 - 04/15	167	72	239	04/01/1999
[OTHER]	66	57	123	09/01/1998
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	100	73	173	08/01/1999
12/15 - 04/14	140	77	217	08/01/1999
ST. JOHN				
04/15 - 12/14	236	85	321	08/01/1999
12/15 - 04/14	413	103	516	08/01/1999

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ST. THOMAS				
04/15 - 12/14	176	74	250	08/01/1999
12/15 - 04/14	311	88	399	08/01/1999
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

[FR Doc. 99–19944 Filed 8–3–99; 8:45 am]

BILLING CODE 5001–C

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 4, 1999.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 29, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Intergovernmental and Interagency Affairs

Type of Review: Extension.

Title: Application for Waiver of the Two-Year Foreign Residence Requirement of the Exchange Visitor Program.

Frequency: On occasion.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 25.

Burden Hours: 500.

Abstract: The ED Exchange Visitor Waiver Review Board makes recommendations to the Justice Department through the U.S. Information Agency (USIA) for waiver of the two-year foreign residency requirement for exchange visitors who have been granted J–1 visas. This application will be used by educational or rehabilitative institutions or organizations that apply to the Department of Education to request a recommendation for a waiver on behalf of an exchange visitor. As a result of the regulation reinvention efforts, the Federal Regulations governing this process were eliminated October 1, 1996.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the Internet address Vivian__Reese@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or by e-mail at joe__schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–19960 Filed 8–3–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 3, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 29, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: Revision.

Title: Evaluation of the Eisenhower Professional Development Program: State and Local Activities.

Frequency: One time.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 800.

Burden Hours: 800.

Abstract: The Planning and Evaluation Service is conducting a three-year study to evaluate the Eisenhower Professional Development Program and to report on the progress of the program with respect to a set of Performance Indicators established by the Department of Education. The evaluation will provide information on the types of professional development activities supported by the program, the effects of the program participation on classroom teaching, and the quality of program planning and coordination. Clearance is sought for the Longitudinal Study of Teacher Changes, to be conducted in the Spring of the 1998–1999 school year. Respondents will be teachers.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the Internet address Vivian__Reese@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or electronically at his internet address Joe Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–19959 Filed 8–3–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3683–000]

Central Illinois Light Company; Filing

July 29, 1999.

Take notice that on July 22, 1999, Central Illinois Light Company filed its quarterly report for the quarter ending June 30, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 11, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20005 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–446–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

July 29, 1999.

Take notice that on July 26, 1999, CNG Transmission Corporation, (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of August 25, 1999:

Sixth Revised Sheet No. 251
Original Sheet No. 397
Sheet No. 398

CNG states that the purpose of this filing is to modify CNG's FERC Gas Tariff to specify the types of discounts that CNG can offer without having to file individual discounted service agreements. CNG further states that its proposed language is patterned after that which has been approved for many other pipelines in recent months.

CNG states that copies of its filing are being served upon its customers and to interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protest must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceedings. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19995 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–447–000]

Crossroads Pipeline Co.; Tariff Filing

July 29, 1999.

Take notice that on July 23, 1999, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet, with an effective date of August 1, 1999:

Seventh Revised Sheet No. 76

Crossroads states that the purpose of this filing is to comply with Order No. 587–K issued on April 2, 1999. The revised tariff sheet reflects certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Crossroads requests waiver of the Commission's regulations to permit the proposed tariff sheet to become effective on August 1, 1999.

Crossroads states that copies of the filing have been mailed to all affected customers and applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commissions Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19996 Filed 8–3–99 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–3669–000, ER99–3572–000, ER99–3673–000, ER99–3678–000, and ER99–3682–000]

Little Bay Power Corporation, Lowell Cogneration Company Limited Partnership, Southern Indiana Gas and Electric Company, Alliant Energy Services Company, and PEI Power Corp.; Notice of Filings

July 29, 1999.

Take notice that on July 21, 1999, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending June 30, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 10, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20002 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–14–003]

Midwestern Gas Transmission Co.; Negotiated Rate Filing

July 29, 1999.

Take notice that on July 26, 1999, Midwestern Gas Transmission Company (Midwestern), tendered for filing a copy of a firm transportation service agreement under Midwestern's Rate Schedule FT–A between Midwestern and Grain Processing Corporation (GPC) (FT–A Service Agreement) and a copy of a Firm Transportation Discount Letter Agreement (Letter Agreement) between Midwestern and GPC. Midwestern states that the FT–A Service Agreement and the Letter Agreement are being filed as a negotiated rate arrangement pursuant to the authority granted Midwestern in Midwestern's Docket No. RP97–14. Midwestern requests that the Commission approve the Negotiated Rate Arrangement effective August 1, 1999.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before August 5, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–19993 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–130–004]

Minnesota Power & Light Company; Filing

July 29, 1999.

Take notice that on July 12, 1999, Minnesota Power & Light Company filed revised standards of conduct in

response to the Commission's June 18, 1999 Order. 87 FERC ¶ 61,327 (1999).

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before August 23, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene in the specific proceeding. Copies of these filings are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20006 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–401–001]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

July 29, 1999.

Take notice that on July 26, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Sub. Fourth Revised Sheet No. 457 and Sub. Second Revised Sheet No. 458, with a proposed effective date of August 1, 1999.

National Fuel states that the purpose of the instant filing is to revise its July 1, 1999, compliance filing submitted in the above-referenced proceeding to reflect the waiver granted to National Fuel by Commission order issued on April 28, 1999, in Docket No. RP99–229–000. The April 28, 1999 Order granted National Fuel a one-year waiver of the following GISB Standards (Version 1.3); Nominations Standards 1.4.1 to 1.4.7, Flowing Gas Standards 2.4.1 to 2.4.6, Invoicing Standards 3.4.1 to 3.4.4, EDM Standards 4.3.1 to 4.3.3, and, to the extent applicable to EDI transactions, 4.3.9 to 4.3.15, and Capacity Release Standards 5.4.1 to 5.4.17.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19994 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–587–000]

National Fuel Gas Supply Corporation; Request Under Blanket Authorization

July 29, 1999.

Take notice that on July 22, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP99–587–000 a request pursuant to Sections 157.205 and 157.214 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.214) for authorization to increase the storage capacity at its Markle Storage Field, in Jefferson County, Pennsylvania, under authorization issued in Docket No. CP83–4–000 pursuant to Section 7 of the Natural Gas Act, all as fully set forth in the request on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.us/online/rims.htm (call 202–208–2222 for assistance).

In its application, National Fuel requests authorization to increase the maximum storage capacity of Markle Storage Field from 255,000 Mcf to 325,000 Mcf, and to increase the maximum storage pressure from 540 psig to 625 psig. According to National Fuel, the increase in capacity at Markle Storage Field will support storage service to be offered to shippers of National Fuel. National Fuel states that the increase in capacity and pressure at the Markle Storage Field will not require additional facilities.

National Fuel states that it will comply with the reporting requirement pursuant to Section 157.214(c) of the Commission's Regulations, requiring semi-annual reports to coincide with the termination of the injection and withdrawal cycles and will continue to file such reports until the storage volume has reached, or closely approximates, the maximum of 325,000 Mcf, as requested in this prior notice application. It is further stated that National Fuel has received approval from the Pennsylvania Department of Environmental Protection to increase the operating pressure of Markle Storage Field as proposed herein.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19999 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–339–001]

Overthrust Pipeline Company; Tariff Filing

July 28, 1999.

Take notice that on July 23, 1999, Overthrust Pipeline Company tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets, to be effective August 1, 1999:

Substitute Fourth Revised Sheet No. 60
Substitute Fifth Revised Sheet No. 78
Substitute Fourth Revised Sheet Nos. 78A, 78B, 78C
Substitute Third Revised Sheet No. 78D
Substitute Original Revised Sheet No. 78E

Overthrust states that the filing is being made in compliance with the Commission's July 15, 1999, letter order in Docket No. RP99–339–000 (the July 15 order).

In the July 15 order, the Commission accepted tariff sheets to be effective, subject to Overthrust revising its tariff sheets within 15 days of the order to reflect corrections discussed in its July 15 order. This tariff filing is tendered as required by the Commission's directives.

Overthrust states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers.

Secretary.

[FR Doc. 99–19953 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3679–000]

PEI Power Corporation; Filing

July 29, 1999.

Take notice that on July 21, 1999, PEI Power Corporation filed a quarterly report for the quarter ending September 30, 1998.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 10, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20003 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3680–000]

PEI Power Corporation; Filing

July 29, 1999.

Take notice that on July 21, 1999, PEI Power Corporation filed a quarterly report for the quarter ending December 31, 1998.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 10, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20004 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 201–000 AK]

Petersburg Municipal Power and Light; Petersburg Municipal Power and Light's Request To Use Alternative Procedures in Filing a License Application

July 29, 1999.

On July 7, 1999, the existing licensee, Petersburg Municipal Power and Light (Petersburg), filed a requests to use alternative procedures in submitting an application for a new license for the existing Blind Slough Hydroelectric Project No. 201. The 2.0-megawatt project is located on Crystal Creek, and Mitkof Island, about 16 miles from the City of Petersburg, Alaska. Petersburg has demonstrated that it has made an effort to contact all resource agencies, Indian tribes, nongovernmental organizations (NGOs), and others affected by the proposal, and that a consensus exists that the use of alternative procedures is appropriate in this case. Petersburg has also submitted a communications protocol that is supported by most interested entities.

The purpose of this notice is to invite comments on Petersburg's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations.[1] Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date.

The alternative procedures being requested here combine the prefiling consultation process with the environmental review process, allowing the applicant to complete and file an Environmental Assessment (EA) in lieu of Exhibit E of the license application. This differs from the traditional process, in which the applicant consults with agencies, Indian tribes, and NGOs during preparation of the application for the license and before filing it, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the prefiling consultation and environmental review process into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

[1] Order No. 596, Regulations for the Licensing of Hydroelectric Projects, 81 FERC ¶ 61,103 (1997).

Applicant Prepared EA Process and Blind Slough Project Schedule

Petersburg has submitted a proposed schedule for the APEA process that leads to the filing of a new license application by August, 2002. Study plans would be developed this summer, with National Environmental Policy Act scoping being conducted in the fall. Field-work would be conducted over two seasons, summer 2000 and 2001 (if needed), with a draft application and draft APEA to be issued for comment in the fall of 2001.

Comments

Interested parties have 30 days from the date of this notice to file with the Commission, any comments on Petersburg's proposal to use the alternative procedures to file an application for the Blind Slough Hydroelectric Project.

Filing Requirements

The comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE., Washington, DC 20426.

All comment filings must bear the heading ''Comments on the Alternative Procedures,'' and include the project name and number (Blind Slough Hydroelectric Project No. 201).

For further information on this process, please contact Vince Yearick of the Federal Energy Regulatory Commission at 202–219–2938 or E-mail vince.yearick@ferc.fed.us.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20007 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–448–000]

Southern Natural Gas Company; Petition for Waiver

July 29, 1999.

Take notice that on July 26, 1999, Southern Natural Gas Company (Southern) tendered for filing a petition for an interim waiver of Section 14.1(c)(1) of the General Terms and Conditions of its Tariff in order to waive cashout premiums incurred during June 1999. Additionally, Southern requests that the Commission permit Southern to continue to waive cashout premiums, to the extent necessary, through the earlier of (1) December 31, 1999 or (2) the last day of the month in which Southern provides notice that the software problems causing the cashout issues are no longer an issue.

Southern states that copies of the filing have been mailed to all of the shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before August 5, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19997 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–592–000]

Southwest Gas Transmission Company, A Limited Partnership; Application

July 29, 1999.

Take notice that on July 22, 1999, Southwest Gas Transmission Company, A Limited Partnership (SGTC), P.O. Box 98510, Las Vegas, Nevada 89193–8510, filed, in Docket No. CP99–592–000, an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for an order permitting and approving the abandonment of facilities and services and for a certificate of public convenience and necessity to construct and operate facilities and to transport gas so as to enable SGTC to interconnect with Transwestern Pipeline Company (Transwestern), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The application may be viewed on the web at *www.ferc.fed.us/online/rims.htm* (call (202) 208–2222 for assistance).

Specifically, SGTC proposes to establish a new upstream pipeline interconnection with Transwestern in order to increase competitive options for upstream gas supplies and transportation in the Southern Nevada market.[1] In order to accomplish this, SGTC seeks to: (1) Construct and operate metering facilities to interconnect SGTC's system and Transwestern's, (2) construct and operate metering facilities at the existing interconnection between SGTC's system and the system of El Paso Natural Gas Company (El Paso), (3) abandon transportation service for El Paso and the existing Fort Mohave Meter Station (located at the downstream terminus of SGTC's system) that was used to measure volumes delivered by El Paso, (4) assign El Paso's transportation service rights on SGTC to Southwest Gas Corporation (Southwest), (5) transport gas Southwest under Section 7(c), and (6) any necessary waivers of the Commission's regulations. In essence, these authorizations would change the shipper on SGTC's system from the upstream supplier (El Paso) to the downstream distributor (Southwest). According to SGTC, the reassignment of capacity rights from El Paso to Southwest would continue to permit transportation on SGTC's system for shippers with transportation rights on the upstream pipelines.

The estimated cost of the proposed facilities is $1,376,000. The cost to abandon the existing meter facility is estimated to be $23,000. SGTC states that it will receive a contribution from Transwestern in aid of construction of the proposed facilities and will finance the remainder of the costs through financing programs and internally generated funds.

Any questions regarding this application should be directed to Edward C. McMurtrie at (702) 876–7109, Southwest Gas Corporation, P.O. Box 98510, Las Vegas, Nevada 89193–8510.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the regulations under the

[1] SGTC's entire system is located in Mohave County, Arizona.

Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intevenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must serve copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Comments will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission, and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for SGTC to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc 99–20000 Filed 8–23–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3712–000]

Southwestern Electric Power Company; Notice of Filing

July 29, 1999.

Take notice that on July 23, 1999, Southwestern Electric Power Company (SWEPCO), tendered for filing an Interconnection Agreement between SWEPCO and Tenaska Gateway Partners, Ltd. (Tenaska).

SWEPCO requests an effective date for the Interconnection Agreement of July 24, 1999. Accordingly, SWEPCO requests waiver of the Commission's notice requirements. SWEPCO also requests expedited consideration of the filing, including a shortened notice and comment period.

SWEPCO states that a copy of the filing was served on Tenaska and the Public Utilities Commission of Texas.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 6, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20009 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–8–29–000]

Transcontinental Gas Pipe Line Corporation; Proposed Changes in FERC Gas Tariff

July 29, 1999.

Take notice that on July 27, 1999 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, Twenty-Second Revised Sheet No. 50, to be effective July 1, 1999.

Transco states that the purpose of the instant filing is to track rate changes attributable to transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule FT–NT.

Transco states that included in Appendix B attached to the filing are the explanations of the rate changes and details regarding the computation of the revised Rate Schedule FT–NT rates.

Transco states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 285.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commissions' Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19998 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–176–000]

Wellhead Generating Company, LLC; Amendment to Application for Commission Determination of Exempt Wholesales Generator Status

July 29, 1999.

Take notice that on July 16, 1999, Wellhead Generating Company LLC, filed with the Federal Energy Regulatory Commission (Commission) a letter amendment to its Application for Determination of Exempt Wholesale Generator Status which was filed with the Commission on June 25, 1999.

Any person desiring to be heard concerning the amended application for exempt wholesale generator status should file a motion to intervene or comments with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the amended application. All such motions and comments should be filed on or before August 10, 1999, and must he served on the applicant. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection or on the internet at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20001 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. EG99–201–000, et al.]

FSEG North Chennai Ltd., et al.; Electric Rate and Corporate Regulation Filings

July 27, 1999.

Take notice that the following filings have been made with the Commission:

1. PSEG North Chennai Ltd.

[Docket No. EG99–201–000]

Take notice that on July 23, 1999, PSEG North Chennai Ltd. (PSEG North Chennai or Applicant) with its principal office at 608 St. James Court, St. Denis Street, Port Louis, Mauritius filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

PSEG North Chennai is a company organized under the laws of Mauritius. PSEG North Chennai will be engaged, directly or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935, exclusively in owning, or both owning and operating a coal-fired electric generating facility consisting of one unit with a nameplate rating of approximately 525 megawatts and incidental facilities located in Ennore, Tamil Nadu, India; selling electric energy at wholesale and engaging in project development activities with respect thereto.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. LSP Energy Limited Partnership

[Docket No. EG99–202–000]

Take notice that on July 23, 1999, LSP Energy Limited Partnership (Applicant), a Delaware limited partnership with a principal place of business at Two Tower Center, 20th Floor, East Brunswick, NJ 08816, filed with the Federal Energy Regulatory Commission (Commission), an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations. Applicant was previously issued a Determination of Exempt Wholesale Generator Status by letter of Douglas W. Smith, FERC General Counsel, dated April 28, 1998 in Docket No. EG98–59. Applicant has filed this application to confirm that its exempt wholesale generator status will be maintained if it executes certain contractual arrangements and engages in incidental activities under negotiation with respect to the construction, operation and maintenance of its approximately eight hundred thirty-seven (837) megawatt, natural gas-fired combined cycle electric generation facility under construction in Batesville, Mississippi (the Facility). The Facility is scheduled to commence commercial operation by Summer 2000.

The Applicant is engaged directly, or indirectly through one or more affiliates as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935, and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy from the Facility at wholesale.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. PSEG International Ltd.

[Docket No. EG99–203–000]

Take notice that on July 23, 1999, PSEG International Ltd. (PSEG International or Applicant) with its principal office at c/o: Codan Services, Clarendon House, 2 Church Street, Hamilton HMCX, Bermuda filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

PSEG International is a company organized under the laws of Bermuda. PSEG International will be engaged, directly or indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935, exclusively in owning, or both owning and operating a gas-fired electric generating facility consisting of a 115 megawatt gas turbine and one 250 megawatt steam turbine and auxiliary facilities located in Rades, Tunisia and selling electric energy at wholesale and engaging in project development activities with respect thereto.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Nevada Power Company

[Docket No. ER99–2338–000]

Take notice that on July 20, 1999, Nevada Power Company (Nevada Power), tendered for filing pursuant to Section 205 of the Federal Power Act, amendments to the Wholesale Generation Tariffs applicable to sales of capacity and energy from the ''bundles'' of generation that Nevada Power intends to divest. These tariffs permit sales at market-based rates and terms and conditions. The amendments increase the number of bundles located inside the Nevada Power load pocket from three to four, and also make changes to the rate cap provisions applicable to the load pocket bundles.

Nevada Power has requested that the Commission issue an order approving the amended tariffs no later than September 30, 1999, and that the Commission make the tariffs effective as

of the date that ownership of each bundle is transferred to the purchaser.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. UtiliCorp United Inc.

[Docket No. ER99–3297–000]

Take notice that on July 21, 1999, UtiliCorp United Inc., on behalf of its Missouri Public Service operating division, filed a supplement to its June 18, 1999, filing in this docket.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Union Electric Company

[Docket No. ER99–3457–000]

Take notice that on July 1, 1999, Union Electric Company (UE), tendered for filing an Amendment to the Wholesale Electric Service Agreement between UE and the City of Owensville, Missouri (Owensville). UE states that the amendment will allow Owensville to participate in a voluntary curtailment program similar to that applicable to its retail electric service customers in Missouri.

UE has proposed to make the Second Amendment effective on July 2, 1999.

Comment date: August 6, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Okeechobee Generating Company

[Docket No. ER99–3643–000]

Take notice that on July 20, 1999, Okeechobee Generating Company (Okeechobee), tendered for filing, pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, a Petition for authorization to make sales of capacity, energy, and certain Ancillary Services, at market-based rates. Okeechobee plans to construct and own a nominally rated 500 MW natural gas-fired, combined cycle power plant located in Okeechobee County, Florida.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. New York State Electric & Gas Corporation

[Docket No. ER99–3644–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on July 20, 1999, tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35, a service agreement (the Service Agreement) under which NYSEG may provide capacity and/or energy to Consolidated Edison Company of New York, Inc. (ConEd) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested waiver of the notice requirements so that the Service Agreement with ConEd becomes effective as of July 21, 1999.

NYSEG has served copies of the filing upon the New York State Public Service Commission and ConEd.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–3645–000]

Take notice that on July 20, 1999, Alliant Energy Corporate Services, Inc (Alliant Energy), tendered for filing an executed Service Agreement for Network Integration Transmission Service and an executed Network Operating Agreement , establishing the Adams-Columbia Electric Cooperative as a Network Customer under the terms of Alliant Energy's transmission tariff.

Alliant Energy requests an effective date of June 21, 1999, for Network Load of this Network Customer. Alliant Energy, accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Public Service Commission of Wisconsin, the Iowa Utilities Board, the Illinois Commerce Commission and the Minnesota Public Utilities Commission.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) and West Penn Power Company (Allegheny Energy)

[Docket No. ER99–3646–000]

Take notice that on July 20, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) and West Penn Power Company (Allegheny Energy), tendered for filing Amendment Nos. 1 and 2 to Supplement No. 30, to the Standard Generation Service Tariff to incorporate Netting Agreements with Energy Transfer Group, L.L.C., into the tariff provisions.

Allegheny Power and Allegheny Energy request a waiver of notice requirements to make the Amendments effective as of the effective dates therein, June 21, 1999.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all parties of record.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–3650–000]

Take notice that on July 20, 1999, Alliant Energy Corporate Services, Inc. (Alliant Energy), tendered for filing an executed Service Agreement for Network Integration Transmission Service and an executed Network Operating Agreement, establishing the Rock County Electric Cooperative as a Network Customer under the terms of Alliant Energy's transmission tariff.

Alliant Energy requests an effective date of June 24, 1999, for Network Load of this Network Customer. Alliant Energy, accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Public Service Commission of Wisconsin, the Iowa Utilities Board, the Illinois Commerce Commission and the Minnesota Public Utilities Commission.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. SCC–L1, L.L.C.

[Docket No. ER99–3651–000]

Take notice that on July 20, 1999, pursuant to Section 205 of the Federal Power Act and Section 35.15(a), 18 CFR 35.15(a) of the Commission's Regulations, SCC–L1, L.L.C. (SCC–L1), tendered for filing with the Federal Energy Regulatory Commission a Notice of Termination of its Long-Term Power Purchase Agreement and Short-Term Power Purchase Agreement by and between SCC–L1 and Enron Power Marketing, Inc. Pursuant to Section 35.15(a) of the Commission's Regulations, SCC–L1 requests an effective date for this termination of September 17, 1999.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. SCC–L2, L.L.C.

[Docket No. ER99–3652–000]

Take notice that on July 20, 1999, SCC–L, L.L.C. (SCC–L2), tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35.15(a), 18 CFR 35.15(a) of the Commission's Regulations, with the Federal Energy

Regulatory Commission a Notice of Termination of its Long-Term Power Purchase Agreement and Short-Term Power Purchase Agreement by and between SCC–L2 and Enron Power Marketing, Inc.

Pursuant to Section 35.15(a) of the Commission's Regulations, SCC–L2 requests an effective date for this termination 60 days from the date of filing or September 17, 1999.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. SCC–L3, L.L.C.

[Docket No. ER99–3653–000]

Take notice that on July 20, 1999, SCC–L3, L.L.C. (SCC–L3), pursuant to Section 205 of the Federal Power Act and Section 35.15(a), 18 CFR 35.15(a) of the Commission's Regulations, tendered for filing with the Federal Energy Regulatory Commission a Notice of Termination of its Long-Term Power Purchase Agreement and Short-Term Power Purchase Agreement by and between SCC–L3 and Enron Power Marketing, Inc.

Pursuant to Section 35.15(a) of the Commission's Regulations, SCC–L3 requests an effective date for this termination 60 days from the date of filing or September 17, 1999.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. South Eastern Electric Development Corporation

[Docket No. ER99–3654–000]

Take notice that on July 20, 1999, South Eastern Electric Development Corporation tendered for filing a long-term service agreement with Morgan Stanley Capital Group Inc.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Entergy Services, Inc.

[Docket No. ER99–3655–000]

Take notice that on July 20, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Florida Power & Light Company for the sale of power under Entergy Services' Rate Schedule SP.

Comment date: August 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER99–3655–000]

Take notice that on July 20, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Market Rate Sales Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Florida Power & Light Company for the sale of power under Entergy Services' Rate Schedule SP.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. New England Power Pool

[Docket No. ER99–3657–000]

Take notice that on July 21, 1999, the New England Power Pool (NEPOOL) Participants Committee submitted revisions to NEPOOL's existing Market Rules and Appendices that have been approved by the NEPOOL Regional Market Operations Committee.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Select Energy, Inc.

[Docket No. ER99–3658–000]

Take notice that on July 21, 1999, Select Energy, Inc. (Select), tendered for filing, under Section 205 of the Federal Power Act, an additional rate schedule providing for the sale of energy, capacity and ancillary services at market-based rates and for the reassignment of transmission rights and an amendment to the existing rate schedule under which Select makes such sales and reassignments.

Select requests an effective date of July 22, 1999.

Copies of the filing were served on purchasers under Select's existing market-based rate schedule and the Connecticut, Massachusetts and New Hampshire Commissions.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Cinergy Services, Inc.

[Docket No. ER99–3660–000]

Take notice that on July 21, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC), tendered for filing an executed service agreement between COC and LG&E Energy Marketing Inc. (LEM), replacing the unexecuted service agreement filed on November 28, 1997 under Docket No. ER98–847–000] per COC FERC Electric Power Sales Tariff, Original Volume No. 4, which has been replaced by the COC FERC Electric Market-Based Power Sales Tariff, Original Volume No. 7–MB.

Cinergy is requesting an effective date of one day after this filing.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Services, Inc.

[Docket No. ER99–3661–000]

Take notice that on July 21, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC), tendered for filing an executed service agreement between COC and LG&E Energy Marketing Inc. (LEM), replacing the unexecuted service agreement filed on November 28, 1997 under Docket No. ER98–847–000 per COC FERC Electric Power Sales Tariff, Original Volume No. 4, which has been replaced by the COC FERC Electric Cost-Based Power Sales Tariff, Original Volume No. 6–CB.

Cinergy is requesting an effective date of one day after this filing.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Cinergy Services, Inc.

[Docket No. ER99–3662–000]

Take notice that on July 21, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC), tendered for filing an executed service agreement between COC and New Energy Ventures, Inc. (NEV), replacing the unexecuted service agreement filed on April 9, 1999 under Docket No. ER99–2440–000 per COC FERC Electric Cost-Based Power Sales Tariff, Original Volume No. 6–CB.

Cinergy is requesting an effective date of May 1, 1999, and the same Rate Designation as per the original filing.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Cinergy Services, Inc.

[Docket No. ER99–3663–000]

Take notice that on July 21, 1999, Cinergy Services, Inc., on behalf of its Operating Company affiliates, The

Cincinnati Gas & Electric Company and PSI Energy, Inc. (COC), tendered for filing an executed service agreement between COC and New Energy Ventures, Inc. (NEV), replacing the unexecuted service agreement filed on April 16, 1999 under Docket No. ER99–2511–000] per COC FERC Electric Market-Based Power Sales Tariff, Original Volume No. 7–MB.

Cinergy is requesting an effective date of May 1, 1999 and the same Rate Designation as per the original filing.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. California Independent System Operator Corporation

[Docket No. ER99–3664–000]

Take notice that on July 20, 1999, the California Independent System Operator Corporation (ISO), tendered for filing the executed Meter Service Agreement for Scheduling Coordinators (Meter Service Agreement) between the Western Area Power Administration, Sierra Nevada Region and the ISO for acceptance by the Commission. The ISO states that this filing replaces the unexecuted agreement on file with the Commission and incorporates the Amendment No. 1 to the Meter Service Agreement.

The ISO states that this filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: August 10, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–19954 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

July 29, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Amendment of License.

b. Project No.: 1390–008.

c. Date Filed: July 17, 1999.

d. Applicant: Southern California Edison Co.

e. Name of Project; Lundy Project.

f. Location: The project is located on Mill Creek in Mono County California. The project occupies 119.8 acres of federal lands in the Inyo National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact; Daryl Fryer, Southern California Edison Company, 300 N. Lone Hill Ave., San Dimas, CA 91773, (909) 394–8700.

i. FERC Contact: Any questions on this notice should be addressed to J. W. Flint at (202) 219–2667, or e-mail address Julian.Flint@ferc.fed.us.

j. Deadline for filing comments, motions to intervene, or protests: 45 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the Project Number (1390–008) on any comments, protests, or motions filed.

k. Description of Amendment: The proposed amendment would modify project boundary to add several stream gauge stations that were outside the project boundary and to remove certain facilities no longer considered project works. This amendment will reduce the acreage of federal lands encompassed by the project by 14.2 acres.

l. Locations of the Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC, 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/ online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents.—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments.—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19990 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

July 29, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Application Type: Transfer of License.

b. Project No: 4349–029.

c. Date Filed: June 3, 1999.

d. Applicants: Moose River Corporation, Dryden Financial II, LLC, and Moose River Acquisition Corporation.

e. Name of Project: Moose River.

f. Location: On the Moose River in the Town of Lyonsdale, Lewis County, New York. The project does not utilize federal or tribal lands.

g. Filed pursuant to: §§ 791(a)–825(r) Federal Power Act, 16 U.S.C.

h. Applicant Contacts (For transferor and transferee): Amy Koch, Cameron McKenna LLP, 1275 K Street, N.W., 5th Floor, Washington, DC 20037, (202) 466–0060, or Frank M. Dickerson, 150 South Wacker Dr., Chicago, IL 60606, (312) 831–3000.

i. FERC Contact: Any questions on this notice should be addressed to Tom Papsidero at (202) 219–2715, or e-mail address: Thomas.Papsidero@ferc.fed.us.

j. Deadline for filing comments and/or motions: September 13, 1999.

All documents (original and eight copies) should be filed with with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the project number (4349–029) on any comments or motions filed.

k. Description of Transfer: Applicants propose (for the purpose of facilitating long-term project financing) a partial transfer of the license for Project No. 4349 from Moose River Corporation (Moose River) and Dryden Financial II, LLC (Dryden), to Moose River and Moose River Acquisition Corporation (Acquisition). One of the current licensees, Prudential Interfunding Corporation (Prudential), no longer exists. Through corporate reorganizations, the transferor Dryden (through PruLease, Inc.) is the successor-in-interest to Prudential. The applicants request after-the-fact Commission approval of the transfers of the project license from Prudential to PruLease, Inc. and from PruLease, Inc., to Dryden, as well as the prospective transfer to substitute Acquisition for Dryden as a licensee.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us//online//rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or months to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified the filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19991 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application for Transfer for License and Soliciting Comments, Motions To Intervene, and Protests

July 29, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 4472–018.

c. *Dated Filed:* June 18, 1999.

d. *Applicants:* Niagara Mohawk Power Corporation (NMPC), Union Falls Hydrpower, L.P. (Union Falls), and Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Saranac.

f. *Location:* The project is located in Franklin, Clinton, and Essex Counties, New York. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* M. Margaret Fabic, Esq., Niagara Mohawk Power Corp., 300 Erie Boulevard, West Syracuse, NY 13202; (Union Falls Hydropower, L.P.) Donald H. Clarke, Wilkinson, Barker, Knauer & Quinn, 2300 N Street, NW, Washington, D.C. 20037–1128; and W. Thaddeus Miller, Esq., Erie Boulevard Hydropower, L.P., c/o Orion Power Holdings, Inc., 111 Market Place, Suite 520, Baltimore, MD 21202.

i. *FERC Contact:* Any questions on this notice should be addressed to Dave Snyder at (202) 219–2385 or by e-mail at david.snyder@ferc.fed.us.

j. *Deadline for filing comments and or motions:* September 13, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

Please include the Project Number (4472–018) on any comments or motions filed.

k. *Description of Transfer:* NMPC and Union Falls, the co-licensees for Project No. 4472, and Erie request approval of the partial transfer of the license from NMPC to Erie. The transfer is sought pursuant to an Assets Sales Agreement

dated December 2, 1998, as amended on February 4, 1999, in which NMPC agreed to sell the project's Franklin Falls development and all lands associated with that development to Erie.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the addresses in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENT'', ''RECOMMENDATIONS FOR THE TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular applicant.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Application's representatives.

Linwood A. Waston, Jr.,

Acting Secretary.

[FR Doc. 99–19992 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for New License

July 29, 1999.

a. Type of filing: Notice of Intent to File Application for a New License.

b. Project No.: 201.

c. Date filed: July 7, 1999.

d. Submitted By: Petersburg Municipal Power and Light.

e. Name of Project: Blind Slough Project.

f. Location: On Crystal Creek, Mitkof Island, near the City of Petersburg, Alaska.

g. Filed Pursuant to: 18 CFR 16.6 of the Commission's regulations.

h. Effective date of current license: June 1, 1980.

i. Expiration date of current license: November 12, 2004.

j. The project consists of: (1) a 32-foot high by 205-foot long rockfill dam; (2) an ungated side-channel spillway; (3) Crystal Lake Reservoir, with approximately 4,450 acre-feet of active storage and a surface area of 233 acres at spillway crest elevation 1,294 feet ms1; (4) a 4,642-foot long, 20-inch diameter steel penstock; (5) two powerhouses containing generating units with rated capacities of 1,600 kW and 400 kW; and (6) other facilities and interests appurtenant to operation of the project.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Dennis Lewis, Superintendent, Petersburg Municipal Power and Light, P.O. Box 329, 11 South Nordic, Petersburg, AK 99833, (907) 772–4203

l. FERC contact: Vince Yearick, 202–219–3073 or vince.yearick@ferc.fed.us

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by November 12, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20008 Filed 8–3–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00608; FRL–6088–5]

Data Acquisition for Anticipated Residue and Percent of Crop Treated; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is seeking public comment on the following new Information Collection Request (ICR): ''Data Acquistition for Anticipated Residue and Percent of Crop Treated.'' This ICR proposes a new collection activity that is not currently approved. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number ''OPP–00608,'' must be received on or before October 4, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Cameo Smoot, Office of Pesticide Programs, Mail Code 7506C, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: 703–305–5454, fax: 703–305–5884, e-mail: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

You may be potentially affected by this notice if you are a pesticide registrant with a pesticide registration subject to a tolerance action that is 5 years old that relies on anticipated or actual residues level data. Sections 408(b)(2)(E)(i) and 408(b)(2)(F) of the Federal Food, Drug, and Cosmetic Act (FFDCA) authorizes the EPA to use anticipated or actual residues (ARs) and the percent crop treated (PCT) to establish, modify, maintain, or revoke a tolerance for a pesticide residue. After using ARs or PCT, the Agency must verify that residues in or on food do not unacceptably exceed those relied on for

establishing the tolerances. Specifically, section 408(b)(2)(E)(ii) of FFDCA requires data to be called in within 5 years after each tolerance decision that relies on ARs; section 408(b)(2)(F)(iv) of FFDCA requires periodic reevaluation if PCT estimates are used.

Potentially affected categories and entities may include, but are not limited to the following:

Category	NAICS Code	SIC Codes	Examples of Potentially Affected Entities
Pesticide and other agricultural chemical manufacturing	325320	286—Industrial organic chemicals 287—Agricultural chemicals	Pesticide registrants whose registration relies on a tolerance action which is based on ARs or PCT data

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. You or your business are affected by this action if you have a conditional pesticide registration with the Agency. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

A. Electronic Availability

Electronic copies of this document and the ICR are available from the EPA Home Page at the **Federal Register** - Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/). You can easily follow the menu to find this **Federal Register** notice using the publication date or the **Federal Register** citation for this notice. Although a copy of the ICR is posted with the **Federal Register** notice, you can also access a copy of the ICR by going directly to http://www.epa.gov/icr/. You can then easily follow the menu to locate this ICR by the title of the ICR.

B. Fax-on-Demand

Using a faxphone call 202–401–0527 and select item 6073 for a copy of the ICR.

C. In Person or By Phone

If you have any questions or need additional information about this notice or the ICR referenced, please contact the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

In addition, the official record for this notice, including the public version, has been established under docket control number OPP–00608, (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in the Office of Pesticide Programs (OPP) Public Docket, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OPP Public Docket telephone number is 703–305–5805.

III. How Can I Respond to This Notice?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, OPP–00608, in your correspondence.

1. *By mail.* Submit written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: 703–305–5805.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–00608. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want to Submit to the Agency?

You may claim information that you submit in response to this notice as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must also be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

C. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

D. What Should I Consider When I Prepare My Comments for EPA?

We invite you to provide your views on the estimates provided, new approaches we haven't considered, the potential impacts of the various options (including possible unintended

consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the collection activity.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the notice.

IV. What Information Collection Activity or ICR Does This Notice Apply to?

EPA is seeking comments on the following ICR:

Title: Data Acquisition for Anticipated Residue and Percent of Crop Treated.

ICR status: This ICR is a new proposed information collection that has not been approved by OMB. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, requires EPA to register pesticides prior to distribution and sale within the United States. FIFRA also requires applicants for pesticide registration to provide EPA with the data needed to assess whether the registration of a pesticide would cause unreasonable adverse effects on human health or the environment, and grants EPA the authority to require registrants to provide additional data to maintain an existing registration.

Sections 408(b)(2)(E)(i) and 408(b)(2)(F) of the FFDCA, as amended by the Food Quality Protection Act of 1996, authorizes the EPA to use ARs data and the PCT data to establish, modify, maintain, or revoke a tolerance for a pesticide residue. However, the new law also requires that tolerance decisions based on ARs or PCT data be verified to ensure that residues in or on food are not above the residue levels relied on for establishing the tolerance. Specifically, section 408(b)(2)(E)(ii) of FFDCA requires data to be called in within 5 years after each tolerance decision that relies on ARs; section 408(b)(2)(F)(iv) of FFDCA requires periodic reevaluation if PCT estimates are used. Section 408(f) of FFDCA lists the methods which EPA may use to obtain the data, which include: Data Call-In notices (DCIs) or **Federal Register** notices to request data.

Under this proposed ICR, EPA will issue a DCI to affected registrants under the authority of FIFRA section 3(c)(2)(B). Currently, there are two main categories of applications for registration: Those requiring submission of a full complement of supporting data (e.g., new chemicals and biorationals), and those requiring submission of little or no data (e.g., ''me-too'' products) for previously registered chemicals and use patterns. Applicants for a ''me-too'' product (e.g., a pesticide claimed to be substantially similar in composition and use to a product previously registered by the EPA) may be required only to use EPA Form 8570–34 (''Certification with Respect to Citation of Data'') and EPA Form 8570–35 (''Data Matrix'') to certify that the applicant intends to rely on data previously submitted to the EPA by another producer, the applicant has contacted the appropriate company (owning the data that the applicant is referencing), and the applicant has offered to pay reasonable compensation for the use of the data.

The kinds of data that may be the subject of a DCI include, but are not limited to the requirments in 40 CFR part 158:

- Monitoring data (Pesticide Data Program (PDP), Food and Drug Administration (FDA), Food Safety Inspection Service (FSIS), States, special monitoring [market basket, single serving, etc.]).
- Field trials.
- Processing studies.
- Reduction in residue data (washing, peeling, cooking, etc.).
- Livestock feeding studies.
- Metabolism studies.
- PCT data.

EPA has published guidelines for studies listed in 40 CFR part 158. Internal guidelines have also been established for monitoring studies which require a registrant to submit and obtain approval of protocol prior to initiating a study and specific requirements when ARs are used. The protocol must describe crops and pesticides to be covered by the study. After approval, the applicant must adhere to the protocol or seek approval for major deviations.

If EPA relies on ARs data when establishing or reassessing a tolerance, it must issue a DCI, and if the EPA used the PCT data estimates for a tolerance action, it may issue a DCI. A DCI is a letter sent to the registrant explaining the data submission requirement, requests specific data, sets out a time frame for a response to EPA, and provides applicable forms and guidelines to assist the registrant with the completion of the DCI request. A registrant must respond within 90 days of receipt of the DCI. The response must describe plans to submit the required data in accordance with the time frame specified, and, if applicable, contain suggested protocols for monitoring studies. Failure to generate the requested data, or respond to the DCI in a timely manner could result in Agency action to modify or revoke the tolerance.

V. What are EPA's Burden and Cost Estimates for This ICR?

Under the PRA, ''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. For this collection it 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for the Data Acquisition for Anticipated Residue and Percent of Crop Treated information collection is estimated to average in a range from 59 hours to 13,636 hours per DCI depending upon the type of response requested. The respondent burden for this collection contains four categories: (1) Anticipated residues requiring a base set of data; (2) anticipated residues requiring minimum data; (3) anticipated residues collected

from publically available sources; and (4) PCT using existing information. Burden estimates for each category include: (1) 13,636 hours per DCI for anticipated residues requiring a base set of data; (2) 69 hour per DCI for anticipated residues requiring minimum data; (3) 137 hours per DCI for anticipated residues collected from publically available sources; and (4) 59 hours per DCI for PCT using existing information. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Pesticide registrants whose registration relies on a tolerance action which is based on ARs or PCT data.

Estimated total number of potential respondents: 31.

Frequency of response: Once. Five years after tolerance decision using ARs/PCT data.

Estimated total/average number of responses for each respondent: 1.

Estimated total annual burden hours: 29,807.

Estimated total annual burden costs: $2,773,866.

VI. Are There Changes in the Estimates from the Last Approval?

No. This is a new proposed ICR.

VII. What is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

List of Subjects

Environmental protection, Information collection requests.

Dated: July 20, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–19593 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00614; FRL–6092–4]

Compliance Requirement for Child-Resistant Packaging Act; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is seeking public comment on the following Information Collection Request (ICR): ''Compliance Requirement for Child Resistant Packaging Act (EPA No. 0616.06; OMB 2070–0052).'' This ICR is a renewal of a collection activity that is currently approved and due to expire on October 31, 1999. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number ''OPP–00614,'' must be received on or before October 4, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Cameo Smoot, Office of Pesticide Programs, Mail Code 7506C, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: 703–305–5454, fax: 703–305–5884, e-mail: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Notice Apply to Me?

You may be potentially affected by this notice if you are a pesticide registrant with a pesticide product that is subject to the Child Resistant Packaging (CRP) requirements in section 25(c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Section 25 (c)(3) of FIFRA authorizes EPA to establish standards for packaging of pesticide products and pesticidal devises to protect children and adults from serious illness or injury resulting from accidental ingestion or contact. The implementing CRP regulations are in 40 CFR part 157.

Potentially affected categories and entities may include, but are not limited to the following:

Category	NAICS Code	SIC Codes	Examples of Potentially Affected Entities
Pesticide and other agricultural chemical manufacturing	325320	286 Industrial organic chemicals 287Agricultural chemicals	Pesticide registrants with pesticide products subject to child resistant packaging regulations

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. You or your business are affected by this action if you have a conditional pesticide registration with the Agency. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information or Copies of This Document or Other Support Documents?

A. Electronic Availability

Electronic copies of this document and the ICR are available from the EPA Home Page at the **Federal Register** - Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/). You can easily follow the menu to find this **Federal Register** notice using the publication date or the **Federal Register** citation for this notice. Although a copy of the ICR is posted with the **Federal Register** notice, you can also access a copy of the ICR by going directly to http://www.epa.gov/icr/. You can then easily follow the menu to locate this ICR by the EPA ICR number, the OMB control number, or the title of the ICR.

B. Fax-on-Demand

Using a faxphone call 202–401–0527 and select item 6074 for a copy of the ICR.

C. In Person or By Phone

If you have any questions or need additional information about this notice or the ICR referenced, please contact the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

In addition, the official record for this notice, including the public version, has been established under docket control number OPP–00614, (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in the Office of Pesticide Programs (OPP) Public Docket, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OPP Public Docket telephone number is 703–305–5805.

III. How Can I Respond to This Notice?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, OPP–00614, in your correspondence.

1. *By mail.* Submit written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: 703–305–5805.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–00614. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information That I Want to Submit to the Agency?

You may claim information that you submit in response to this notice as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must also be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

C. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

D. What Should I Consider When I Prepare My Comments for EPA?

We invite you to provide your views on the estimates provided, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the collection activity.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the notice, along with the EPA and OMB ICR numbers.

IV. What Information Collection Activity or ICR Does This Notice Apply to?

EPA is seeking comments on the following ICR:

Title: Compliance Requirement for Child-Resistant Packaging Act.

ICR numbers: EPA ICR No. 0616.07; OMB No. 2070–0052.

ICR status: This ICR is a renewal of a currently approved information collection that is due to expire on October 31, 1999. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: Section 25 (c)(3) of the FIFRA authorizes EPA to establish standards for packaging of pesticide products and pesticidal devises to protect children and adults from serious illness or injury resulting from accidental ingestion or contact. The law requires that these standards are designed to be consistent with those under the Poison Prevention Packaging Act, administered by the Consumer Product Safety Commission (CPSC). Unless a pesticide product qualifies for an exemption, the product meets certain criteria regarding toxicity and use, it must be sold and distributed in child-resistant packaging. Registrants must certify to the Agency that the packaging or devise meets the standards set forth by the Agency. EPA reviews a registrant's CRP certification to determine if there are human safety/health risk concerns. Exemption

requests are reviewed to ascertain if there is a health risk, and if CRP is technically feasible, practicable, and appropriate.

To certify, a registrant must submit the name and EPA registration number of the product to which the certification applies, the certification statement, the registrant's name and address, the date, and the name, title, and signature of the company officer making the certification. The certification statement must contain a statement that the pesticide product complies with 40 CFR 157.32 requirements, including the revised effectiveness standards in 16 CFR 1700.15(b) when tested by the revised protocol testing procedures in 16 CFR 1700.20. A description of the packaging used and the American Society for Testing and Materials (ASTM) Standard D3475–95, ''Standard Classification of Child-Resistant Packages,'' designation is requested (not required). Registrants may also elect to submit data necessary to support a claim that the product is not subject to CRP, or request that the product should be exempt from CRP regulation.

V. What are EPA's Burden and Cost Estimates for This ICR?

Under the PRA, ''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. For this collection it 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for the Compliance Requirement for Child Resistant Packaging Act collection is estimated to average 1.7 hours per respondent. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Pesticide registrants whose pesticide products are subject to Child Resistant Packaging regulations.

Estimated total number of potential respondents: 502.

Frequency of response: Per event.

Estimated total/average number of responses for each respondent: 1.

Estimated total annual burden hours: 853.4.

Estimated total annual burden costs: $55,019.20.

VI. Are There Changes in the Estimates from the Last Approval?

Yes. There is a slight increase in the number of respondents from 449 to 502 from the last ICR approval. However, the total burden hours per respondent to comply with the CRP will remain the same, 1.7 hours at a cost of $109.60 per response. This increase is a result of the change in the percentage of registrants electing to certify to the CRP requirements. More respondents may be opting to certify to CRP due to changes in the cost of packaging, recycling, and safety factors. Or respondents may be electing to certify to CRP because it is less time consuming than electing to submit toxicity data, reformulate to a less toxic product, or request an exemption. Respondent costs are based on technical/managerial and clerical burden hours estimated at $83 and $38 per hour, respectively.

VII. What is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

List of Subjects

Environmental protection, Information collection requests.

Dated: July 20, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–19594 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. FRL–6413–2]

Agency Information Collection Activities; OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Call Sandy Farmer at (202) 260–2740, or E-mail at ''farmer.sandy@epa.gov'', and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR No. 1898.01, Public Water System Supervision Program Public Notification Requirements; in 40 CFR parts 141, 142 and 143; was approved 06/30/99; OMB no. 2040–0209; expires 06/30/2002.

EPA ICR No. 1882.01; Unregulated Contaminant Monitoring Regulations, (Proposed Rule); in 40 CFR parts 141 and 142; was approved 06/30/99; OMB no. 2040–0208; expires 06/30/2002.

EPA ICR No. 0982.06; NSPS for Metallic Mineral Processing Plants; in 40 CFR part 60, subpart LL; was approved 07/01/99; OMB No. 2060–0016; expires 07/31/2002.

EPA ICR No. 0988.07; Water Quality Standards Regulations; in 40 CFR part 131; was approved 07/02/99; OMB No. 2040–0049; expires 07/31/2002.

EPA ICR No. 1825.01; Star Track Program; was approved 07/02/99; OMB No. 2000–0526; expires 07/31/2002.

EPA ICR No. 1867.01; Reporting Requirements under EPA's Voluntary Aluminum Industrial Partnership; was approved 07/07/99; OMB No. 2060–0411; expires 07/31/2002.

EPA ICR No. 1851.01; Non-Road Compression-Ignition Engine at or Above 50 Kilowatts and On-Road Heavy-Duty Engine Application for Emission Certification and Participation

in the Averaging, Banking and Trading Program; in 40 CFR 86.091–15, 86.091–7, 86.094–21, 89.209–96, and 89.210–96; was approved 07/07/99; OMB No. 2060–0404; expires 07/31/2002.

EPA ICR No. 1432.17; Recordkeeping an Periodic Reporting of the Production, Import, Export, Recycling, Destruction, Transhipment, and Feedstock use of Ozone-Depleting Substances; in 40 CFR part 82, subpart A; was approved 07/09/99; OMB No. 2060–0170; expires 07/31/2002.

EPA ICR No. 1060.09; NSPS for Steel Plants: Electric Arc Furnaces and Decarburization Vessels; was approved 07/09/99; OMB No. 2060–0038; expires 05/31/2000.

EPA ICR No. 1887.01; Personal Exposure of High-Risk Sub-populations to Particles; was approved 07/12/99; OMB No. 2080–0058; expires 07/31/2002.

EPA ICR No. 0138.06; Modification of Secondary Treatment Requirements for Discharges into Marine Waters; in 40 CFR part 125, subpart G; was approved 07/12/99; OMB No. 2040–0088; expires 07/31/2002.

EPA ICR No. 1643.03; Amended Application Requirements for the Approval and Delegation of Federal Air Toxic Programs to State and Local Agencies; in 40 CFR part 63, subpart E; was approved 07/15/99; OMB No. 2060–0264; expires 09/30/1999.

EPA ICR No. 1426.05; EPA Worker Protection Standards for Hazardous Waste Operations and Emergency Response; in 40 CFR part 311; was approved 07/15/99; OMB No. 2050–0105; expires 07/31/2002.

Extensions of Expiration Dates

EPA ICR No. 1572.04; Hazardous Waste Specific Unit Requirements, and Special Waste Processing and Types; in 40 CFR parts 261, 264, 265 and 266, subpart F; OMB No. 2050–0050; on 06/23/99 OMB extended the expiration date through 06/30/2000.

EPA ICR No. 1069.05; NSPS for Steel Plants: Basic Oxygen Process Furnaces; in 40 CFR part 60, subpart N and Na; OMB No. 2060–0029; on 06/29/99 OMB extended the expiration date through 09/30/99.

EPA ICR No. 0595.06; Notice of Pesticide Registration by States to Meet a Special Local Need (SLN) under FIFRA Section 24(c); in 40 CFR part 162; OMB No. 2070–0055; on 06/30/99 OMB extended the expiration date through 09/30/99.

EPA ICR No. 1504.03; Data Generation for Registration Activities, in 40 CFR parts 158 and 160; OMB No. 2070–0107; on 07/06/99 OMB extended the expiration date through 12/31/99.

EPA ICR No. 1081.05; NESHAP for Inorganic Arsenic Emissions from Glass Manufacturing Plants; in 40 CFR part 61, subpart N; OMB No. 2060–0043; on 07/08/99 OMB extended the expiration date through 09/30/99.

EPA ICR No. 1080.09; NESHAP for Benzene Emissions from Benzene Storage Vessels, and Coke By-Product Recovery Plants; in 40 CFR part 61, subpart L and Y; OMB No. 2060–0185; on 07/08/99 OMB extended the expiration date through 01/31/2000.

EPA ICR No. 1737.01; NESHAP for Recordkeeping and Reporting for the Thermoplastics; in 40 CFR part 63, subpart JJJ; OMB No. 2060–0351; on 07/08/99 OMB extended the expiration date through 01/31/2000.

EPA ICR No. 1768.01; Collection of Impact Data on Technical Information, Request for Generic Clearance, Design for the Environment (DFE); OMB No. 2070–0152; on 07/09/99 OMB extended the expiration date through 10/31/999.

EPA ICR No. 1557.03; NSPS for Municipal Solid Waste Landfills; in 40 CFR part 60, subpart WWW; OMB No. 2060–0220; on 07/14/99 OMB extended the expiration date through 09/30/99.

EPA ICR No. 1739.02; NESHAP for the Printing and Publishing Industry; in 40 CFR part 63, subpart KK; OMB No. 2060–0335; on 07/19/99 OMB extended the expiration date through 01/31/2000.

EPA ICR No. 1765.01; National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings; in 40 CFR part 59, subpart D; OMB No. 2060–0353; on 07/19/99 OMB extended the expiration date through 01/31/2000.

EPA ICR No. 0877.05; Environmental Radiation Ambient Monitoring System (ERAMS); OMB No. 2060–0015; on 07/19/99 OMB extended the expiration date through 01/31/2000.

EPA ICR No. 0282.10; Emission Defect Information and Voluntary Emission Recall Report; in 40 CFR part 85, subpart T and 40 CFR part 91, subpart I; OMB No. 2060–0048; on 07/21/99 OMB extended the expiration date through 11/30/99.

OMB's Comments Filed

EPA ICR No. 1630.05; Proposed Rule to Amend the Facility Response Plan Regulation; OMB filed comments 06/24/99.

EPA ICR No. 1363.07; Toxic Chemical Release Reporting, Recordkeeping, Supplier Notification, and Petitions under Section 313 of the Emergency Planning and Community Right-to-Know Act; OMB filed comments 06/30/99.

EPA ICR No. 0783.39; Motor Vehicle Emission Standards and Emission Credits Provisions under the Tier 2 Rule; OMB filed comments 07/07/99.

EPA ICR No. 1897.01; Information Requirements for Marine Diesel Engine, OMB filed comments on 07/09/99.

EPA ICR No. 1907.01; Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline under Tier 2 (Proposed Rule); OMB filed comments 07/12/99.

Dated: July 30, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–20038 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66269; FRL 6092–6]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on January 31, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery, telephone number, and e-mail address: Rm. 224, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Important Information

A. Does this apply to me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the FOR FURTHER INFORMATION CONTACT SECTION.

B. How can I get additional information or copies of support documents?

1. *Electronically*. You may obtain electronic copies of this document, and various support documents are available from the EPA Home Page at the Federal Register-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

2. *In person*. The official record for this notice, as well as the public version, has been established under docket control number [OPP–66269], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as confidential Business Information (CBI), is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

II. Introduction

Section 6(f)(1) of FIFRA, provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

III. Intent to Cancel

This notice announces receipt by the Agency of requests to cancel some 23 pesticide products registered under section 3 or 24 of FIFRA. These registrations are listed in sequence by registration number (or company number and 24 number) in the following Table l.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000352 OR–90–0026	Dupont Lexone DF Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
000352 OR–90–0028	Dupont Lexone DF Herbicide	1,2,4-Triazin-5(4*H*)-one, 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-
001803–00025	CON-O Chlorine Gas	Chlorine
001812–00349	Cotton Pro 80DF	2,4-Bis(isopropylamino)-6-(methylthio)-s-triazine
002517–00058	Sergeant's Skip-Flea Foam for Dogs	o-Isopropoxyphenyl methylcarbamate
003635–00265	Bacto Loob	2-Benzyl-4-chlorophenol
		o-Phenylphenol
003635–00271	Gax–26	5-Chloro-2-methyl-3(2*H*)-isothiazolone
		2-Methyl-3(2*H*)-isothiazolone
007401–00231	Feri Lome Rose & Ornamental Disease Control	*N*-((Trichloromethyl)thio)phthalimide
007405–00060	Chem-Cap Insect Repellent II	Dipropyl isocinchomeronate
		N-Octyl bicycloheptene dicarboximide
		N,N-Diethyl-meta-toluamide and other isomers
007969 WA–98–0024	Clarity Herbicide	2-(2-Aminoethoxy)ethanol 3,6-dichloro-o-anisate
010163 ID–93–0008	Prefar 6–E Herbicide	*S*-(*O,O*-Diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl)benzenesulfonamide
010182 NY–97–0009	Reward Aquatic and Noncrop Herbicide	6,7-Dihydrodipyrido(1,2-a:2',1'-c)pyrazinediium dibromide
011556–00021	Co-Ral (coumaphos) Animal Insecticide 25% Wettable Powd	*O,O*-Diethyl *O*-(3-chloro-4-methyl-2-oxo-2*H*-1-benzopyran-7-yl) phosphorothioate
028293–00101	Unicorn Insect Repellent	*N,N*-Diethyl-meta-toluamide and other isomers
028293–00113	Unicorn Insect Repellent #2	*N,N*-Diethyl-meta-toluamide and other isomers
028293–00114	Unicorn Insect Repellent #4	*N,N*-Diethyl-meta-toluamide and other isomers
064583–00001	Skedaddle! 4 Hour Insect Protection	*N,N*-Diethyl-meta-toluamide and other isomers
064583–00002	Skedaddle! Insect Protection for Children	*N,N*-Diethyl-meta-toluamide and other isomers
064583–00003	Skedaddle! Spritz	*N,N*-Diethyl-meta-toluamide and other isomers
065564 ID–98–0009	JMS Stylet-Oil	Aliphatic petroleum hydrocarbons
065564 WA–98–0022	JMS Stylet-Oil	Aliphatic petroleum hydrocarbons
066222–00008	Farmrite Folpet 50–W	*N*-((Trichloromethyl)thio)phthalimide
070395–00002	Gone Insect Repelling Table cloth	*N,N*-Diethyl-meta-toluamide and other isomers

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period.

The following Table 2, includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000352	E.I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
001803	Continental Chemical Co., Inc., 4660 Spring Grove Ave., Cincinnati, OH 45232.
001812	Griffin L.L.C., Box 1847, Valdosta, GA 31603.
002517	Sergeant's Pet Products, Box 18993, Memphis, TN 38181.
003635	Dubois Chemicals, Agent For: Dubois Chemicals, 3630 E. Kemper Rd., Sharonville, OH 45241.
007401	Brazos Associates, Inc., Agent For: Voluntary Purchasing Group Inc., c/o Voluntary Purchasing Groups, Inc., Box 460, Bonham, TX 75418.
007405	Chemical Packaging Corp., 2700 S.W., 14th St., Pompano Beach, FL 33069.
007969	BASF Corp., Agricultural Products, Box 13528, Research Triangle Park, NC 27709.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010182	Zeneca Ag., Products, Box 15458, Wilmington, DE 19850.
011556	Bayer Corp., Agriculture Division, Animal Health, Box 390, Shawnee Mission, KS 66201.
028293	Unicorn Laboratories, 12385 Automobile Blvd., Clearwater, FL 33762.
064583	Minnetonka Brands Inc., (Attn: Larry Wilhelm) Agent For: Littlepoint Corp., 7665 Commerce Way, Eden Prairie, MN 55344.
065564	JMS Flower Farms Inc., 1105 25th Ave., Vero Beach, FL 32960.
066222	Makhteshim-Agan of North America Inc., 551 Fifth Ave., Suite 1100, New York, NY 10176.
070395	Solar Glow, 42 Locust Ave., Glen Head, NY 11545.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before January 31, 2000. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received by the Agency. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** June 26, 1991; (56 FR 29362) [FRL 3846–4]. Exception to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: July 21, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–19728 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30439B; FRL–6091–8]

Certain Companies; Approval of Pesticide Product Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of applications to register the pesticide products, containing new active ingredients not included any previously registered products pursuant to the provisions of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: The Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7511C), listed in the table below:

Regulatory Action Leader	Office location/telephone number	Address
Judy Loranger	Rm. 910W24, CM #2, 703–308–8056, e-mail: loranger.judy@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA

Regulatory Action Leader	Office location/telephone number	Address
Sheila Moats	Rm. 910W17, CM #2, 703–308–1259, e-mail: moats.sheila@epamail.epa.gov.	Do.
Driss Benmhend	Rm. 910W9, CM #2, 703–308–9525, e-mail: benmhend.driss@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the Fact Sheet are available from the EPA home page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

The following notices of applications that published in **Federal Register** have now been registered by EPA.

1. EPA issued a notice, published in the **Federal Register** of September 10, 1997 (OPP–30439)(62 FR 47663) (FRL–5740–5), which announced that EM Industries Inc./Rona, 7 Skyline Drive, Hawthorne, NY 10532, had submitted an application to register the pesticide product Insect Repellent 3535 (EPA File Symbol 70759–R) containing the active ingredient 3-[*N*-butyl-*N*-acetyl]-aminopropionic acid, ethyl ester at 98%, an active ingredient not included in any previously registered product.

This application was approved on February 10, 1999, as Insect Repellent 3535 for use only in the formulation of insect repellent products (EPA Registration Number 70759–1). (S. Moats)

2. EPA issued a notice, published in the **Federal Register** of June 12, 1998 (OPP–30456)(63 FR 32210) (FRL–5794–4), which announced that 3M Canada Co., P.O. Box 5757 London, Ontario N6A 4TI, had submitted an application to register the pesticide product 3M MEC Eastern Pine Shoot Borer Pheromone Concentrate (EPA File Symbol 10350-UA), containing the active ingredients (*Z*)-9-dodecenyl acetate and (*E*)-9-dodecenyl acetate at 16.0% and 4.0% respectively, active ingredients not included in any previously registered product. The product is a timed release microencapsulated pheromone concentrate used for mating disruption of the Eastern Pine Shoot Borer Moth in forest and woodland applications. This chemical is part of the Pheromone Joint Review Pilot Program currently underway between Canada's Pest Management Regulatory Agency (PMRA) and the United States EPA. The application for registration of the technical grade of the active ingredient is submitted under the same Pheromone Joint Review Pilot Program for the product ''Bedoukian 9-Dodecenyl Acetate Technical Pheromone,'' (EPA File Symbol 52991-RN) by Bedoukian Research Inc., 21 Finance Drive, Danbury, CT 06810.

The applications were approved on May 20, 1999, for manufacturing use of Bedoukian 9-Dodecenyl Acetate Technical Pheromone, (EPA Reg. No. 52991–10) and for the end-use product 3M MEC Eastern Pine Shoot Borer Pheromone Concentrate used for mating disruption of Eastern Pine Shoot Borer Moth in forest and woodland applications (EPA Reg. No. 10350–46). (S. Moats)

3. EPA issued a notice, published in the **Federal Register** of August 12, 1998 (OPP–30457)(63 FR 43177) (FRL–6020–4), which announced that Dominion BioSciences, Inc., Suite 1600, 1872 Pratt Drive, Blackburg, VA 24060, had submitted applications to register the pesticide products Xanthine and Oxypurinol Manufacturing Use Concentrate (EPA File Symbol 71144–E) containing the active ingredients Oxypurinol 50% and Xanthine 50% and Ecologix Cockroach Bait (EPA File Symbol 71144–R) containing the same active ingredients at 1% each, active ingredients not included in any previously registered products.

The applications were approved on May 19, 1999 as follows:

i. Xanthine and Oxypurinol Manufacturing Use Concentrate for manufacture of insecticide baits for commercial and/or domestic indoor use (EPA Reg. No. 71144–2).

ii. Ecologix Cockroach Bait for use in commercial, industrial and residential areas (EPA Reg. No. 71144–1). (J. Loranger)

4. EPA issued a notice, published in the **Federal Register** of March 10, 1999 (OPP–30473)(64 FR 11868) (FRL–6068–9), which announced that Biotechnologies for Horticulture, Inc., 751 Thunderbolt Road, Walterboro, SC 29488, to register the pesticide product EthylBloc (EPA file symbol 71297–R), containing the active ingredient 1-methylcyclopropene at 0.43%, an active ingredient not included in any previously registered product

This application was approved on April 22, 1999, as EthylBloc for use only on ornamental non-food crops (EPA Reg. No. 71297–1). (D. Benmhend)

The Agency has considered all required data on risks associated with the proposed use of these chemicals, and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemicals and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health safety determinations which show that use of these chemicals when used in accordance with widespread and commonly recognized practice, will not generally cause unreasonable adverse effects to the environment.

More detailed information on these registrations is contained in the EPA Pesticide Fact Sheets on:

i. (*Z*)-9-dodecenyl acetate and (*E*)-9-dodecenyl acetate.

ii. Oxypurinol and Xanthine.

iii. 1-methylcyclopropene.

iv. 3-[*N*-butyl-*N*-acetyl]-aminopropionic acid, ethyl ester.

A copy of the fact sheets, which provide a summary description of the pesticides, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved labels, the list of data references, the data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, CM #2, Arlington, VA 22202 (703–305–5805). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW., Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: July 26, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–19911 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50859; FRL–6078–8]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits (EUPs) to the following pesticide applicants. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

FOR FURTHER INFORMATION CONTACT: By mail: Biopesticides and Pollution Prevention Division (7511C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person or by telephone: Contact the designated person at the following address at the office location, telephone number, or e-mail address cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Notice Apply to Me?

This notice is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the designated contact person listed for the individual EUP.

B. How Can I Get Additional Information or Copies of This Document or Other Documents?

You may obtain electronic copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

II. EUPs

EPA has issued the following EUPs:

275–EUP–82. Amendment/Extension. Abbott Laboratories, 1401 Sheridan Road, North Chicago, IL 60064. This experimental use permit allows the use of 94 pounds of the biochemical plant regulator aminoethoxyvinylglycine on 854 acres of food commodities of the stone fruit crop group to evaluate its potential to improve harvest management. The program is authorized only in the States of Alabama, California, Georgia, Illinois, Maryland, Massachusetts, Michigan, Montana, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Utah, Virginia, and Washington. The experimental use permit is effective from May 13, 1999 to April 1, 2001. A tolerance has been established for residues of the active ingredient in or on food commodities of the stone fruit crop group. (Denise Greenway; Rm. 902W43, Crystal Mall #2; telephone: 703–308–8263; e-mail address: greenway.denise@epa.gov)

67384–EUP–2. Issuance. American Cocoa Research Institute, 7900 Westpark Drive, Suite A–320, McLean, VA 22102. This experimental use permit allows the use of 180 pounds of the insecticide Trilogy 90EC on 6,300 (64 kg) bags of stored cocoa beans to evaluate the control of stored product insect pests. The program is authorized only in the States of Massachusetts and Virigina. The experimental use permit is effective from June 1, 1999 to June 1, 2000. (Alan Reynolds; Rm. 910, Crystal Mall #2; telephone: 703–605–0515; e-mail address: reynolds.alan@epa.gov)

67384–EUP–3. Issuance. American Cocoa Research Institute, 7900 Westpark Drive, Suite A–320, McLean, VA 22102. This experimental use permit allows the use of 103.25 pounds of the insecticide Dipel 2X on 6,300 (64 kg) bags of stored cocoa beans to evaluate the control of warehouse moths. The program is authorized only in the States of Massachusetts and Virginia. The experimental use permit is effective from June 1, 1999 to June 1, 2000. (Alan Reynolds; Rm. 910, Crystal Mall #2; telephone: 703–605–0515; e-mail address: reynolds.alan@epa.gov)

71927–EUP–1. Issuance. Arcadis, Geraghty Miller, 14497 N. Dale Mabry Highway, Suite 240, Tampa, FL 33624. This experimental use permit allows the use of 8 pounds of the fungicide *Verticillium dahliae* isolate WCS 850 on 500 acres of elm trees to evaluate the control of dutch elm disease. The program is authorized only in the States of Colorado, Connecticut, Illinois, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, North Carolina, Ohio, and Pennsylvania. The experimental use permit is effective from April 15, 1999 to June 1, 2001. (Sharlene R. Matten; Rm. 910W51, Crystal Mall #2; telephone: 703–605–0514; e-mail address: matten.sharlene@epa.gov)

66550–EUP–1. Issuance. Bird Shield Repellent Corporation, P.O. Box 785, Pullman, Washington 99163. This experimental use permit allows the use of 14.31 pounds of the repellent methyl anthranilate on 50 acres of corn grown for seed for planting and sunflower grown for seed for planting to evaluate the control of the compound on blackbirds and to collect residue data to support exemptions from tolerance on these commodities. The program is authorized only in the States of Colorado and North Dakota. The experimental use permit is effective from July 15, 1999 to January 15, 2000. (Judy Loranger; Rm. 910W24, Crystal Mall #2; telephone: 703–308–8056; e-mail address: loranger.judy@epa.gov)

Persons wishing to review these EUPs are referred to the designated contact person. Inquires concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Experimental use permits.

Dated: July 26, 1999.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 99–19912 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00616; FRL–6093–2]

Pesticides; Policy Issues Related to the Food Quality Protection Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: To assure that EPA's policies related to implementing the Food Quality Protection Act are transparent and open to public participation, EPA is

soliciting comments on two draft science policy papers entitled ''Guidance for the Conduct of Bridging Studies for Use in Acute Dietary Probabilistic Risk Assessments'' and ''Guidance for the Conduct of Residue Decline Studies for Use in Acute Dietary Probabilistic Risk Assessments.'' This notice is the eleventh in a series concerning science policy documents related to FQPA and developed through the Tolerance Reassessment Advisory Committee.

DATES: Comments for these draft science policy papers, identified by docket control number OPP–00616, must be received on or before October 4, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00616 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Kathleen Martin, Environmental Protection Agency (7509C), 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–2857; fax: (703) 305–5147; e-mail: martin.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Pesticide Producers	32532	Pesticide manufacturers Pesticide formulators

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action affects certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document and the two draft science policy papers from the Office of Pesticide Programs Home Page at http://www.epa.gov/pesticides/. On the Office of Pesticide Programs Home Page select ''TRAC'' and then look up the entry for this document. You can also go directly to the listings at the EPA Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under **''Federal Register** -- Environmental Documents.'' You can go directly to the **Federal Register** listings http://www.epa.gov/fedrgstr/.

2. *Fax on demand*. You may request to receive a faxed copy of the draft science policy papers, as well as supporting information, by using a faxphone to call (202) 401–0527. Select item 6040 for the paper entitled ''Guidance for the Conduct of Bridging Studies for Use in Acute Dietary Probabilistic Risk Assessments'' and select item 6041 for the paper entitled ''Guidance for the Conduct of Residue Decline Studies for Use in Acute Dietary Probabilistic Risk Assessments.'' You may also follow the automated menu.

3. *In person*. The Agency has established an official record for this action under docket control number OPP–00616. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00616 in the subject line on the first page of your response.

1. *By mail*. Submit your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. the PIRIB telephone number is (703) 305–5805.

3. *Electronically*. You may submit your comments electronically by e-mail to: opp-docket@epa.gov, or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 5.1/6.1 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–00616. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about

CBI or the procedures for claiming CBI, please consult the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

E. What Should I Consider As I Prepare My Comments for EPA?

EPA invites you to provide your views on the various draft science policy papers, new approaches we have not considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide solid technical information and/or data to support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate.
5. Indicate what you support, as well as what you disagree with.
6. Provide specific examples to illustrate your concerns.
7. Make sure to submit your comments by the deadline in this notice.
8. At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00616 in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background for the Tolerance Reassessment Advisory Committee (TRAC)

On August 3, 1996, the Food Quality Protection Act of 1996 (FQPA) was signed into law. Effective upon signature, the FQPA significantly amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Among other changes, FQPA established a stringent health-based standard (''a reasonable certainty of no harm'') for pesticide residues in foods to assure protection from unacceptable pesticide exposure; provided heightened health protections for infants and children from pesticide risks; required expedited review of new, safer pesticides; created incentives for the development and maintenance of effective crop protection tools for farmers; required reassessment of existing tolerances over a 10-year period; and required periodic re-evaluation of pesticide registrations and tolerances to ensure that scientific data supporting pesticide registrations will remain up-to-date in the future.

Subsequently, the Agency established the Food Safety Advisory Committee (FSAC) as a subcommittee of the National Advisory Council for Environmental Policy and Technology (NACEPT) to assist in soliciting input from stakeholders and to provide input to EPA on some of the broad policy choices facing the Agency and on strategic direction for the Office of Pesticide Programs. The Agency has used the interim approaches developed through discussions with FSAC to make regulatory decisions that met FQPA's standard, but that could be revisited if additional information became available or as the science evolved. As EPA's approach to implementing the scientific provisions of FQPA has evolved, the Agency has sought independent review and public participation, often through presentation of many of the science policy issues to the FIFRA Scientific Advisory Panel (SAP), a group of independent, outside experts who provide peer review and scientific advice to OPP.

In addition, as directed by Vice President Albert Gore, EPA has been working with the U.S. Department of Agriculture (USDA) and another subcommittee of NACEPT, the Tolerance Reassessment Advisory Committee (TRAC), chaired by the EPA Deputy Administrator and the USDA Deputy Secretary, to address FQPA issues and implementation. TRAC comprises more than 50 representatives of affected user, producer, consumer, public health, environmental, states and other interested groups. The TRAC has met six times as a full committee from May 27 through April 29, 1999.

The Agency has been working with the TRAC to ensure that its science policies, risk assessments of individual pesticides, and process for decision making are transparent and open to public participation. An important product of these consultations with TRAC is the development of a framework for addressing key science policy issues. The Agency decided that the FQPA implementation process and related policies would benefit from initiating notice and comment on the major science policy issues.

The TRAC identified nine science policy issue areas they believe were key to implementation of FQPA and tolerance reassessment. The framework calls for EPA to provide one or more documents for comment on each of the nine issues by announcing their availability in the **Federal Register**. In accordance with the framework described in a separate notice published in the **Federal Register** of October 29, 1998 (63 FR 58038) (FRL–6041–5), EPA has been issuing a series of draft documents concerning nine science policy issues identified by the TRAC related to the implementation of FQPA. This notice announces the availability of two draft science policy papers as identified in the ''SUMMARY'' section.

III. Summary of ''Guidance for the Conduct of Bridging Studies for Use in Acute Dietary Probabilistic Risk Assessment Assessments'' and ''Guidance for the Conduct of Residue Decline Studies for Use in Acute Dietary Probabilistic Risk Assessments''

These documents provide additional guidance to registrants, other test sponsors, interested parties, and data reviewers on the extent and quality of ''bridging data'' and ''residue decline data'' needed to support the use of typical application rates in acute dietary probabilistic exposure and risk assessments. Bridging data (generally from side-by-side field trials) are used to establish a relationship among residues from field trials conducted at the maximum application scenario (e.g., maximum application rate, highest application frequency, and shortest pre-harvest interval) and residues which would result from more typical application rates. Residue decline data are used to establish a relationship between pesticide residue levels at the time of application or those following the minimum pre-harvest interval to the pesticide residue levels which follow a range of typical harvest times. This guidance provides information on how risk-mitigation activities (e.g., lowered use rates) can be considered in OPP risk assessments and used to adjust tolerance levels. Additional specific desirable elements in an assessment and details (as well as illustrative examples) are described. By following this guidance, registrants and other sponsors may generate pesticide-specific data that can be used by the Agency to produce highly refined, acute dietary probabilistic exposure and risk assessments. While the data developed in accordance with this guidance are preferred, EPA will also consider other data or information as long as they would provide a scientifically sound basis for estimating residues at typical application rates for risk mitigation purposes.

IV. Questions/Issues for Comment

While comments are invited on any aspect of the draft science policy papers,

OPP is particularly interested in comments on the following questions and issues. Due to the similarity in methods and techniques between the companion papers describing bridging studies and residue decline studies, the following questions relate to both papers.

1. Is the guidance provided in these draft documents clear and complete? If not, why not and what additional guidance is needed?

2. Are the residue studies described in these documents adequate for generating refined acute dietary probabilistic exposure and risk assessments? If not, why not and how should they be modified?

3. OPP has proposed that between one and three field trials be conducted, that at least three application rates and/or five pre-harvest intervals (PHI) be tested, and that three composite samples be collected at each application rate or PHI. Do these recommendations appear to be reasonable and sufficient to establish a rate vs. residue or PHI vs. residue relationship? Are data available which indicate that these guidelines are adequate for the purposes intended? Explain.

4. OPP has stated that it believes that the field trials performed for bridging study/residue decline purposes should be conducted (at an exaggerated rate, if necessary) such that all residues are ''quantifiable'' (i.e., at or greater than the limit of quantitation (LOQ)). We have stated that it would be considered inappropriate to derive a quantitative relationship between application rate and residue level on residues which were below the LOQ as this could introduce substantial uncertainty into the estimated relationship. Please comment on this proposed restriction. Please also comment on the recommendation that studies be conducted at an exaggerated rate, if necessary, to avoid the potential problem associated with non-quantifiable or non-detectable residues.

5. OPP states that extrapolation of data between similar crops may be allowed on a case-by-case basis considering similar cultural practices and application patterns. Should these extrapolations be limited to crops within a crop subgroup/group or should more extensive extrapolations between groups be permitted? If so, on what basis should more extensive extrapolations be permitted?

6. For the relationship produced by bridging or residue decline data to be used in an exposure assessment, it is necessary to have reliable usage data concerning application rates and/or pre-harvest intervals. For example, if residues resulting from the full (maximum) application rate, three-quarters of the maximum application rate, and one-half the maximum application are determined, it is necessary to also have information on the percentage (or fraction) of the time each of these application rates are used. A similar situation exists for pre-harvest intervals. Is this information available from either public or proprietary sources? If so, from which sources can this data be obtained and how readily available is it?

7. The proposed methodology uses what is believed to be the statistically more appropriate ''lack of fit'' test to determine if the hypothesized model (e.g., linear relationship between application rate and residue level, first order decay in residue concentration with time, etc.) is adequate to describe the data. Please comment on this proposed approach and compare it with the more widely used coefficient of determination (r^2). Under what circumstances might the use of r^2 to judge a fit adequate be preferred to the ''lack of fit'' test? There may be instances where the lack of fit test reveals that the hypothesized linear association can be rejected, but the coefficient of determination shows that a linear relationship accounts for a significant portion of the variability. Should the two be used in conjunction with one another and if so, how? What statistical tests, if any, should be used to judge whether the r^2 is significant?

8. OPP will require that composite samples be collected as part of reduced-use field trials in order to retain comparability with earlier maximum rate/minimum PHI field trials conducted to support tolerance decisions. Nevertheless, OPP still has concerns about the effect compositing may have on unit-to-unit variation. When residue estimates are generated from maximum application rate and minimum PHI's (worst-case conditions), OPP believes that there is an adequate degree of compensating overestimation such that individual unit variation is not of concern. By incorporating the range of application rates and PHI's in a probabilistic scenario, the conservatism built into our use of field trial data is eroded and may require us to compensate for this with statistically valid data on individual samples and/or unit-to-unit variation. OPP is proposing that chemical-specific considerations be considered to determine whether the use of composite data from reduced-rate field trials is acceptable. Alternatively, a ''decomposition'' procedure may be judged appropriate. Please comment on whether these concerns are justified and, if so, how they should be addressed by OPP.

9. In performing the regression analysis for bridging studies, OPP has elected not to ''force'' the regression relationship through zero, despite the fact that an application rate of 0 lbs ai/A would be expected to result in a zero parts per million (ppm) concentration in the plant or plant part. Please comment on this decision and any required changes in interpretation of the statistical parameters which a decision to force the regression through zero would entail.

10. OPP intends to combine the bridging study and residue decline study guidance documents into one document. In doing so, would it be useful to expand the section on multiple regression techniques? How useful would this expansion be and are there any recommendations on how this could best be done?

11. What other data or information similar to that described in this guidance document would provide a sound, empirical basis for determining residues at typical application rates for risk mitigation purposes?

V. Policies Not Rules

The draft policy document discussed in this notice is intended to provide guidance to EPA personnel and decision-makers, and to the public. As a guidance document and not a rule, the policy in this guidance is not binding on either EPA or any outside parties. Although this guidance provides a starting point for EPA risk assessments, EPA will depart from its policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that a policy is not appropriate for a specific pesticide or that the circumstances surrounding a specific risk assessment demonstrate that a policy should be abandoned.

EPA has stated in this notice that it will make available revised guidance after consideration of public comment. Public comment is not being solicited for the purpose of converting any policy document into a binding rule. EPA will not be codifying this policy in the Code of Federal Regulations. EPA is soliciting public comment so that it can make fully informed decisions regarding the content of each guidance document.

The ''revised'' guidance will not be unalterable. Once a ''revised'' guidance document is issued, EPA will continue to treat it as guidance, not a rule. Accordingly, on a case-by-case basis EPA will decide whether it is appropriate to depart from the guidance

or to modify the overall approach in the guidance. In the course of inviting comment on each guidance document, EPA would welcome comments that specifically address how a guidance document can be structured so that it provides meaningful guidance without imposing binding requirements.

VI. Contents of Docket

Document that are referenced in this notice will be inserted in the docket under docket control number''OPP–00616.'' In addition, the documents referenced in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) have also been inserted in the docket under docket control number OPP–00557.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: July 28, 1999.

Susan H. Wayland,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–20042 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00599A; FRL–6096–6]

Pesticides; Draft Guidance on Mandatory/Advisory Labeling Statements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: On June 2, 1999, EPA issued a notice of availability for a draft Pesticide Registration (PR) Notice entitled ''Guidance for Mandatory and Advisory Labeling Statements.'' The comment period would have ended August 2, 1999. In response to a request by the National Pest Control Association, EPA has decided to extend the comment period by 45 days.

DATES: Comments, identified by docket control number OPP–00599A, must be received on or before September 17, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00599A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–5448; fax number: (703) 305–6920; e-mail address: kempter.carlton@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this notice if you manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Pesticide Producers	32532	Pesticide manufacturers Pesticide formulators

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected. If available, the North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this notice affects certain entities. If you have any questions regarding the applicability of this announcement to you, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the '' **Federal Register** —Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *Fax on demand.* You may request a faxed copy of the draft Pesticide Registration (PR) Notice entitled ''Guidance for Mandatory and Advisory Labeling Statements,'' by using a faxphone to call (202) 401–0527 and selecting item 6120. You may also follow the automated menu.

3. *In person.* The Agency has established an official record for this action under docket control number OPP–00%99A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

As described in Unit I.C. of the June 2, 1999, **Federal Register** notice (64 FR 29641) (FRL–6079–4), you may submit comments through the mail, in person, or electronically. Please follow the instructions that are provided in the June 2, 1999, notice. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00599A in the subject line on the first page of your response.

II. What Action is the Agency Taking?

The Agency has issued the draft document listed in the ''SUMMARY'' and solicited comments on it. The background can be found in the June 2, 1999, **Federal Register** notice (64 FR 29641). A time extension of 45 days is being provided such that the comment period will now end on September 17, 1999.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: July 28, 1999.

Marcia E. Mulkey,

Director, Office of Pesticide Programs.

[FR Doc. 99–20043 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6412–9]

New Jersey State Prohibition on Marine Discharges of Vessel Sewage; Notice of Final Affirmative Determination

Notice is hereby given that a final determination has been made by the Regional Administrator, Environmental Protection Agency (EPA), pursuant to section 312(f) of Public Law 92–500, as amended by Public Law 95–217 and Public Law 100–4 (the Clean Water Act), that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Navesink River, County of Monmouth, State of New Jersey. A Notice of Receipt of Petition and Tentative Determination was published in the **Federal Register** on May 12, 1999 and public comments regarding the tentative determination were accepted through June 12, 1999.

Comments were received from two parties, both objecting to the establishment of the Navesink River No Discharge Area. One individual, who has a boat berthed on the Navesink River, stated that due to his vessel's six-foot draft the available pumpouts are inaccessible to him. He also raised general concerns about maintenance and operability of pumpouts and excessive fees for pumpout use. In response, the application description of depth restrictions to the pumpouts are based on mean low water depth. Two of the available pumpouts have a depth of six-feet at mean low water, so that vessels with a six-foot draft would find pumpouts inaccessible for relatively short periods of time before and after low tide. During high tides, many of the marina operators have indicated that larger vessels will be able to access the pumpouts. Further, the application documents that the fees charged for pumpout on the Navesink River are reasonable. The regulations, 40 CFR 140.4, regarding the prohibition of the discharge from all vessels of any sewage states that the determination will be based on ''whether adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels using such waters are reasonably available''. Based upon the application submitted by the State of New Jersey, adequate facilities do exist in the no discharge area. Additionally, Monmouth County (in conjunction with the Navesink municipalities) is in the process of purchasing a pumpout boat for use in the Navesink River. The boat should be in operation by May 2000.

Another commenter stated that the calculations and estimates used to determine an adequate number of pumpouts to service the vessel population underestimated the number of pumpouts needed. This commenter indicated that the formula in an EPA guidance document estimates that in New Jersey 6% of the vessels greater than twenty-six feet in length are equipped with holding tanks. However, in the application submitted, the State estimated that 50% of the vessels greater than twenty-six feet were equipped with holding tanks. Based on these numbers and using the calculations as a guideline, four pumpouts available in this area are adequate based on the vessel population. Even if it were assumed that 100% of the vessels greater than twenty-six feet were equipped with holding tanks, the existing number of pumpouts would be sufficient.

Another comment concerned the lack of dump stations for disposal of waste from portable toilets. In response, EPA notes that the pumpouts which received Clean Vessel Act grant monies came equipped with wand systems. The wands permit the portable toilets to be pumped out in a safe and sanitary manner.

An additional comment cited a general provision of the Clean Water Act (CWA) which reads, ''* * * it is the national policy that a major research and demonstration effort be made to develop technology necessary to eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans.'' The commenter claims the Agency is going against the intent of the CWA by eliminating a person's ability to use marine sanitation devices. The goal of the CWA which was cited actually envisions that eventually, through research, the discharge of any pollutants to waters of the U.S., in any quantities, would be eliminated. The Agency does not agree that this affirmative decision violates any provisions of nor the intent of the CWA.

This petition was made by the New Jersey Department of Environmental Protection (NJDEP) on April 3, 1998 in cooperation with the Navesink Regional Environmental Council. Members of the Council include the Borough of Fair Haven, the Township of Middletown, the Borough of Red Bank, the Borough of Rumson, the Borough of Tinton Falls, the Township of Holmdel, the Township of Colts Neck, the Township of Freehold and the Township of Marlboro. The Council worked in conjunction with Clean Ocean Action, Marine Development USA, Inc.; Marine Trade Association of New Jersey, Monmouth County Health Department, Monmouth County Planning Board, New Jersey Marine Sciences Consortium, New Jersey Sea Grant Advisory Service, New Jersey State Police Marine Division, U.S. Coast Guard Auxiliary and the U.S. Coast Guard. Upon receipt of an affirmative determination in response to this petition, NJDEP would completely prohibit the discharge of sewage, whether treated or not, from any vessel in Navesink River in accordance with section 312(f)(3) of the Clean Water Act and 40 CFR 140.4(a).

The Navesink River, located in central New Jersey, is part of the Hudson-Raritan Bay Estuary and drains approximately 95 square miles of urban/suburban residential development and agricultural lands. The Navesink River runs easterly from Red Bank, New Jersey and then joins the Shrewsbury River and empties into Sandy Hook Bay. The tidal waters of the Navesink River extend from the Shrewsbury River, near Sea Bright, upstream to the Swimming River Reservoir dam. The Navesink River has been identified as a waterbody of national significance and is part of the New York-New Jersey Harbor Estuary Program. The No Discharge Area (NDA) will include all tidal waters of the Navesink River which extend from the Shrewsbury River, near Sea Bright, upstream to the Swimming River Reservoir dam. The eastern boundary of the NDA is a line from Lat./Long. 73° 58′ 45″, 40° 22′ 40″ to Lat./Long. 73° 58′ 58″, 40° 23′ 04″. The western boundary of the NDA is at Lat./Long. 74° 06′ 48″, 40° 19′ 12″.

Information submitted by the State of New Jersey and the Navesink Regional Environmental Planning Council states that there are five existing pumpout facilities available to service vessels which use the Navesink River. Sea Land Marina, located at 261 West Front Street, Red Bank, operates a portable pumpout. The pumpout is available from 7 a.m. to 5 p.m. beginning April 15 until October 15 and is operated by the marina staff. A $5.00 fee is charged for the use of the pumpout. Irwin's Boat Works, located at 1 Marine Park, Red Bank, operates a stationary pumpout. The pumpout is available from 8 a.m. to 5 p.m. beginning May until October 31 and is operated by the marina staff. A fee of $5.00 is charged for the use of the

pumpout. Red Bank Municipal Basin, located at Marine Park, Red Bank, operates a stationery pumpout. The pumpout is available 24 hours a day year round and is self-operated. No fee is charged for use of the pumpout. Fair Haven Yacht Works, located at 75 DeNormandie Avenue, Fair Haven, operates a portable pumpout. The pumpout is available from 8:00 a.m. to 5:00 p.m. and is operated by the marina staff. A $5.00 fee is charged for the use of the pumpout. Molly Pitcher Inn and Marina, located at 88 Riverside Avenue, Red Bank, operates a stationary pumpout. The pumpout is available upon request for customers of the marina. One facility, Sea Land Marina, located in Red Bank has a restriction which would exclude boats greater than 26 feet in length. This restriction impacts approximately 18% of the vessel fleet and there are three facilities available for their needs.

Vessel waste generated from the pumpout facilities within the NDA is discharged into municipal sewer lines and is conveyed to the Northeast Monmouth Regional Sewage Authority (NJPDES Permit No. NJ0024520) at 1 Highland Avenue in Monmouth Beach for treatment.

According to the State's petition, the maximum daily vessel population for the waters of Navesink River is approximately 1122 vessels. This estimate is based on (1) vessels docked at marinas and yacht clubs (866 vessels), (2) vessels docked at non-marina facilities (227 vessels) and (3) transient vessels (29 vessels). The vessel population based on length is 915 vessels less than 26 feet in length, 193 vessels between 26 feet and 40 feet in length and 14 vessels greater than 40 feet in length. Based on number and size of boats, and using various methods to estimate the number of holding tanks, it is estimated that one pumpout is needed for the Navesink River. As previously stated, five pumpout facilities are currently available to service the boating population. Additionally, four marinas have applied for pumpout grants to install a total of five new pumpouts.

The EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Navesink River in the county of Monmouth, New Jersey. For further information contact Jim Olander at (212) 637–3833.

Dated: July 26, 1999.

Jeanne M. Fox,

Regional Administrator, Region II.

[FR Doc. 99–20041 Filed 8–3–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice Concerning Issuance of Powers of Attorney

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Public notice.

SUMMARY: In order to facilitate the discharge of its responsibilities as a conservator and liquidator of insured depository institutions, the Federal Deposit Insurance Corporation (FDIC) publishes the following notice. The publication of this notice is intended to comply with Title 16, section 20 of the Oklahoma Statutes (16 O.S. 20) which, in part, declares Federal agencies that publish notices in the **Federal Register** concerning their promulgation of powers of attorney, to be exempt from the statutory requirement of having to record such powers of attorney in every county in which the agencies wish to effect the conveyance or release of interests in land.

Notice

Pursuant to section 11 of the Federal Deposit Insurance (FDI) Act (12 U.S.C. 1821), as amended by section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the FDIC is empowered to act as conservator or receiver of any state or federally chartered depository institution which it insures. Furthermore, under section 11A of the FDI Act (12 U.S.C. 1821a), as enacted under section 215 of FIRREA, the FDIC is also appointed to manage the FSLIC Resolution Fund.

Upon appointment as a conservator or receiver, the FDIC by operation of law becomes successor in title to the assets of the depository institutions on behalf of which it is appointed. As Manager of the FSLIC Resolution Fund, the FDIC became successor in title to both the corporate assets formerly owned by the now defunct Federal Savings and Loan Insurance Corporation (FSLIC), as well as to the assets of the depository institutions for which the FSLIC was appointed receiver prior to January 1, 1989. In addition, pursuant to section 13(c) of the FDI Act (12 U.S.C. 1823(c)), the FDIC also acquires legal title in its corporate capacity to assets acquired in furtherance of providing monetary assistance to prevent the closing of insured depository institutions or to expedite the acquisition by assuming depository institutions of assets and liabilities from closed depository institutions of which the FDIC is receiver.

In order to facilitate the conservation and liquidation of assets held by the FDIC in its aforementioned capacities, the FDIC has provided powers of attorney to selected employees of its Dallas Field Operations Branch. These employees include: Priscilla Catapat, Charles W. Joyce and Karen Powell.

Each employee to whom a power of attorney has been issued is authorized and empowered to: sign, seal and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery of any and all monies and properties of every kind and nature whatsoever for and on behalf of the FDIC and to give proper receipts and acquittances therefore in the name and on behalf of the FDIC; release, discharge or assign any and all judgments, mortgages on real estate or personal property (including the release and discharge of the same of record in the office of any Prothonotary or Register of Deeds wherever located where payments on account of the same in redemption or otherwise may have been made by the debtor(s)), and to endorse receipt of such payment upon the records in any appropriate public office; receipt, collect and give all proper acquittances for any other sums of money owing to the FDIC for any acquired asset which the attorney-in-fact may sell or dispose of; execute any and all transfers and assignments as may be necessary to assign any securities or other choses in action; sign, seal, acknowledge and deliver any and all agreements as shall be deemed necessary or proper by the attorney-in-fact in the care and management of acquired assets; sign, seal, acknowledge and deliver indemnity agreements and surety bonds in the name of and on behalf of the FDIC; sign receipts for the payment of all rents and profits due or to become due on acquired assets; execute, acknowledge and deliver deeds or real property in the name of the FDIC; extend, postpone, release and satisfy or take such other action regarding any mortgage lien held in the name of the FDIC; execute, acknowledge and deliver in the name of the FDIC a power of attorney wherever necessary or required by law to any attorney employed by the FDIC; foreclose any mortgage or other lien on either real or personal property, wherever located; do and perform every act necessary for the use, liquidation or

collection of acquired assets held in the name of the FDIC; and sign, seal, acknowledge and deliver any and all documents as may be necessary to settle any actions(s) or claim(s) asserted against the FDIC, either in its Receivership or Corporate capacity, or as Manager of the FSLIC Resolution Fund.

Dated: July 29, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–20049 Filed 8–3–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011426–027.
Title: West Coast of South America Discussion Agreement.
Parties:
A.P. Moller-Maersk Line
Compania Chilena De Navigacion
Compania Sud Americana De Vapares, S.A.
Crowley American Transport, Inc.
Sea-Land Service, Inc.
APL Co. PTE Ltd.
Seaboard Marine Ltd.
South America Independent Lines Association
Trinity Shipping Line, S.A.
Interocean Lines Inc.
Mediterranean Shipping Company, SA
P&O Nedlloyd B.V.
South Pacific Shipping Company
Transportation Maritima Grancolombiana, S.A.
NYK/NOS Joint Service
Columbus Line
Synopsis: the proposed modification would authorize the parties, or two or more of them, to jointly enter into service contracts and to adopt voluntary guidelines with respect to the terms and conditions of such contracts. The modification also clarifies existing authority; deletes obsolete language; provides for the discussion of further rationalization, the implementation of which will be subject to filing and effectiveness under the Shipping Act of 1984; and restates the agreement.

Agreement No.: 232–011611–001.
Title: MOL/APL Slot Transfer Agreement.
Parties:
American President Lines, Ltd.
APL Co. Pte Ltd
Mitsui O.S.K. Lines, Inc.
Synopsis: The proposed amendment would expand the geographic scope of the Agreement to include ports on the Gulf Coast of the United States and Puerto Rico, and inland points via such ports, and ports on the Gulf of Mexico and Caribbean Sea Coasts of Mexico and Central America and the Caribbean Sea and Atlantic Coasts of South America, and inland points via such ports. It also makes other administrative changes to the Agreement.

Agreement No.: 202–011665.
Title: Specialised Reefer Shipping Association.
Parties:
Cool Carriers AB
Lauritzen Reefers A/S
Nippon Yusen Kaisha
Star Reefers
Seatrade Group NV
Synopsis: The proposed agreement would provide a forum for the parties to discuss and reach agreement on general issues and economic trends affecting the reefer industry worldwide.

By order of the Federal Maritime Commission.

Dated: July 30, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–20054 Filed 8–3–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 27, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Rae Valley Financials, Inc., Petersburg, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Petersburg State Bank, Petersburg, Nebraska.

Board of Governors of the Federal Reserve System, July 29, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–19949 Filed 8–3–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 18, 1999.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Eagle Bancshares, Inc., and Fairfield Holdings, Inc., both of Fairfield, Texas; to engage *de novo* through their subsidiary, Texas Bank, S.S.B., Buffalo, Texas (in formation), in operating a savings association, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Comments regarding this application must be received not later than August 27, 1999.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Umpqua Holdings Corporation, Roseburg, Oregon; to acquire Strand, Atkinson, Williams and York, Inc., Portland, Oregon, and thereby engage, to a limited extent, in underwriting and dealing in commercial paper, municipal revenue bonds, mortgage-related securities, and consumer-receivable related securities, *see Citicorp, 73 Fed. Res. Bull. 473 (1987)*; acting as investment or financial advisor, pursuant to § 225.28(b)(6) of Regulation Y; providing securities brokerage, ''riskless principal,'' private placement, and other agency transactional services, pursuant to § 225.28(b)(7)(i)-(iii), (v); and underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may underwrite and deal in under 12 U.S.C. 24 and 335, pursuant to § 225.28(b)(8)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, July 29, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–19948 Filed 8–3–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Resources' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of the Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register.**

The Secretary of the Treasury has certified a rate of 13¼ percent for the quarter ended June 30, 1999. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: July 27, 1999.

George Strader,

Deputy Assistant Secretary, Finance.

[FR Doc. 99–19941 Filed 8–3–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Scientific Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has made a final finding of scientific misconduct in the following case:

Deborah Arenburg, University of Maryland: Based on a report dated December 23, 1998, by the University of Maryland Investigation Committee, Ms. Arenburg's admissions, and information obtained by ORI during its oversight review, ORI finds that Ms. Arenburg, former Research Associate, Maryland Psychiatric Research Center, University of Maryland, engaged in scientific misconduct arising out of certain biomedical research supported by National Institute of Mental Health (NIMH), National Institutes of Health (NIH), grants.

Specifically, Ms. Arenburg was responsible for administering and scoring neuropsychological, neurological, and cognitive tests on patients during the course of two studies. These studies were entitled ''Neural Basis of the Deficit Syndrome of Schizophrenia'' (Study No. 1) and ''Clozapine Treatment of Schizophrenic Outpatients'' (Study No. 2) and were supported by the above-referenced grants. ORI finds that Ms. Arenburg failed to conduct the required tests on three patients in Study No. 1 and on ten to twelve patients in Study No. 2. Instead Ms. Arenburg fabricated the experimental records for those tests. Ms. Arenburg admits to fabricating the data.

The fabricated data was included in a publication, ''Association Between Eye Tracking Disorder in Schizophrenia and Poor Sensory Integration,'' *American Journal of Psychiatry* 155(10):1352–1357, 1998. The principal investigator on the grants at issue reanalyzed the research data, eliminating all data produced by Ms. Arenburg, and found no significant difference in the results. A correction, including the reanalyzed data, was published in the *American Journal of Psychiatry* 156(4):603–609, 1999.

Ms. Arenburg has accepted the ORI finding and has entered into a Voluntary Settlement Agreement with ORI in which she has voluntarily agreed, for the three (3) year period beginning July 15, 1999:

(1) To exclude herself from serving in any advisory capacity to the Public Health Service (PHS), including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(2) That any institution that submits an application for PHS support for a research project on which her participation is proposed or which uses her in any capacity on PHS supported research, or that submits a report of PHS-funded research in which she is involved, must concurrently submit a plan for supervision of her duties to the funding agency for approval. The supervisory plan must be designed to ensure the scientific integrity of Ms. Arenburg's research contribution. The institution also must submit a copy of the supervisory plan to ORI.

FOR FURTHER INFORMATION CONTACT: Acting Director, Division of Research Investigations, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443–5330.

Chris B. Pascal,

Acting Director, Office of Research Integrity.

[FR Doc. 99–19975 Filed 8–3–99; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

[Announcement 99096]

Cooperative Agreements for Human Immunodeficiency Virus Prevention Projects for African American Faith-Based Organizations; Notice of Availability of Funds for Fiscal Year 1999 Amendment

A notice announcing the availability of fiscal year 1999 funds for grants to support Cooperative Agreements for Human Immunodeficiency Virus (HIV) Prevention Projects for African American Faith-Based Organizations was published in the **Federal Register** on June 23, 1999, [Vol. 64 FR No. 120]. The notice is amended as follows:

On page 33733, first column, under ''Submission and Deadline—Categories I, II, and III'', the first paragraph should read:

On or before August 13, 1999, submit the application to: Julia L. Valentine, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99096, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146.

All other information and requirements of the notice remain the same.

Dated: July 29, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–19971 Filed 8–3–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00014]

Cooperative Agreement To Support and Evaluate Distance-Based Graduate-Level Degree Programs in Public Health in Developing Countries; Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 2000 for a cooperative agreement program to support and evaluate distance-based graduate-level degree programs in public health in developing countries (see addendum 2). The purpose of this program is to support and evaluate a program specifically tailored to the needs of the international public health scene. This distance-based program will not require persons enrolled in the program to establish and maintain residence requirements at the university. This program addresses the ''Healthy People 2000'' priority area of Educational and Community-Based Programs.

B. Eligible Applicants

Applications may be submitted by domestic and foreign public and private nonprofit universities and colleges. The applicant must be an accredited academic institution with university status. Provide this assurance with the application in a separate cover memo.

Note: Public Law 104–65 states that an organization as described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $20,000 is available in FY 2000 to fund one award, pending availability of FY 2000 funds. It is expected that the award will begin on February 1, 2000, and will be made for a 12-month budget period within a project period of 3 years. Funding estimates may change during the period in which the project is conducted.

A continuation award within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Use of Funds

Project funds may be used to support personnel services, supplies, equipment, travel, subcontracts, and other services consistent with the approved scope of work of recipient's activities.

Project funds may not be used to supplant other available applicant or collaborating agency funds, for construction, for purchase of facilities or space, or for patient care.

Project funds may not be used to support student stipends, travel, or tuition and fees for recipient.

Project funds may not be used to support or supplant any basic or applied research.

Foreign institutions will not be reimbursed indirect costs.

E. Program Requirements

In conducting activities to achieve the purposes of this program, the recipient will be responsible for the activities under #1 (Recipient Activities), and CDC will be responsible for the activities listed under #2 (CDC Activities).

1. Recipient Activities

a. Develop graduate-level curriculum programs for distance-based training of public health staff in developing countries throughout the world.

b. Coordinate and distribute training modules and other instructional materials.

c. Evaluate effectiveness of all training programs.

d. Compile and disseminate the results of all aspects of the project.

2. CDC Activities

a. Provide technical assistance and support in the development and promotion of curriculum programs for the training of public health staff throughout the world.

b. Provide technical assistance with the management, administration, and evaluation of the academic program.

F. Application Content

Use the information in the Program Requirements, Other Requirements, Evaluation Criteria, and Errata Sheet to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in the layout of your program plan.

Each application should be submitted as an original and two copies of the PHS 398 (OMB Number 0925–0001). Each application narrative should be limited to 25 pages, excluding attachments (i.e., letters of support, resumes, etc.). All material must be typewritten, single-spaced, with type no smaller than 10 characters per inch, on 8.5'' x 11'' paper, with at least 1'' margins on all four sides, with headings and footers, with page numbers, unbound, and printed on one side only. No materials should be submitted in spiral or other types of bindings.

The first page of the application should contain the response to Applications Requirements as indicated in section B above.

G. Submission and Deadline

Submit the original and five copies of PHS 398 (OMB Number 0925–0001). Adhere to the instructions on the Errata Instruction Sheet for PHS 398. Forms are in the application kit.

On or before October 15, 1999, submit the application to the Grants Management Specialist identified in ''Where To Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

H. Evaluation Criteria

Each application should document the existence of an operational distance-based learning, graduate-level, degree program in the applicant institution. Each qualifying application will be evaluated individually against the following criteria by an independent review panel appointed by CDC.

1. Background, Need, and Capability (30 Percent)

The extent to which the applicant describes current and previous related experience.

a. The extent to which the applicant is currently an internationally recognized, accredited graduate-level program in public health.

b. The extent to which the applicant operates an internationally recognized, accredited graduate-level program in public health.

c. The extent to which the applicant already has existing academic testing centers throughout the world, which are currently maintained, so that a student's academic progress can be objectively monitored at regular intervals without his/her having to go outside his/her country of residence.

2. Goals and Objectives (15 Percent)

The extent to which the goals and objectives are relevant and feasible to be accomplished during the project period, and which address all activities necessary to accomplish the purpose of the proposal.

3. Methods (20 Percent)

The extent to which the applicant provides a detailed description of proposed activities which are likely to achieve each objective and overall program goals and which includes designation of responsibility for each action undertaken. The extent to which the applicant provides a reasonable and complete schedule for implementing all activities. The extent to which concurrence with the applicant's plans by all other involved parties is specific and documented.

4. Evaluation (20 Percent)

The extent to which the proposed evaluation system is detailed and will document program process, effectiveness, impact, and outcome. The extent to which the applicant demonstrates potential data sources for evaluation purposes, and documents staff availability, expertise, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is included.

5. Personnel and Staffing (15 Percent)

The extent to which position descriptions, CVs and lines of command are appropriate to accomplish the program goals and objectives.

6. Budget and Justification (Not Scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with an original plus two copies of:

1. Semi-annual reports;

2. Financial status report no more than 90 days after the end of each budget period; and

3. Final financial status and performance reports no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in ''Where To Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable:

AR–10: Smoke-Free Workplace Requirement

AR–11: Healthy People 2000 Requirement

AR–12: Lobbying Restrictions

J. Authority and Catalog of Federal International Assistance

This program is authorized under the Sections 307 of Public Health Service Act, [42 U.S.C. section 242l], as amended. The Catalog of Federal International Assistance number is 93.283.

K. Where To Obtain Additional Information

To receive additional information, please go to the CDC home page on the Internet: www.cdc.gov and click on the word ''funding.''

If you do not have Internet access, you can request an application kit by calling 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all documents, business assistance can be obtained from: Joanne Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 00014, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Suite 3000, Atlanta, GA 30341–4146, telephone (770) 488–2717, E-mail address: jcw6@cdc.gov

For program technical assistance, contact Ms. Elliott Churchill, M.S., M.A., Senior Communications Specialist, Division of International Health, Epidemiology Program Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Mailstop C–08, Atlanta, GA 30333, telephone: (404) 639–2231, E-mail address: rec1@cdc.gov

Dated: July 29, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–19970 Filed 8–3–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0046]

Update of Guidance Documents at the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing an update of all guidance documents issued and withdrawn since the compilation of the previous quarterly list that published on January 6, 1999, and the annual comprehensive list that published on June 10, 1999. FDA committed to publishing quarterly updates in its February 1997 ''Good Guidance Practices'' (GGP's), which set forth the agency's policies and

procedures for the development, issuance, and use of guidance documents. This list is intended to inform the public of the existence and availability of guidance documents issued for the first part of this year. This list also includes some guidance documents that were inadvertently not included on previously published lists.

DATES: General comments on this list and on agency guidance documents are welcome at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Information on where to obtain single copies of listed guidance documents is provided for each agency center individually in the specific center's list of guidance documents.

FOR FURTHER INFORMATION CONTACT: For general information regarding GGP's: Lisa M. Helmanis, Regulations Policy and Management Staff (HF–26), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3480.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of February 27, 1997 (62 FR 8961), FDA published a notice announcing its GGP's, which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents. The agency adopted the GGP's to ensure public involvement in the development of guidance documents and to enhance public understanding of the availability, nature, and legal effect of such guidance.

As part of FDA's effort to ensure meaningful interaction with the public regarding guidance documents, the agency committed to publish an annual comprehensive list of guidance documents and quarterly **Federal Register** notices that list all guidance documents that were issued and withdrawn during that quarter, including ''Level 2'' guidance documents. Because the agency has fallen behind in issuing its quarterly updates, this document covers guidance documents issued and withdrawn since the publication of the last quarterly list on January 6, 1999 (64 FR 888), and the annual comprehensive list on June 10, 1999 (64 FR 31228).

On June 1, 1998, the President instructed all Federal agencies to ensure the use of ''plain language'' in all new documents. As part of this initative, FDA is taking steps to ensure that the principles of ''plain language'' set forth by the President are being incorporated into its guidance documents. The agency invites public comment on the clarity of its guidances.

The following list of guidance documents represents all guidances issued or withdrawn by FDA since the compilation of the January 6, 1999, quarterly list and the June 10, 1999, annual comprehensive list and any guidance documents inadvertently not included on previously published lists. The guidance documents are organized by the issuing Center or Office within FDA, and are further grouped by the intended users or regulatory activities to which they pertain. Dates provided in the following list refer to the date of issuance or, where applicable, the date of last revision of the document. Document numbers are provided where available.

II. Guidance Documents Issued by the Center for Biologics Evaluation and Research (CBER)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Guidance for Industry: FDA Approval of New Cancer Treatment Uses for Marketed Drug and Biological Products	December 1998	FDA—Regulated Industry	Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 1–800–835–4709 or 301–827–1800, FAX Information System: 1–888–CBER–FAX (within the United States) or 301–827–3844 (outside of the United States and local to Rockville, MD). Internet access: http://www.fda.gov/cber
Draft Guidance for Industry: Product Name Placement, Size, and Prominence in Advertising and Promotional Labeling	January 1999	Do	Do
Guidance for Industry: Population Pharmacokinetics	February 1999	Do	Do
Guidance for Industry: Clinical Development Programs for Drugs, Devices, and Biological Products for the Treatment of Rheumatoid Arthritis (RA) February 1999	Do	Do	Do
Guidance for Industry: For the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Plasma-Derived Biological Products, Animal Plasma or Serum-Derived Products	February 1999	Do	Do
Draft Guidance for Industry: Formal Meetings With Sponsors and Applicants for PDUFA Products	February 1999	Do	Do

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Draft Guidance for Industry: Formal Dispute Resolution: Appeals Above the Division Level	February 1999	Do	Do
Draft Guidance for Industry: IND's for Phase 2 and 3 Studies of Drugs, Including Specified Therapeutic Biotechnology-Derived Products, Chemistry Manufacturing and Controls Content and Format	February 1999	Do	Do
Draft Guidance for Industry: Accelerated Approval Products—Submission of Promotional Materials	March 1999	Do	Do
Guidance for Industry: Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for a Biological In Vitro Diagnostic Product	March 1999	Do	Do
Update on Abbokinase (Urokinase)	March 16, 1999	Healthcare Providers	Do
Update on Abbokinase (Urokinase)	March 22, 1999	Do	Do
Guidance for Industry: Public Health Issues Posed by the Use of Nonhuman Primate Xenografts in Humans	April 1999	FDA—Regulated Industry	Do
Guidance for Industry on the Content and Format of Chemistry, Manufacturing and Controls Information and Establishment Description Information for an Allergenic Extract or Allergen Patch Test	April 1999	Do	Do
Guidance for Industry for the Submission of Chemistry, Manufacturing and Controls and Establishment Description Information for Human Blood and Blood Components Intended for Transfusion or for Further Manufacture and for the Completion of the Form FDA 356h ''Application to Market a New Drug, Biologic or an Antibiotic Drug for Human Use''	May 1999	Do	Do
Guidance for Industry for Platelet Testing and Evaluation of Platelet Substitute Products	May 1999	Do	Do
Guidance for Industry: Efficacy Studies to Support Marketing of Fibrin Sealant Products Manufactured for Commercial Use	May 1999	Do	Do
Dear Colleague Letter—Hypotension and Bedside Leukocyte Reduction Filters	May 5, 1999	Healthcare Providers	Do

III. Guidance Documents Issued by the Center for Devices and Radiological (CDRH)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Guidance for Industry on Preparing Notices of Availability of Investigational Medical Devices and for Recruiting Study Subjects	March 25, 1999	Office of Compliance (OC)	Division of Small Manufacturers Assistance, 1–800–638–2041 or 301–827–0111 or (FAX) Facts-on-Demand at 1–800–899–0381 or Internet at http://www.fda.gov/cdrh
Document for Special Controls for Erythropoietin Assay Premarket Notifications (510(k))	April 28, 1999	Office of Device Evaluation (ODE)/Division of Clinical Laboratories Devices (DCLD)	Do
In Vitro Diagnostic Fibrin Monomer Paracoagulation Test	April 27, 1999	Do	Do

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Recommended Clinical Study Design for Ventricular Tachycardia Ablation	May 7, 1999	ODE/Division of Cardiovascular, Respiratory, and Neurological Devices (DCRND)	Do
Guidance for the Preparation of a Premarket Notification Application for a Surgical Mesh	March 2, 1999	ODE/Division of General and Restorative Devices (DGRD)	Do
Guidance for the Submission of a Premarket Notification for a Dermabrasion Device	March 2, 1999	Do	Do
Accountability Analysis for Clinical Studies for Ophthalmic Devices	March 15, 1999	ODE/Division of Ophthalmic Device (DOD)	Do
Guidance on 510(k) Submissions for Keratoprostheses	March 31, 1999	Do	Do
The Mammography Quality Standards Act Final Regulations Compliance Guidance—Document 2 (Draft)	March 5, 1999	Office of Health of Industry Program (OHIP)/Division of Mammography Quality and Radiation Programs (DMQRP)	Do
Compliance Guidance: The Mammography Quality Standards Act Final Regulations Motion of Tube-Image Receptor Assembly	March 23, 1999	Do	Do
The Mammography Quality Standards Act Final Regulations Facility Survey and Medical Physicist Qualification Requirements	May 5, 1999	Do	Do
Guidance to Industry on the Testing of Metallic Plasma Sprayed Coatings on Orthopedic Implants to Support Reconsideration of Postmarket Surveillance Requirements (Draft)	February 23, 1999	Office of Surveillance and Biometrics (OSB)/Division of Postmarket Surveillance (DPS)	Do
MDR Reporting Guidance for Date-Related Problems Including Y2K	April 16, 1999	OSB/Division of Surveillance Systems (DSS)	Do
Variance From Manufacturer Report Number Format (Variance No. 5)	August 12, 1996	Do	Do
Immunotoxicity Testing Guidance	May 6, 1999	Office of Science and Technologies (OST)/Division of Life Sciences (DLS)	Do

Replacements

Guidance for Industry—Abbreviated 510(k) Submissions for In Vitro Diagnostic Calibrators (Replaces: In Vitro Diagnostic Calibrators)	February 22, 1999	ODE/DCLD	Do
Guidance for Spinal System 510(k)'s (Replaces: Draft Guideline for Reviewing Spinal Fixation Device Systems)	May 7, 1999	ODE/DGRD	Do
Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA (Replaces: In Vivo Devices for the Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE Draft Document)	May 12, 1999	ODE/Division of Reproductive, Abdominal, Ear, Nose, and Throat Devices Branch (DRAERD)	Do
Home Uterine Activity Monitors: Guidance for the Submission of 510(k) Premarket Notifications (Replaces: Premarket Testing Guidelines for Home Uterine Activity Monitors)	May 12, 1999	Do	Do
Compliance Guidance: The Mammography Quality Standards Act Final Regulation—Document 1 (Replaces: Compliance Guidance: The Mammography Quality Standards Act Final Regulation)	March 4, 1999	OHIP/DMQRP	Do

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Guidance for Request and Issuance of Interim Notice Letters for Mammography Facilities Under the Mammography Quality Standards Act (42 U.S.C. 263(b)) (Replaces: Guidance for Request and Issuance of Interim Notice Letters for Mammography Facilities Under the Mammography Quality Standards Act (42 U.S.C. 263(b))	May 4, 1999	Do	Do
Compliance Guidance: The Mammography Quality Standards Act Final Regulations—Preparing for MQSA Inspections (Replaces: ''What a Mammography Facility Should Do to Prepare for an MQSA Inspection'' and ''Addendum to What a Mammography Facility Should Do To Prepare for an MQSA Inspection''	May 5, 1999	Do	Do
Regulations of Medical Devices Background Information for International Officials (Replaces: Regulations of Medical Devices Background Information for Foreign Officials)	April 14, 1999	OHIP/Division of Small Manufacturers Assistance (DSMA)	Do

IV. Guidance Documents Issued by the Center for Drug Evaluation and Research (CDER)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Accelerated Approval Products—Submission of Promotional Materials	March 26, 1999	Advertising Draft	Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4573, or via the Internet at http://www.fda.gov/cder/guidance/index.htm
ANDA's: Impurities in Drug Products	January 5, 1999	Generic Drug Draft	Do
BACPAC 1: Intermediates In Drug Substance Synthesis (Bulk Actives Post-approval Changes: Chemistry, Manufacturing, and Controls Documentation)	November 30, 1998	Chemistry Draft	Do
Bioanalytical Methods Validations for Human Studies	January 5, 1999	Biopharmaceutic Draft	Do
Bioavailability and Bioequivalence Studies for Nasal Aerosols and Nasal Sprays for Local Action	June 1999	Do	Do
Clinical Development Programs for Drugs, Devices, and Biological Products for the Treatment of Rheumatoid Arthritis (RA)	February 17, 1999	Clinical Medical	Do
Content and Format of Geriatric Labeling	January 21, 1999	Labeling Draft	Do
Enforcement Policy During Implementation of Section 503A of the Federal Food, Drug, and Cosmetic Act	November 23, 1998	Procedural	Do
Establishing Pregnancy Registries	June 4, 1999	Clinical Medical Draft	Do
Evaluation of Human Pregnancy Outcome Data; Draft Guidance for Reviewers	June 4, 1999	Do	Do
Fast Track Drug Development Programs: Designation, Development, and Application Review	November 18, 1998	Procedural	Do
FDA Approval of New Cancer Treatment Uses for Marketed Drug and Biological Products	December 1998	Clinical Medical	Do

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Copy of the Document (Name and Address, Phone, FAX, E-mail, or Internet)
Formal Meetings With Sponsors and Applicants for PDUFA Products	March 19, 1999	Procedural Draft	Do
Formal Dispute Resolution: Appeals Above the Division Level	March 19, 1999	Do	Do
General Considerations for Pediatric Pharmacokinetic Studies for Drugs and Biological Products	November 30, 1998	Clinical Pharmacological Draft	Do
In Vivo Metabolism/Drug Interaction Studies—Study Design, Data Analysis, and Recommendations for Dosing and Labeling	November 19, 1998	Do	Do
IND's for Phase 2 and 3 Studies of Drugs, Including Specified Therapeutic Biotechnology-Derived Products; Chemistry, Manufacturing, and Controls Content and Format	April 20, 1999	Chemistry Draft	Do
Metered Dose Inhalers (MDI's) and Dry Powder Inhalers (DPI's) Drug Products; Chemistry, Manufacturing, and Controls Documentation	November 19, 1998	Do	Do
Nasal Spray and Inhalation Solution, Suspension, and Spray Drug Products	May 1999	Do	Do
NDA's: Impurities in Drug Substances	January 21, 1999	Do	Do
Noncontraceptive Estrogen Drug Products—Physician and Patient Labeling	January 8, 1999	Labeling Draft	Do
Organization of an ANDA	March 2, 1999	Generic Drug	Do
Population Pharmacokinetics	February 10, 1999	Clinical Pharmacology	Do
Product Name, Placement, Size, and Prominence in Advertising and Promotional Labeling	March 12, 1999	Advertising Draft	Do
Regulatory Submissions in Electronic Format; General Considerations	January 28, 1999	Electronic Submissions	Do
Regulatory Submissions in Electronic Format; New Drug Applications	January 28, 1999	Do	Do
Skin Irritation and Sensitization Testing of Generic Transdermal Drug Products	February 26, 1999	Generic Drug Draft	Do
SUPAC IR/MR: Immediate-Release and Modified-Release Solid Oral Dosage Forms; Manufacturing Equipment Addendum	February 26, 1999	Chemistry	Do
SUPAC—SS: Nonsterile Semisolid Dosage Forms	January 5, 1999	Chemistry Draft	Do
Therapeutic Equivalence Code Placement on Prescription Drug Labels and Labeling	January 28, 1999	Labeling Draft	Do
Variations in Drug Products that May Be Included in a Single ANDA	January 27, 1999	Generic Drug	Do
Waiver of In Vivo Bioavailability and Bioequivalence Studies for Immediate-Release Solid Oral Dosage Forms Containing Certain Active Moieties/Active Ingredients Based on a Biopharmaceutics Classification System	February 17, 1999	Biopharmaceutic Draft	Do
Withdrawn			
Archiving Submissions in Electronic Format—NDA's	September 23, 1997		
Clinical Evaluation of Drugs to Prevent, Control and/or Treat Periodontal Disease	November 1, 1978		
Content and Format of Investigational New Drug Applications (IND's) for Phases 2 and 3 Studies of Drugs, Including Specific Therapeutic Biotechnology-Derived Products; Preliminary Draft	December 10, 1997		
Providing Regulatory Submissions in Electronic Format—NDA's	April 6, 1998		

V. Guidance Documents Issued by the Center for Food Safety and Applied Nutrition (CFSAN)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How To Obtain A Hard Copy of The Document (Name and Address, Phone, Fax, E-Mail or Internet)
Withdrawn			
Preparing Environmental Assessments: General Suggestions	August 1990		
Step-by-Step Guidance for Preparing Environmental Assessments	March 1987		
Partial List of Enzyme Preparations That are Used in Foods	1998		
Partial List of Microorganisms and Microbial-Derived Ingredients That Are Used in Food	1998		
FDA Nutrition Labeling Guide for Using Data Bases NOTE: ONLY DELETE THE 1993 VERSION	1993		
New Guidances			
Sanitizing Solutions: Chemistry Guidelines for Food Additive Petitions NOTE: REISSUED DUE TO QUALITY FOOD PROTECTION ACT JURISDICTION OVER FOOD CONTACT SUBSTANCES FOR A MORE LIMITED PURPOSE	1993	Petitioners for Food Contact Applications	Office of Premarket Approval (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3100, or via the Internet at http://vm.cfsan.fda.gov/~dms/opa-cg3a.html
Statement of Identity Nutrition Labeling and Ingredient Labeling of Dietary Supplements; Small Entity Compliance Guide	January 4, 1999	Dietary Supplement Manufacturers	Industry Activities Staff (HFS–565), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5251
Corrections			
Statement of Policy: Foods Derived From New Plant Varieties: Notice	May 29, 1992	Developers of New Plant Food Varieties	Office of Premarket Approval (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW. , Washington, DC 20204, 202–418–3100
Guidance for Submitting Requests under 21 CFR 170.39, Threshold of Regulation for Substances Used in Food Articles	1996	Food Packaging Industry	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-gg2.html
Guidelines for the Preparation of Petition Submissions	1996	Food Ingredient or Packaging Industry	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-prep.html
Guidelines for Approval of Color Additives in Contact Lenses Intended as Colors	1996	Color or Contact Lens Industry	Do
FDA Recommendations for Submission of Chemical and Technological Data on Color Additives for Food, Drugs, or Cosmetics Use	February 1993	Color Additives Industry	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-col1.html
Points to Consider for the Use of Recycled Plastics in Food Packaging: Chemistry Considerations	December 1992	Food Packaging Industry	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-cg3.html
Recommendations for Submission of Chemical and Technological Data for Direct Food Additive and GRAS Food Ingredient Petitions	May 1993	Do	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-cg4.html
Recommendations for Chemistry Data for Indirect Food Additive Petitions	June 1995	Do	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-cg5.html
Enzyme Preparations: Chemistry Recommendations for Food Additive and GRAS Affirmation Petitions	January 1993	Food Enzyme Industry	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-cg7.html
Estimating Exposure to Direct Food Additive and Chemical Contaminants in the Diet	September 1995	Food and Food Ingredient Industry	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-cg8.html

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How To Obtain A Hard Copy of The Document (Name and Address, Phone, Fax, E-Mail or Internet)
Toxicological Principles for the Safety Assessment of Direct Food Additives and Color Additives Used in Food (also known as Redbook I)	1982	Petitioners for Food or Color Additives	National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, Publication No. PR–83–170696
Environmental Assessment Technical Handbook	March 1987	Do	Do—Publication No. PB87175345–AS, A–01
Environmental Assessment of Food-Packaging Materials With Enhanced Degradation Characteristics	February 1994	Do	Office of Premarket Approval (HFS–200), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3100
Color Additive Petitions Information and Guidance	1996	Do	Do
Toxological Testing of Food Additives (Updated 1997)	1983	Do	Do—Internet at http://vm.cfsan.fda.gov/~dms/opa-tg1.html
FDA's Policy for Foods Developed by Biotechnology	1995	Food Industry	Internet at http://vm.cfsan.fda.gov
Food Additive Petition Expedited Review	January 1999	Guidance for Industry and CFSAN	Robert L. Martin, Office of Premarket Approval (HFS–215), 200 C St. SW., Washington, DC 20204, 202–418–3074, or e-mail premarkt@cfsan.fda.gov, or via the Internet at http://vm.cfsan.fda.gov/~dms/opa-expe.html
Use of Antibiotic Resistance Marker Genes in Transgenic Plants	September 1998	Do	Nega Beru, Office of Premarket Approval (HFS–206), 200 C St. SW., Washington, DC 20204, 202–418–3097, or e-mail premarkt@cfsan.fda.gov or via the Internet at http://vm.cfsan.fda.gov/~dms/opa-armg.html

VI. Guidance Documents Issued by the Center for Veterinary Medicine (CVM)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Evaluation of the Human Health Impact of the Microbial Effects of Antimicrobial New Animal Drugs Intended for Use in Food-Producing Animals	January 1999	Animal Drug Industry	Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1755, FAX 301–594–1831 or via the Internet at http://www.fda.gov/cvm
Guidance for Industry: Submitting a Notice of Claimed Investigational Exemption in Electronic Format to CVM via E-mail	January 1999 (Revised)	Do	Do
Draft Guidance for Industry: Product Name Placement, Size, and Prominence in Advertising and Promotional Labeling	March 1999	Do	Do
Guidance for Industry: FDA Approval of New Animal Drugs for Minor Uses and for Minor Species	April 1999 (Revised)	Do	Do

VII. Guidance Documents Issued by the Office of Regulatory Affairs (ORA)

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Compliance Policy Guide, Chapter 1, Sec. 160.850: NEW, Enforcement Policy: 21 CFR Part 11; Electronic Records; Electronic Signatures (CPG 7153.17)	May 13, 1999	FDA Personnel	Division of Compliance Policy (HFC–230), Office of Enforcement, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0420 or via the Internet at http://www.fda.gov/ora/compliance__ ref/cpg/cpggenl/cpg160–180.htm
Compliance Policy Guide, Chapter 1, Sec. 160.800, NEW: Year 2000 (Y2K) Computer Compliance	April 26, 1999	Do	Do—Internet at http://www.fda.gov/ ora/compliance__ref/cpg/cpggenl/cpg160–800/html
Compliance Policy Guide, Chapter 5, Sec. 555.425, NEW: Foods—Adulteration Involving Hard or Sharp Foreign Objects	March 23, 1999	Do	Do—Internet at http://www.fda.gov/ ora/compliance__ref/cpg/cpgfod/cpg555–425.htm
Compliance Policy Guide, Chapter 1, Sec.140.100, REVISION/DRAFT: Regulatory Policy on the Disposition of Publications that Constitute Labeling (CPG 7153.13)	April 26, 1999	Do	Do—Internet at http://www.fda.gov/ ora/compliance__ref/cpg/cpgfod/draftrev-cpg715313.htm
Compliance Policy Guide, Chapter 2, Sec. 230.140, NEW, Evaluation and Processing of Post Donation Information Reports	July 9, 1999	Do	Do—Internet at http://www.fda.gov/ora/compliance__ref/default.htm
Computerized Systems Used in Clinical Trials	April 1999	FDA—Regulated Industry	Do—Internet at http://www.fda.gov/ora/compliance__ref/bimo/ffinalcct.htm
Draft Guidance Policy Statement: Draft Civil Money Penalty Reduction Policy for Small Entities	May 18, 1999	FDA Personnel and Regulated Industry	Do—Internet at http://www.fda.gov/ohrms/Dockets/98fr/051899f.txt
Medical Device Warning Letter Pilot	March 8, 1999	Do	Do—Internet at http://www.fda.gov/ohrms/Dockets/98fr/030899e.pdf
Guidelines for Entry Review of Radiation-Emitting Electronic Devices	March 12, 1999	FDA Personnel	Division of Import Operations and Policy (HFC–170), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–1218
Import Alerts	Continuously	Do	Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or via the Internet at http://www.fda.gov/ora/fiars/ora__import—alerts.html
Inspectional Policy Regarding Y2K Issues	February 11, 1999 (Revised March 29, 1999)	Do	Division of Emergency and Investigational Operations (HFC–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5645
Laboratory Procedures Manual, NEW Chapter X, Method Validation Samples	May 1999	Do	Division of Field Science (HFC–140), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7605
Investigations Operations Manual, Chapter 5, Subchapter 520, Section 523.2, REVISION, Photo/Video Identification and Submission	June 1999	Do	Division of Emergency Operations (HFC–130), Office of Regional Operations, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5636 or via the Internet at http://fda.gov/ora/inspect__ref/iom/IOMCoverPg.html
Guide to International Inspections and Travel, REVISION (Formerly: FDA/ORA International Inspection Manual and Travel Guide)	July 1999	Do	Do—Updated version not yet available on Internet
Withdrawn			
Compliance Policy Guide, Chapter 2, Sec. 205.100, Standards and Minimum Requirements for Biologic Products (CPG 7134.03)	December 21, 1998		
Compliance Policy Guide, Chapter 3, Sec. 300.200, Reconditioners/Rebuilders of Medical Devices (CPG 7124.28),	January 4, 1999		

Name of Document	Date of Issuance	Grouped by Intended User or Regulatory Activity	How to Obtain a Hard Copy of the Document (Name and Address, Phone, FAX, E-mail or Internet)
Compliance Policy Guide, Chapter 2, Sec. 210.100, Licensing—Changes To Be Reported to the Office of Biologics (CPG 7134.05)	April 26, 1999		
Compliance Policy Guide, Chapter 4, Sec. 460.200, Manufacture, Distribution, and Promotion of Adulterated, Misbranded, or Unapproved New Drugs for Human Use by State-Licensed Pharmacies (CPG 7132.16)	January 8, 1999		

Dated: July 27, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–19978 Filed 8–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2171]

Medical Devices; Draft Guidance for the Accountability Analysis for Clinical Studies for Ophthalmic Devices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled, ''Accountability Analysis for Clinical Studies for Ophthalmic Devices.'' This guidance is intended to provide general information about the analysis of accountability of subjects in clinical studies in ophthalmic device investigational device exemption applications and marketing applications and notifications. By providing a reference point for the reporting of accountability information, FDA hopes that terminology and methods of presentation can be standardized so that the agency and sponsors can more effectively analyze these data. This guidance is not final nor is it in effect at this time.

DATES: Written comments concerning this guidance must be submitted by November 2, 1999.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for single copies on a 3.5'' diskette of the guidance document entitled ''Accountability Analysis for Clinical Studies for Ophthalmic Devices'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send one self-addressed adhesive label to assist the office in processing your request, or fax your request to 301–443–8818. Submit written comments on the document to the Dockets Management Branch, (HFA–305), Food and Drug Administration, rm 1061, 5630 Fishers Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Donna R. Lochner, Center for Devices and Radiological Health (HFZ–463), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2053.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled ''Accountability Analysis for Clinical Studies for Ophthalmic Devices.'' This guidance document provides background information that FDA and the sponsor can use in preparing accountability analyses for subjects enrolled in clinical studies of ophthalmic devices. It provides definitions of common terminology used in describing accountability, considerations for presentation of a ''lost to follow-up''analysis, and sample formats for presentation of accountability. FDA has noted that there is often a misunderstanding in the meaning of certain terms used to describe accountability, which can confuse the presentation of the accountability data. Further, sponsors have frequently requested that FDA provide them with sample formats for presentation of accountability data. This guidance document attempts to provide some clarity in these areas.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the accountability analysis for ophthalmic devices. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted good guidance practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive the draft guidance entitled ''Accountability Analysis for Clinical Studies for Ophthalmic Devices'' via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (1350) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the World Wide Web for easy access to information including text, graphics, and files that may be downloaded to a PC with access to the Web. Updated on a regular basis, the CDRH home page includes the draft guidance entitled ''Accountability Analysis for Clinical Studies for Ophthalmic Devices,'' device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information.

The CDRH home page may be accessed at ''http://www.fda.gov/cdrh''.

IV. Comments

Interested persons may, on or before November 2, 1999, submit to Dockets Management Branch (address above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Comments should be identified with the docket number found in brackets in the heading of this document.

Dated: July 20, 1999

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–19976 Filed 8–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0017]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH); Guidance on Validation of Analytical Procedures: Methodology; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry entitled ''Validation of Analytical Procedures: Methodology.'' This guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from an identically titled guidance adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) and published in the **Federal Register**. The guidance provides recommendations on how to consider various validation characteristics for each analytical procedure included as part of registration applications for approval of veterinary medicinal products submitted to the European Union, Japan, and the United States.

DATES: Submit written comments at any time.

ADDRESSES: Copies of the final guidance document entitled ''Validation of Analytical Procedures: Methodology'' may be obtained on the Internet from the CVM home page at ''http://www.fda.gov/cvm/fda/TOCs/guideline.html''. Persons without Internet access may submit written requests for single copies of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the final guidance document to the Policy and Regulations Team (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT:

Regarding this guidance: William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6966, e-mail ''wmarnane@cvm.fda.gov''.

Regarding VICH: Sharon R. Thompson, Center for Veterinary Medicine (HFV–3), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1798, e-mail ''sthompso@cvm.fda.gov''.

SUPPLEMENTARY INFORMATION: In recent years, many important initiatives have been undertaken by regulatory authorities, industry associations, and individual sponsors to promote the international harmonization of regulatory requirements. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seeking scientifically based harmonized technical procedures for the development of pharmaceutical products. One of the goals of harmonization is to identify and reduce the differences in technical requirements for drug development among regulatory agencies.

FDA has actively participated in the ICH for several years to develop harmonized technical requirements for the approval of human pharmaceutical products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary pharmaceutical products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary pharmaceutical products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH meetings are held under the auspices of the Office International des Épizooties (OIE). During the initial phase of the VICH, an OIE representative chairs the VICH Steering Committee. The VICH Steering Committee is composed of member representatives from the European Commission; the European Medicines Evaluation Agency; the European Federation of Animal Health; the U.S. FDA; the U.S. Department of Agriculture; the Animal Health Institute; the Japanese Veterinary Pharmaceutical Association; and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Four observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/New Zealand, one representative from industry in Australia/New Zealand, one representative from MERCOSUR (Argentina, Brazil, Uruguay, and Paraguay), and one representative from Federacion Latino-Americana de la Industria para la Salud Animal. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

This guidance has been adapted for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH) from an identically titled guidance adopted by the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH) and published in the **Federal Register** of May 19, 1997 (62 FR 27464).

In the **Federal Register** of January 27, 1998 (63 FR 3907), FDA published this guidance in draft form, giving interested persons until March 30, 1998, to submit comments. After consideration of comments received, a final draft guidance was submitted to the VICH Steering Committee.

At a meeting held on October 20 through 22, 1998, the VICH Steering Committee endorsed the draft guidance for industry entitled ''Validation of Analytical Procedures: Methodology.'' This guidance discusses common analytical procedures and provides guidance and recommendations on how to consider the various validation characteristics for each analytical procedure included as part of a registration application for approval of veterinary medicinal products. It also indicated the various data that should

be included in registration applications. This guidance will be implemented in October 1999.

This guidance represents the agency's current thinking on characteristics for consideration during the validation of the analytical procedures included as part of applications. It does not create or confer any rights for or on any person and will not operate to bind FDA or the public. An alternate approach may be used if it satisfies the requirements of applicable statutes, regulations, or both.

As with all of FDA's guidance, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. The comments in the docket will be periodically reviewed and, where appropriate, the guidance will be amended. The public will be notified of any such amendments through a notice in the **Federal Register**.

Dated: July 28, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–19977 Filed 8–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1054–N]

RIN 0938–AJ62

Medicare Program; Hospice Wage Index

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the annual update to the hospice wage index as required by statute. This update is effective October 1, 1999. The wage index is used to reflect local differences in wage levels. The hospice wage index methodology and values are based on recommendations of a negotiated rulemaking advisory committee and were originally published in the **Federal Register** on August 8, 1997. This update is the third year of a 3-year transition period. The third transition year begins October 1, 1999 and ends September 30, 2000.

EFFECTIVE DATE: This notice is effective on October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Carol Blackford, (410) 786–5909

SUPPLEMENTARY INFORMATION:

I. Background

A. Statute and Regulations

Hospice Care is an approach to treatment that recognizes that the impending death of an individual warrants a change in the focus from curative care to palliative care (relief of pain and other uncomfortable symptoms). The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, social, psychological, emotional, and spiritual services through use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling and respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 1861(dd) of the Social Security Act (the Act) provides for coverage of hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. The statutory authority for payment to hospices participating in the Medicare program is contained in section 1814(i) of the Act.

Our regulations at 42 CFR part 418 (issued on December 16, 1983, effective for hospice services furnished on or after November 1, 1983) established eligibility requirements and payment standards and procedures, defined covered services, and delineated the conditions a hospice must meet to be approved for participation in the Medicare program. Subpart G of part 418 provides for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of a hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Payment rates are established for each category.

Section 4442 of the Balanced Budget Act of 1997, Public Law 105–C3, amended section 1814 (i)(2) of the Act to require payment for routine and continuous home care to be made based on the geographic location at which the service is furnished. The site of service provision was effective October 1, 1997 and was implemented through a Program Memorandum (transmittal A–97–11) issued in September of 1997.

Section 418.306(c), that requires the rates to be adjusted by a wage index, was revised on August 8, 1997, through publication of a final rule in the **Federal Register** (62 FR 42860). This rule implemented a new methodology for calculating the hospice wage index that was based on the recommendations of a negotiated rulemaking committee. The committee reached consensus on a methodology and the resulting committee statement, describing that consensus, was included as an attachment to the August 8, 1997 hospice wage index final rule. The provisions of the final hospice wage index rule are as follows:

- The revised hospice wage index will be phased in over a 3-year transition period. For the first year of the transition period, a blended index was calculated by adding two-thirds of the 1983 index value for an area to one-third of the revised wage index value for that area. During the second year of the transition period, the calculation was similar, except that the blend was one-third of the 1983 index value and two-thirds of the revised wage index value for that area. During the third transition year, the revised wage index will be fully implemented. The first transition year occurred October 1, 1997 through September 30, 1998. The second transition year occurred October 1, 1998 through September 30, 1999.
- All hospice wage index values of 0.8 or greater are subject to a budget neutrality adjustment to ensure that Medicare does not pay any more in the aggregate than it would have paid with the previous wage index. The budget neutrality adjustment is calculated by multiplying the hospice wage index for a given area by the budget neutrality adjustment factor. The budget neutrality adjustment is to be applied annually, both during and after the transition period.
- All hospice wage index values below 0.8 receive the greater of the following adjustments—the wage index floor, a 15 percent increase, subject to a maximum wage index value of 0.8; or, the budget neutrality adjustment.
- The wage index is to be updated annually, in the **Federal Register**, based on the most current available hospital wage data.

B. Update to the Hospice Wage Index

The third year of the 3-year transition period begins October 1, 1999 and ends September 30, 2000. In accordance with the agreement signed by members of the Hospice Wage Index Negotiated Rulemaking Committee, we are using 1998 hospital area wage index data, including any changes to the definitions of Metropolitan Statistical Areas

(MSAs), that allow us to publish this notice at least 4 months in advance of the October 1, 1999 effective date.

Additionally, the wage index value for hospices in counties that are no longer in the same MSA as they were in 1983 will no longer be blended with the wage index for the original MSA designation. These hospices will receive the full wage index for their current MSA designation. All wage index values are adjusted by a budget neutrality factor of 1.065982 and are subject to the wage index floor adjustment, if applicable. All of the calculations described above have been completed by us and are built into the wage index values reflected in both Tables A and B below. A detailed description of the method used to compute the hospice wage index is contained in both the September 4, 1996 (61 FR 46579) hospice wage index proposed rule and the August 8, 1997 (62 FR 42860) hospice wage index final rule.

Because the hospice wage index is calculated using the pre-reclassified hospital wage index, it is important to note that the method for calculating the Puerto Rico hospital wage index was changed with the publication of the Hospital Inpatient Prospective Payment System (PPS) and Fiscal Year 1998 Rates final rule in August 29, 1997 (62 FR 45984 and 45986). The Puerto Rico hospital wage index is calculated in the same manner as the national wage index, but is based solely on Puerto Rico's wage data. As explained in the PPS final rule, the total adjusted salaries are added to fringe benefits for all hospitals in Puerto Rico and then divided by the sum by the total hours for Puerto Rico to arrive at an overall average hourly wage. For each labor market area in Puerto Rico, the hospital wage index is calculated by dividing the area average hourly wage by the overall Puerto Rico average hourly wage.

C. Tables

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
0040 ...	*Abilene, TX*	0.8508
	Taylor, TX	
0060 ...	*Aguadilla, PR*	0.5436
	Aguada, PR	
	Aguadilla, PR	
	Moca, PR	
0080 ...	*Akron, OH*	1.0553
	Portage, OH	
	Summit, OH	
0120 ...	*Albany, GA*	0.8501
	Dougherty, GA	
	Lee, GA	
0160 ...	*Albany-Schenectady-Troy, NY*	0.9178
	Albany, NY	
	Montgomery, NY	
	Rensselaer, NY	
	Saratoga, NY	
	Schenectady, NY	
	Schoharie, NY	
0200 ...	*Albuquerque, NM*	0.9181
	Bernalillo, NM	
	Sandoval, NM	
	Valencia, NM	
0220 ...	*Alexandria, LA*	0.9089
	Rapides, LA	
0240 ...	*Allentown-Bethlehem-Easton, PA*	1.0877
	Carbon, PA	
	Lehigh, PA	
	Northampton, PA	
0280 ...	*Altoona, PA*	0.9951
	Blair, PA	
0320 ...	*Amarillo, TX*	0.9033
	Potter, TX	
	Randall, TX	
0380 ...	*Anchorage, AK*	1.3664
	Anchorage, AK	
0440 ...	*Ann Arbor, MI*	1.1761
	Lenawee, MI	
	Livingston, MI	
	Washtenaw, MI	
0450 ...	*Anniston, AL*	0.9229
	Calhoun, AL	
0460 ...	*Appleton-Oshkosh-Neenah, WI*	0.9407
	Calumet, WI	
	Outagamie, WI	
	Winnebago, WI	
0470 ...	*Arecibo, PR*	0.5597
	Arecibo, PR	
	Camuy, PR	
	Hatillo, PR	
0480 ...	*Asheville, NC*	0.9530
	Buncombe, NC	
	Madison, NC	
0500 ...	*Athens, GA*	0.9245
	Clarke, GA	
	Madison, GA	
	Oconee, GA	
0520	*Atlanta, GA*	1.0569
	Barrow, GA	
	Bartow, GA	
	Carroll, GA	
	Cherokee, GA	
	Clayton, GA	
	Cobb, GA	
	Coweta, GA	
	DeKalb, GA	
	Douglas, GA	
	Fayette, GA	
	Forsyth, GA	
	Fulton, GA	
	Gwinnett, GA	
	Henry, GA	
	Newton, GA	
	Paulding, GA	
	Pickens, GA	
	Rockdale, GA	
	Spalding, GA	
	Walton, GA	
0560 ...	*Atlantic-Cape May, NJ*	1.2297
	Atlantic, NJ	
	Cape May, NJ	
0600 ...	*Augusta-Aiken, GA–SC.*	0.9842
	Columbia, GA	
	McDuffie, GA	
	Richmond, GA	
	Aiken, SC	
	Edgefield, SC	
0640 ...	*Austin-San Marcos, TX*	0.9361
	Bastrop, TX	
	Caldwell, TX	
	Hays, TX	
	Travis, TX	
	Williamson, TX	
0680 ...	*Bakersfield, CA*	1.0160
	Kern, CA	
0720 ...	*Baltimore, MD*	1.0278
	Anne Arundel, MD	
	Baltimore, MD	
	Baltimore City, MD	
	Carroll, MD	
	Harford, MD	
	Howard, MD	
	Queen Anne's, MD	
0733 ...	*Bangor, ME*	1.0099
	Penobscot, ME	
0743 ...	*Barnstable-Yarmouth, MA*	1.6397
	Barnstable, MA	
0760 ...	*Baton Rouge, LA*	0.9457
	Ascension, LA	
	East Baton Rouge, LA	
	Livingston, LA	
	West Baton Rouge, LA	
0840 ...	*Beaumont-Port Arthur, TX*	0.9230
	Hardin, TX	
	Jefferson, TX	
	Orange, TX	
0860 ...	*Bellingham, WA* ...	1.2188
	Whatcom, WA	
0870 ...	*Benton Harbor, MI*	0.9094
	Berrien, MI	
0875 ...	*Bergen-Passaic, NJ.*	1.2990
	Bergen, NJ	
	Passaic, NJ	
0880 ...	*Billings, MT*	0.9746
	Yellowstone, MT	
0920 ...	*Biloxi-Gulfport-Pascagoula, MS*	0.8822
	Hancock, MS	
	Harrison, MS	
	Jackson, MS	
0960 ...	*Binghamton, NY* ...	0.9657
	Broome, NY	
	Tioga, NY	
1000 ...	*Birmingham, AL* ...	0.9672
	Blount, AL	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Jefferson, AL	
	St. Clair, AL	
	Shelby, AL	
1010 ...	*Bismarck, ND*	0.8555
	Burleigh, ND	
	Morton, ND	
1020 ...	*Bloomington, IN*	0.9557
	Monroe, IN	
1040 ...	*Bloomington-Normal, IL*	0.9435
	McLean, IL	
1080 ...	*Boise City, ID*	0.9764
	Ada, ID	
	Canyon, ID	
1123 ...	*Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH*	1.2013
	Bristol, MA	
	Essex, MA	
	Middlesex, MA	
	Norfolk, MA	
	Plymouth, MA	
	Suffolk, MA	
	Worcester, MA	
	Hillsborough, NH	
	Merrimack, NH	
	Rockingham, NH	
	Strafford, NH	
1125 ...	*Boulder-Longmont, CO*	1.0700
	Boulder, CO	
1145 ...	*Brazoria, TX*	0.9494
	Brazoria, TX	
1150 ...	*Bremerton, WA*	1.1784
	Kitsap, WA	
1240 ...	*Brownsville-Harlingen-San Benito, TX*	0.8780
	Cameron, TX	
1260 ...	*Bryan-College Station, TX*	0.8336
	Brazos, TX	
1280 ...	*Buffalo-Niagara Falls, NY*	1.0220
	Erie, NY	
	Niagara, NY	
1303 ...	*Burlington, VT*	1.0209
	Chittenden, VT	
	Franklin, VT	
	Grand Isle, VT	
1310 ...	*Caguas, PR*	0.5060
	Caguas, PR	
	Cayey, PR	
	Cidra, PR	
	Gurabo, PR	
	San Lorenzo, PR	
1320 ...	*Canton-Massillon, OH*	0.9394
	Carroll, OH	
	Stark, OH	
1350 ...	*Casper, WY*	0.9275
	Natrona, WY	
1360 ...	*Cedar Rapids, IA*	0.9396
	Linn, IA	
1400 ...	*Champaign-Urbana, IL*	0.9299
	Champaign, IL	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
1440 ...	*Charleston-North Charleston, SC*	0.9715
	Berkeley, SC	
	Charleston, SC	
	Dorchester, SC	
1480 ...	*Charleston, WV*	0.9583
	Kanawha, WV	
	Putnam, WV	
1520 ...	*Charlotte-Gastonia-Rock Hill, NC–SC*	1.0325
	Cabarrus, NC	
	Gaston, NC	
	Lincoln, NC	
	Mecklenburg, NC	
	Rowan, NC	
	Stanly, NC	
	Union, NC	
	York, SC	
1540 ...	*Charlottesville, VA*	1.0950
	Albemarle, VA	
	Charlottesville City, VA	
	Fluvanna, VA	
	Greene, VA	
1560 ...	*Chattanooga, TN–GA*	0.9673
	Catoosa, GA	
	Dade, GA	
	Walker, GA	
	Hamilton, TN	
	Marion, TN	
1580 ...	*Cheyenne, WY*	0.8687
	Laramie, WY	
1600 ...	*Chicago, IL*	1.1151
	Cook, IL	
	DeKalb, IL	
	Du Page, IL	
	Grundy, IL	
	Kane, IL	
	Kendall, IL	
	Lake, IL	
	McHenry, IL	
	Will, IL	
1620 ...	*Chico-Paradise, CA*	1.0814
	Butte, CA	
1640 ...	*Cincinnati, OH–KY–IN*	1.0228
	Brown, OH	
	Clermont, OH	
	Hamilton, OH	
	Warren, OH	
	Boone, KY	
	Campbell, KY	
	Gallatin, KY	
	Grant, KY	
	Kenton, KY	
	Pendleton, KY	
	Dearborn, IN	
	Ohio, IN	
1660 ...	*Clarksville-Hopkinsville, TN–KY*	0.8570
	Christian, KY	
	Montgomery, TN	
1680 ...	*Cleveland-Lorain-Elyria, OH*	1.0538
	Ashtabula, OH	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Cuyahoga, OH	
	Geauga, OH	
	Lake, OH	
	Lorain, OH	
	Medina, OH	
1720 ...	*Colorado Springs, CO*	1.0010
	El Paso, CO	
1740 ...	*Columbia, MO*	0.9532
	Boone, MO	
1760 ...	*Columbia, SC*	0.9903
	Lexington, SC	
	Richland, SC	
1800 ...	*Columbus, GA–AL*	0.9073
	Chattahochee, GA	
	Harris, GA	
	Muscogee, GA	
	Russell, AL	
1840 ...	*Columbus, OH*	1.0426
	Delaware, OH	
	Fairfield, OH	
	Franklin, OH	
	Licking, OH	
	Madison, OH	
	Pickaway, OH	
1880 ...	*Corpus Christi, TX*	0.9075
	Nueces, TX	
	San Patricio, TX	
1900 ...	*Cumberland, MD–WV*	0.8786
	Allegany, MD	
	Mineral, WV	
1920 ...	*Dallas, TX*	0.9987
	Collin, TX	
	Dallas, TX	
	Denton, TX	
	Ellis, TX	
	Henderson, TX	
	Hunt, TX	
	Kaufman, TX	
	Rockwall, TX	
1950 ...	*Danville, VA*	0.9641
	Danville City, VA	
	Pittsylvania, VA	
1960 ...	*Davenport-Moline-Rock Island, IA–IL*	0.8968
	Scott, IA	
	Henry, IL	
	Rock Island, IL	
2000 ...	*Dayton-Springfield, OH*	1.0239
	Clark, OH	
	Greene, OH	
	Miami, OH	
	Montgomery, OH	
2020 ...	*Daytona Beach, FL*	0.9737
	Flagler, FL	
	Volusia, FL	
2030 ...	*Decatur, AL*	0.8776
	Lawrence, AL	
	Morgan, AL	
2040 ...	*Decatur, IL*	0.8565
	Macon, IL	
2080 ...	*Denver, CO*	1.1013
	Adams, CO	
	Arapahoe, CO	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Denver, CO	
	Douglas, CO	
	Jefferson, CO	
2120 ...	*Des Moines, IA*	0.9005
	Dallas, IA	
	Polk, IA	
	Warren, IA	
2160 ...	*Detroit, MI*	1.1240
	Lapeer, MI	
	Macomb, MI	
	Monroe, MI	
	Oakland, MI	
	St. Clair, MI	
	Wayne, MI	
2180 ...	*Dothan, AL*	0.8413
	Dale, AL	
	Houston, AL	
2190 ...	*Dover, DE*	0.9981
	Kent, DE	
2200 ...	*Dubuque, IA*	0.8765
	Dubuque, IA	
2240 ...	*Duluth-Superior, MN–WI*	1.0619
	St. Louis, MN	
	Douglas, WI	
2281 ...	*Dutchess County, NY*	1.1225
	Dutchess, NY	
2290 ...	*Eau Claire, WI*	0.9139
	Chippewa, WI	
	Eau Claire, WI	
2320 ...	*El Paso, TX*	0.9823
	El Paso, TX	
2330 ...	*Elkhart-Goshen, IN*	0.9919
	Elkhart, IN	
2335 ...	*Elmira, NY*	0.8997
	Chemung, NY	
2340 ...	*Enid, OK*	0.8510
	Garfield, OK	
2360 ...	*Erie, PA*	0.9883
	Erie, PA	
2400 ...	*Eugene-Springfield, OR*	1.1932
	Lane, OR	
2440 ...	*Evansville-Henderson, IN–KY*	0.9091
	Posey, IN	
	Vanderburgh, IN	
	Warrick, IN	
	Henderson, KY	
2520 ...	*Fargo-Moorhead, ND–MN*	1.0148
	Clay, MN	
	Cass, ND	
2560 ...	*Fayetteville, NC*	0.8943
	Cumberland, NC	
2580 ...	*Fayetteville-Springdale-Rogers, AR.*	0.9182
	Benton, AR	
	Washington, AR	
2620 ...	*Flagstaff, AZ–UT* ..	1.0109
	Coconino, AZ	
	Kane, UT	
2640 ...	*Flint, MI*	1.1759
	Genesee, MI	
2650 ...	*Florence, AL*	0.8182
	Colbert, AL	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Lauderdale, AL	
2655 ...	*Florence, SC*	0.9062
	Florence, SC	
2670 ...	*Fort Collins-Loveland, CO*	1.1481
	Larimer, CO	
2680 ...	*Ft. Lauderdale, FL*	1.0454
	Broward, FL	
2700 ...	*Fort Myers-Cape Coral, FL*	0.9532
	Lee, FL	
2710 ...	*Fort Pierce-Port St. Lucie, FL*	1.0917
	Martin, FL	
	St. Lucie, FL	
2720 ...	*Fort Smith, AR–OK*	0.8126
	Crawford, AR	
	Sebastian, AR	
	Sequoyah, OK	
2750 ...	*Fort Walton Beach, FL*	0.9183
	Okaloosa, FL	
2760 ...	*Fort Wayne, IN*	0.9644
	Adams, IN	
	Allen, IN	
	De Kalb, IN	
	Huntington, IN	
	Wells, IN	
	Whitley, IN	
2800 ...	*Fort Worth-Arlington, TX*	1.0360
	Hood, TX	
	Johnson, TX	
	Parker, TX	
	Tarrant, TX	
2840 ...	*Fresno, CA*	1.1406
	Fresno, CA	
	Madera, CA	
2880 ...	*Gadsden, AL*	0.9358
	Etowah, AL	
2900 ...	*Gainesville, FL*	1.0077
	Alachua, FL	
2920 ...	*Galveston-Texas City, TX*	1.1613
	Galveston, TX	
2960 ...	*Gary, IN*	1.0058
	Lake, IN	
	Porter, IN	
2975 ...	*Glens Falls, NY*	0.9050
	Warren, NY	
	Washington, NY	
2980 ...	*Goldsboro, NC*	0.9093
	Wayne, NC	
2985 ...	*Grand Forks, ND-MN*	0.9419
	Grand Forks, ND	
	Polk, MN	
2995 ...	*Grand Junction, CO*	0.8825
	Mesa, CO	
3000 ...	*Grand Rapids-Muskegon-Holland, MI*	1.0629
	Allegan, MI	
	Kent, MI	
	Muskegon, MI	
	Ottawa, MI	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
3040 ...	*Great Falls, MT*	0.9457
	Cascade, MT	
3060 ...	*Greeley, CO*	1.0081
	Weld, CO	
3080 ...	*Green Bay, WI*	0.9760
	Brown, WI	
3120 ...	*Greensboro-Winston-Salem-High Point, NC*	1.0177
	Alamance, NC	
	Davidson, NC	
	Davie, NC	
	Forsyth, NC	
	Guilford, NC	
	Randolph, NC	
	Stokes, NC	
	Yadkin, NC	
3150 ...	*Greenville, NC*	1.0056
	Pitt, NC	
3160 ...	*Greenville-Spartanburg-Anderson, SC*	0.9830
	Anderson, SC	
	Cherokee, SC	
	Greenville, SC	
	Pickens, SC	
	Spartanburg, SC	
3180 ...	*Hagerstown, MD* ..	1.0855
	Washington, MD	
3200 ...	*Hamilton-Middletown, OH*	0.9842
	Butler, OH	
3240 ...	*Harrisburg-Lebanon-Carlisle, PA*	1.0724
	Cumberland, PA	
	Dauphin, PA	
	Lebanon, PA	
	Perry, PA	
3283 ...	*Hartford, CT*	1.2612
	Hartford, CT	
	Litchfield, CT	
	Middlesex, CT	
	Tolland, CT	
3285 ...	*Hattiesburg, MS* ...	0.8000
	Forrest, MS	
	Lamar, MS	
3290 ...	*Hickory-Morganton-Lenoir, NC*	0.9492
	Alexander, NC	
	Burke, NC	
	Caldwell, NC	
	Catawba, NC	
3320 ...	*Honolulu, HI*	1.2269
	Honolulu, HI	
3350 ...	*Houma, LA*	0.8738
	Lafourche, LA	
	Terrebonne, LA	
3360 ...	*Houston, TX*	1.0541
	Chambers, TX	
	Fort Bend, TX	
	Harris, TX	
	Liberty, TX	
	Montgomery, TX	
	Waller, TX	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
3400	*Huntington-Ashland, WV–KY–OH*	1.0284
	Boyd, KY	
	Carter, KY	
	Greenup, KY	
	Lawrence, OH	
	Cabell, WV	
	Wayne, WV	
3440	*Huntsville, AL*	0.8938
	Limestone, AL	
	Madison, AL	
3480	*Indianapolis, IN*	1.0480
	Boone, IN	
	Hamilton, IN	
	Hancock, IN	
	Hendricks, IN	
	Johnson, IN	
	Madison, IN	
	Marion, IN	
	Morgan, IN	
	Shelby, IN	
3500	*Iowa City, IA*	1.0107
	Johnson, IA	
3520	*Jackson, MI*	0.9833
	Jackson, MI	
3560	*Jackson, MS*	0.8839
	Hinds, MS	
	Madison, MS	
	Rankin, MS	
3580	*Jackson, TN*	0.9125
	Madison, TN	
	Chester, TN	
3600	*Jacksonville, FL*	0.9487
	Clay, FL	
	Duval, FL	
	Nassau, FL	
	St. Johns, FL	
3605	*Jacksonville, NC*	0.8055
	Onslow, NC	
3610	*Jamestown, NY*	0.8165
	Chautauqua, NY	
3620	*Janesville-Beloit, WI*	0.9648
	Rock, WI	
3640	*Jersey City, NJ*	1.2363
	Hudson, NJ	
3660	*Johnson City-Kingsport-Bristol, TN–VA*	0.9352
	Carter, TN	
	Hawkins, TN	
	Sullivan, TN	
	Unicoi, TN	
	Washington, TN	
	Bristol City, VA	
	Scott, VA	
	Washington, VA	
3680	*Johnstown, PA*	0.9188
	Cambria, PA	
	Somerset, PA	
3700	*Jonesboro, AR*	0.8000
	Craighead, AR	
3710	*Joplin, MO*	0.8392

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Jasper, MO	
	Newton, MO	
3720	*Kalamazoo-Battlecreek, MI*	1.2079
	Calhoun, MI	
	Kalamazoo, MI	
	Van Buren, MI	
3740	*Kankakee, IL*	1.0039
	Kankakee, IL	
3760	*Kansas City, KS–MO*	1.0281
	Johnson, KS	
	Leavenworth, KS	
	Miami, KS	
	Wyandotte, KS	
	Cass, MO	
	Clay, MO	
	Clinton, MO	
	Jackson, MO	
	Lafayette, MO	
	Platte, MO	
	Ray, MO	
3800	*Kenosha, WI*	0.9731
	Kenosha, WI	
3810	*Killeen-Temple, TX*	1.0776
	Bell, TX	
	Coryell, TX	
3840	*Knoxville, TN*	0.9506
	Anderson, TN	
	Blount, TN	
	Knox, TN	
	Loudon, TN	
	Sevier, TN	
	Union, TN	
3850	*Kokomo, IN*	0.9887
	Howard, IN	
	Tipton, IN	
3870	*La Crosse, WI–MN*	0.9501
	Houston, MN	
	La Crosse, WI	
3880	*Lafayette, LA*	0.8800
	Acadia, LA	
	Lafayette, LA	
	St. Landry, LA	
	St. Martin, LA	
3920	*Lafayette, IN*	0.9424
	Clinton, IN	
	Tippecanoe, IN	
3960	*Lake Charles, LA*	0.818
	Calcasieu, LA	
3980	*Lakeland-Winter Haven, FL*	0.9529
	Polk, FL	
4000	*Lancaster, PA*	1.0192
	Lancaster, PA	
40	*Lansing-East Lansing, MI*	1.0756
	Clinton, MI	
	Eaton, MI	
	Ingham, MI	
4080	*Laredo, TX*	0.8000
	Webb, TX	
4100	*Las Cruces, NM*	0.9455
	Dona Ana, NM	
4120	*Las Vegas, NV–AZ*	1.2166

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Mohave, AZ	
	Clarke, NV	
	Nye, NV	
4150	*Lawrence, KS*	0.9226
	Douglas, KS	
4200	*Lawton, OK*	0.271
	Comanche, OK	
4243	*Lewiston-Auburn, ME*	0.9753
	Androscoggin, ME	
4280	*Lexington, KY*	0.9067
	Bourbon, KY	
	Clark, KY	
	Fayette, KY	
	Jessamine, KY	
	Madison, KY	
	Scott, KY	
	Woodford, KY	
4320	*Lima, OH*	0.9539
	Allen, OH	
	Auglaize, OH	
4360	*Lincoln, NE*	0.9917
	Lancaster, NE	
4400	*Little Rock-North Little Rock, AR*	0.9064
	Faulkner, AR	
	Lonoke, AR	
	Pulaski, AR	
	Saline, AR	
4420	*Longview-Marshall, TX*	0.9272
	Gregg, TX	
	Harrison, TX	
	Upshur, TX	
4480	*Los Angeles-Long Beach, CA*	1.2882
	Los Angeles, CA	
4520	*Louisville, KY–IN*	0.9693
	Clark, IN	
	Floyd, IN	
	Harrison, IN	
	Scott, IN	
	Bullitt, KY	
	Jefferson, KY	
	Oldham, KY	
4600	*Lubbock, TX*	0.9057
	Lubbock, TX	
4640	*Lynchburg, VA*	0.9487
	Amherst, VA	
	Bedford, VA	
	Bedford City, VA	
	Campbell, VA	
	Lynchburg City, VA	
4680	*Macon, GA*	0.9573
	Bibb, GA	
	Houston, GA	
	Jones, GA	
	Peach, GA	
	Twiggs, GA	
4720	*Madison, WI*	1.0679
	Dane, WI	
4800	*Mansfield, OH*	0.9097
	Crawford, OH	
	Richland, OH	
4840	*Mayaguez, PR*	0.5061
	Anasco, PR	
	Cabo Rojo, PR	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Hormigueros, PR	
	Mayaguez, PR	
	Sabana Grande, PR	
	San German, PR	
4880 ...	*McAllen-Edinburg-Mission, TX*	0.9480
	Hidalgo, TX	
4890 ...	*Medford-Ashland, OR*	1.0681
	Jackson, OR	
4900 ...	*Melbourne-Titusville-Palm Bay, FL*	0.9824
	Brevard, Fl	
4920 ...	*Memphis, TN–AR–MS*	0.8913
	Crittenden, AR	
	DeSoto, MS	
	Fayette, TN	
	Shelby, TN	
	Tipton, TN	
4940 ...	*Merced, CA*	1.0695
	Merced, CA	
5000 ...	*Miami, FL*	1.0678
	Dade, FL	
5015 ...	*Middlesex-Somerset-Hunterdon, NJ*	1.1888
	Hunterdon, NJ	
	Middlesex, NJ	
	Somerset, NJ	
5080 ...	*Milwaukee-Waukesha, WI*	0.9973
	Milwaukee, WI	
	Ozaukee, WI	
	Washington, WI	
	Waukesha, WI	
5120 ...	*Minneapolis-St. Paul, MN–WI*	1.1570
	Anoka, MN	
	Carver, MN	
	Chisago, MN	
	Dakota, MN	
	Hennepin, MN	
	Isanti, MN	
	Ramsey, MN	
	Scott, MN	
	Sherburne, MN	
	Washington, MN	
	Wright, MN	
	Pierce, WI	
	St. Croix, WI	
5140 ...	*Missoula, MT*	0.9795
	Missoula, MT	
5160 ...	*Mobile, AL*	0.8930
	Baldwin, AL	
	Mobile, AL	
5170 ...	*Modesto, CA*	1.1029
	Stanislaus, CA	
5190 ...	*Monmouth-Ocean, NJ*	1.2064
	Monmouth, NJ	
	Ocean, NJ	
5200 ...	*Monroe, LA*	0.8761
	Ouachita, LA	
5240 ...	*Montgomery, AL* ..	0.8337
	Autauga, AL	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Elmore, AL	
	Montgomery, AL	
5280 ...	*Muncie, IN*	1.0035
	Delaware, IN	
5330 ...	*Myrtle Beach, SC*	0.8719
	Horry, SC	
5345 ...	*Naples, FL*	1.0848
	Collier, FL	
5360 ...	*Nashville, TN*	1.0106
	Cheatham, TN	
	Davidson, TN	
	Dickson, TN	
	Robertson, TN	
	Rutherford TN	
	Sumner, TN	
	Williamson, TN	
	Wilson, TN	
5380 ...	*Nassau-Suffolk, NY*	1.4490
	Nassau, NY	
	Suffolk, NY	
5483 ...	*New Haven-Bridgeport-Stamford-Waterbury-Danbury, CT*	1.3141
	Fairfield, CT	
	New Haven, CT	
5523 ...	*New London-Norwich, CT*	1.2382
	New London, CT	
5560 ...	*New Orleans, LA* ..	0.9924
	Jefferson, LA	
	Orleans, LA	
	Plaquemines, LA	
	St. Bernard, LA	
	St. Charles, LA	
	St. James, LA	
	St. John The Baptist, LA	
	St. Tammany, LA	
5600 ...	*New York, NY*	1.5415
	Bronx, NY	
	Kings, NY	
	New York, NY	
	Putnam, NY	
	Queens, NY	
	Richmond, NY	
	Rockland, NY	
	Westchester, NY	
5640 ...	*Newark, NJ*	1.2649
	Essex, NJ	
	Morris, NJ	
	Sussex, NJ	
	Union, NJ	
	Warren, NJ	
5660 ...	*Newburgh, NY–PA*	1.1891
	Orange, NY	
	Pike, PA	
5720 ...	*Norfolk-Virginia Beach-Newport News, VA–NC.*	0.8821
	Currituck, NC	
	Chesapeake City, VA	
	Gloucester, VA	
	Hampton City, VA	
	James City, VA	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Isle of Wight, VA	
	Mathews, VA	
	Newport News City, VA	
	Norfolk City, VA	
	Poquoson City, VA	
	Portsmouth City, VA	
	Suffolk City, VA	
	Virginia Beach City VA	
	Williamsburg City, VA	
	York, VA	
5775 ...	*Oakland, CA*	1.5982
	Alameda, CA	
	Contra Costa, CA	
5790 ...	*Ocala, FL*	0.9756
	Marion, FL	
5800 ...	*Odessa-Midland, TX*	0.9227
	Ector, TX	
	Midland, TX	
5880 ...	*Oklahoma City, OK*	0.9283
	Canadian, OK	
	Cleveland, OK	
	Logan, OK	
	McClain, OK	
	Oklahoma, OK	
	Pottawatomie, OK	
5910 ...	*Olympia, WA*	1.2282
	Thurston, WA	.....
5920 ...	*Omaha, NE–IA*	1.0630
	Pottawattamie, IA	
	Cass, NE	
	Douglas, NE	
	Sarpy, NE	
	Washington, NE	
5945 ...	*Orange County, CA*	1.2282
	Orange, CA	
5960 ...	*Orlando, FL*	1.0460
	Lake, FL	
	Orange, FL	
	Osceola, FL	
	Seminole, FL	
5990 ...	*Owensboro, KY*	0.8284
	Daviess, KY	
6015 ...	*Panama City, FL* ..	0.9068
	Bay, FL	
6020 ...	*Parkersburg-Marietta, WV–OH.*	0.8545
	Washington, OH	
	Wood, WV	
6080 ...	*Pensacola, FL*	0.8790
	Escambia, FL	
	Santa Rosa, FL	
6120 ...	*Peoria-Pekin, IL* ...	0.8590
	Peoria, IL	
	Tazewell, IL	
	Woodford, IL	
6160 ...	*Philadelphia, PA–NJ*	1.2120
	Burlington, NJ	
	Camden, NJ	
	Gloucester, NJ	
	Salem, NJ	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Bucks, PA	
	Chester, PA	
	Delaware, PA	
	Montgomery, PA	
	Philadelphia, PA	
6200 ...	*Phoenix-Mesa, AZ*	1.0224
	Maricopa, AZ	
	Pinal, AZ	
6240 ...	*Pine Bluff, AR*	0.8434
	Jefferson, AR	
6280 ...	*Pittsburgh, PA*	1.0435
	Allegheny, PA	
	Beaver, PA	
	Butler, PA	
	Fayette, PA	
	Washington, PA	
	Westmoreland, PA	
6323 ...	*Pittsfield, MA*	1.1533
	Berkshire, MA	
6340 ...	*Pocatello, ID*	0.9372
	Bannock, ID	
6360 ...	*Ponce, PR*	0.5506
	Guayanilla, PR	
	Juana Diaz, PR	
	Penuelas, PR	
	Ponce, PR	
	Villalba, PR	
	Yauco, PR	
6403 ...	*Portland, ME*	1.0192
	Cumberland, ME	
	Sagadahoc, ME	
	York, ME	
6440 ...	*Portland-Vancouver, OR–WA*	1.1916
	Clackamas, OR	
	Columbia, OR	
	Multnomah, OR	
	Washington, OR	
	Yamhill, OR	
	Clark, WA	
6483 ...	*Providence-Warwick-Pawtucket, RI*	1.1514
	Bristol, RI	
	Kent, RI	
	Newport, RI	
	Providence, RI	
	Washington, RI	
6520 ...	*Provo-Orem, UT* ...	1.0537
	Utah, UT	
6560 ...	*Pueblo, CO*	0.9287
	Pueblo, CO	
6580 ...	*Punta Gorda, FL* ..	0.9627
	Charlotte, FL	
6600 ...	*Racine, WI*	0.9732
	Racine, WI	
6640 ...	*Raleigh-Durham-Chapel Hill, NC*	1.0459
	Chatham, NC	
	Durham, NC	
	Franklin, NC	
	Johnston, NC	
	Orange, NC	
	Wake, NC	
6660 ...	*Rapid City, SD*	0.8750
	Pennington, SD	
6680 ...	*Reading, PA*	0.9843
	Berks, PA	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
6690 ...	*Redding, CA*	1.2640
	Shasta, CA	
6720 ...	*Reno, NV*	1.1827
	Washoe, NV	
6740 ...	*Richland-Kennewick-Pasco, WA*	1.0966
	Benton, WA	
	Franklin, WA	
6760 ...	*Richmond-Petersburg, VA*	0.9819
	Charles City County, VA	
	Chesterfield, VA	
	Colonial Heights City, VA	
	Dinwiddie, VA	
	Goochland, VA	
	Hanover, VA	
	Henrico, VA	
	Hopewell City, VA	
	New Kent, VA	
	Petersburg City, VA	
	Powhatan, VA	
	Prince George, VA	
	Richmond City, VA	
6780 ...	*Rivee-San Bernardino, CA*	1.1467
	San Bernardino, CA	
6800 ...	*Roanoke, VA*	0.9070
	Botetourt, VA	
	Roanoke, VA	
	Roanoke City, VA	
	Salem City, VA	
6820 ...	*Rochester, MN*	1.2470
	Olmsted, MN	
6840 ...	*Rochester, NY*	1.0294
	Genesee, NY	
	Livingston, NY	
	Ontario, NY	
	Ontario, NY	
	Orleans, NY	
	Wayne NY	
6880 ...	*Rockford, IL*	0.9183
	Boone, IL	
	Ogle, IL	
	Winnebago, IL	
6895 ...	*Rocky Mount, NC*	0.9607
	Edgecombe, NC	
	Nash, NC	
6920 ...	*Sacramento, CA* ..	1.2751
	El Dorado, CA	
	Placer, CA	
	Sacramento, CA	
6960 ...	*Saginaw-Bay City-Midland, MI*	1.0113
	Bay, MI	
	Midland, MI	
	Saginaw, MI	
6980 ...	*St. Cloud, MN*	1.0219
	Benton, MN	
	Stearns, MN	
7000 ...	*St. Joseph, MO*	1.0541
	Andrew, MO	
	Buchanan, MO	
7040 ...	*St. Louis, MO–IL* ..	0.9755

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Franklin, MO	
	Jefferson, MO	
	Lincoln, MO	
	St. Charles, MO	
	St. Louis, MO	
	St. Louis City, MO	
	Warren, MO	
	Clinton, IL	
	Jersey, IL	
	Madison, IL	
	Monore, IL	
	St. Clair, IL	
7080 ...	*Salem, OR*	1.0557
	Marion, OR	
	Polk, OR	
7120 ...	*Salinas, CA*	1.6141
	Monterey, CA	
7160 ...	*Salt Lake City-Ogden, UT*	1.0018
	Davis, UT	
	Salt Lake, UT	
	Weber, UT	
7200 ...	*San Angelo, TX* ...	0.8150
	Tom Green, TX	
7240 ...	*San Antonio, TX* ..	0.8634
	Bexar, TX	
	Comal, TX	
	Guadalupe, TX	
	Wilson, TX	
7320 ...	*San Diego, CA*	1.3074
	San Diego, CA	
7360 ...	*San Francisco, CA*	1.4878
	Marin, CA	
	San Francisco, CA	
	San Mateo, CA	
7400 ...	*San Jose, CA*	1.4739
	Santa Clara, CA	
7440 ...	*San Juan-Bayamon, PR*	0.5316
	Aguas Buenas, PR	
	Barceloneta, PR	
	Bayamon, PR	
	Canovanas, PR	
	Carolina, PR	
	Catano, PR	
	Ceiba, PR	
	Comerio, PR	
	Corozal, PR	
	Dorado, PR	
	Fajardo, PR	
	Florida, PR	
	Guaynabo, PR	
	Humacao, PR	
	Juncos, PR	
	Los Piedras, PR	
	Loiza, PR	
	Luguillo, PR	
	Manati, PR	
	Morovis, PR	
	Naguabo, PR	
	Naranjito, PR	
	Rio Grande, PR	
	San Juan, PR	
	Toa Alta, PR	
	Toa Baja, PR	
	Trujillo Alto, PR	
	Vega Alta, PR	
	Vega Baja, PR	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Yabucoa, PR	
7460 ...	*San Luis Obispo-Atascadero-Paso Robles, CA*	1.2007
	San Luis Obispo, CA	
7480 ...	*Santa Barbara-Santa Maria-Lompoc, CA*	1.1933
	Santa Barbara, CA	
7485 ...	*Santa Cruz-Watsonville, CA*	1.4903
	Santa Cruz, CA	
7490 ...	*Santa Fe, NM*	1.0289
	Los Alamos, NM	
	Santa Fe, NM	
7500 ...	*Santa Rosa, CA* ...	1.4494
	Sonoma, CA	
7510 ...	*Sarasota-Bradenton, FL*	1.0161
	Manatee, FL	
	Sarasota, FL	
7520 ...	*Savannah, GA*	1.0724
	Bryan, GA	
	Chatham, GA	
	Effingham, GA	
7560 ...	*Scranton—Wilkes-Barre—Hazleton, PA*	0.8847
	Columbia, PA	
	Lackawanna, PA	
	Luzerne, PA	
	Wyoming, PA	
7600 ...	*Seattle-Bellevue-Everett, WA*	1.2287
	Island, WA	
	King, WA	
	Snohomish, WA	
7610 ...	*Sharon, PA*	0.9431
	Mercer, PA	
7620 ...	*Sheboygan, WI*	0.8768
	Sheboygan, WI	
7640 ...	*Sherman-Denison, TX*	0.9135
	Grayson, TX	
7680 ...	*Shreveport-Bossier City, LA*	1.0005
	Bossier, LA	
	Caddo, LA	
	Webster, LA	
7720 ...	*Sioux City, IA-NE*	0.9041
	Woodbury, IA	
	Dakota, NE	
7760 ...	*Sioux Falls, SD*	0.9500
	Lincoln, SD	
	Minnehaha, SD	
7800 ...	*South Bend, IN*	1.0510
	St. Joseph, IN	
7840 ...	*Spokane, WA*	1.1649
	Spokane, WA	
7880 ...	*Springfield, IL*	0.9295
	Menard, IL	
	Sangamon, IL	
7920 ...	*Springfield, MO*	0.8604
	Christian, MO	
	Greene, MO	
	Webster, MO	
8003 ...	*Springfield, MA*	1.1715
	Hampden, MA	
	Hampshire, MA	
8050 ...	*State College, PA*	1.0072
	Centre, PA	
8080 ...	*Steubenville-Weirton, OH–WV*	0.8984
	Jefferson, OH	
	Brooke, WV	
	Hancock, WV	
8120 ...	*Stockton-Lodi, CA*	1.1806
	San Joaquin, CA	
8140 ...	*Sumter, SC*	0.8663
	Sumter, SC	
8160 ...	*Syracuse, NY*	1.0020
	Cayuga, NY	
	Madison, NY	
	Onondaga, NY	
	Oswego, NY	
8200 ...	*Tacoma, WA*	1.1065
	Pierce, WA	
8240 ...	*Tallahassee, FL* ...	0.9006
	Gadsden, FL	
	Leon, FL	
8280 ...	*Tampa-St. Petersburg-Clearwater, FL.*	0.9714
	Hernando, FL	
	Hillsborough, FL	
	Pasco, FL	
	Pinellas, FL	
8320 ...	*Terre Haute, IN*	0.9584
	Clay, IN	
	Vermillion, IN	
	Vigo, IN	
8360 ...	*Texarkana, AR-Texarkana, TX*	0.9067
	Miller, AR	
	Bowie, TX	
8400 ...	*Toledo, OH*	1.0650
	Fulton, OH	
	Lucas, OH	
	Wood, OH	
8440 ...	*Topeka, KS*	1.0459
	Shawnee, KS	
8480 ...	*Trenton, NJ*	1.1202
	Mercer, NJ	
8520 ...	*Tucson, AZ*	0.9624
	Pima, AZ	
8560 ...	*Tulsa, OK*	0.9021
	Creek, OK	
	Osage, OK	
	Rogers, OK	
	Tulsa, OK	
	Wagoner, OK	
8600 ...	*Tuscaloosa, AL*	0.8145
	Tuscaloosa, AL	
8640 ...	*Tyler, TX*	0.9400
	Smith, TX	
8680 ...	*Utica-Rome, NY* ...	0.8973
	Herkimer, NY	
	Oneida, NY	
8720 ...	*Vallejo-Fairfield-Napa, CA*	1.4298
	Napa, CA	
	Solano, CA	
8735 ...	*Ventura, CA*	1.1741
	Ventura, CA	
8750 ...	*Victoria, TX*	0.8934
	Victoria, TX	
8760 ...	*Vineland-Millville-Bridgeton, NJ*	1.1129
	Cumberland, NJ	
8780 ...	*Visalia-Tulare-Porterville, CA*	1.0748
	Tulare, CA	
8800 ...	*Waco, TX*	0.8923
	McLennan, TX	
8840 ...	*Washington, DC–MD–VA–WV*	1.1520
	District of Columbia, DC	
	Calvert, MD	
	Charles, MD	
	Frederick, MD	
	Montgomery, MD	
	Prince Georges, MD	
	Alexandria City, VA	
	Arlington, VA	
	Clarke, VA	
	Culpeper, VA	
	Fairfax, VA	
	Fairfax City, VA	
	Falls Church City, VA	
	Fauquier, VA	
	Fredericksburg City, VA	
	King George, VA	
	Loudoun, VA	
	Manassas City, VA	
	Manassas Park City, VA	
	Prince William, VA	
	Spotsylvania, VA	
	Stafford, VA	
	Warren, VA	
	Berkeley, WV	
	Jefferson, WV	
8920 ...	*Waterloo-Cedar Falls, IA*	0.8483
	Black Hawk, IA	
8940 ...	*Wausau, WI*	1.0375
	Marathon, WI	
8960 ...	*West Palm Beach-Boca Raton, FL*	1.0893
	Palm Beach, FL	
9000 ...	*Wheeling, WV–OH*	0.8130
	Belmont, OH	
	Marshall, WV	
	Ohio, WV	
9040 ...	*Wichita, KS*	0.9485
	Butler, KS	
	Harvey, KS	
	Sedgwick, KS	
9080 ...	*Wichita Falls, TX* ..	0.8347
	Archer, TX	
	Wichita, TX	
9140 ...	*Williamsport, PA* ...	0.9121
	Lycoming, PA	
9160 ...	*Wilmington-Newark, DE–MD*	1.2651
	New Castle, DE	

TABLE A—HOSPICE WAGE INDEX FOR URBAN AREAS—Continued

MSA code No.	Urban area (constituent counties or county equivalents) [1]	Wage index [2]
	Cecil, MD	
9200	*Wilmington, NC*	0.9959
	Brunswick, NC	
	New Hanover, NC	
9260	*Yakima, WA*	1.0999
	Yakima, WA	
9270	*Yolo, CA*	1.1974
	Yolo, CA	
9280	*York, PA*	1.0031
	York, PA	
9320	*Youngstown-Warren, OH*	1.0463
	Columbiana, OH	
	Mahoning, OH	
	Trumbull, OH	
9340	*Yuba City, CA*	1.1582
	Sutter, CA	
	Yuba, CA	
9360	*Yuma, AZ*	1.0722
	Yuma, AZ	

[1] This column lists each MSA area name (in italics) and each county , or county equivalent, in the MSA area. Counties not listed in this Table are considered to be Rural Areas. Wage Index values for these areas are found in Table B.

[2] Wage index values are based on FY 1998 hospital cost report data prior to reclassification. This wage index is further adjusted. Wage index values greater than 0.8 are subject to a budget neutrality adjustment of 1.065982. Wage index values below 0.8 are adjusted to be the greater of a 15 percent increase, subject to a maximum wage index value of 0.8, or an adjustment by multiplying the hospital wage index value for a given area by the budget neutrality adjustment. All of these adjustments have been completed by HCFA and are built into the wage index values reflected in this table.

TABLE B.—WAGE INDEX FOR RURAL AREAS

MSA code No.	Nonurban area	Wage Index [3]
9901	Alabama	0.8000
9902	Alaska	1.3250
9903	Arizona	0.8516
9904	Arkansas	0.8000
9905	California	1.0637
9906	Colorado	0.8993
9907	Connecticut	1.2871
9908	Delaware	0.9388
9910	Florida	0.9463
9911	Georgia	0.8408
9912	Hawaii	1.1630
9913	Idaho	0.9036
9914	Illinois	0.8438
9915	Indiana	0.8933
9916	Iowa	0.8290
9917	Kansas	0.8000
9918	Kentucky	0.8362
9919	Louisiana	0.8000
9920	Maine	0.9026
9921	Maryland	0.9119
9922	Massachusetts	1.1549

TABLE B.—WAGE INDEX FOR RURAL AREAS—Continued

MSA code No.	Nonurban area	Wage Index [3]
9923	Michigan	0.9461
9924	Minnesota	0.9162
9925	Mississippi	0.8000
9926	Missouri	0.8000
9927	Montana	0.8952
9928	Nebraska	0.8180
9929	Nevada	0.9867
9930	New Hampshire	1.0916
9931	New Jersey [4]	.....
9932	New Mexico	0.8815
9933	New York	0.9155
9934	North Carolina	0.8647
9935	North Dakota	0.8000
9936	Ohio	0.9081
9937	Oklahoma	0.8000
9938	Oregon	1.0564
9939	Pennsylvania	0.9236
9940	Puerto Rico	0.4692
9941	Rhode Island [4]	.....
9942	South Carolina	0.8577
9943	South Dakota	0.8003
9944	Tennessee	0.8000
9945	Texas	0.8064
9946	Utah	0.9444
9947	Vermont	1.0037
9948	Virgin Islands	0.5276
9949	Virginia	0.8375
9950	Washington	1.1181
9951	West Virginia	0.8395
9952	Wisconsin	0.9286
9953	Wyoming	0.9347
9965	Guam	0.9611

[3] Wage index values are based on FY 1998 hospital cost report data prior to reclassification. This wage index is further adjusted. Wage index values greater than 0.8 are subject to a budget neutrality adjustment of 1.065982. Wage index values below 0.8 are adjusted to be the greater of a 15 percent increase, subject to a maximum wage index value of 0.8, or an adjustment by multiplying the hospital wage index value for a given area by the budget neutrality adjustment. All of these adjustments have been completed by HCFA and are built into the wage index values reflected in this table.

[4] All counties within the State are classified as urban.

II. Regulatory Impact Statement

A. Background

We have examined the impacts of this notice as required by Executive Order 12866, the Unfunded Mandate Reform Act, and the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). In this notice, we identified an impact on hospices as a result of changes in the way we compute the hospice wage index. The change in the methodology for computing the wage index was determined through a negotiated rulemaking committee and implemented in the August 8, 1997 final rule (62 FR 42860). This notice only describes the effects of those changes in conjunction with the annual update to the hospice wage index. We believe these changes to be insignificant.

1. Executive Order 12866 and RFA

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). We have determined that this notice is not an economically significant rule under this Executive Order. The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities. However, most providers, physicians, and health care suppliers are small entities, either by nonprofit status or by having revenues of $5 million or less annually. Approximately 73 percent of Medicare certified hospices are identified as being voluntary, government, or other agency, and therefore are considered small entities. Because the National Hospice Organization estimates that approximately 65 percent of hospice patients are Medicare beneficiaries, we have not considered other sources of revenue in this analysis.

As discussed below, both urban and rural areas in Puerto Rico will experience the most significant decrease, 7.6 and 11.6 percent respectively, in payments under this wage index. Looking at the effects of this rule on Puerto Rico, we see that 21 of the 29 hospices in urban Puerto Rico can be considered small entities that will experience an 7.6 percent decrease in Medicare payments. Therefore, we anticipate this rule will have a significant impact on a substantial number of small entities. However, the methodology for the hospice wage index was previously determined by consensus through a negotiated rulemaking committee that included representatives of national hospice associations; rural, urban, large and small hospices; multi-site hospices; and consumer groups. Based on all of the options considered, the committee determined that the methodology described in the committee statement, and adopted into the August 8, 1997 final rule, was favorable for the hospice community as a whole, as well as for the beneficiaries that they serve. Therefore, we believe that mitigating the effects of small entities has been taken into consideration.

2. Congressional Review

Section 804(2) of Title 5, United States Code (as added by section 251 of Public Law 104–121 rule of the Public Law), specifies that a ''major rule'' is any rule that the Office of Management and Budget finds is likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

We estimate that the impact of this notice will not be $100 million or more; therefore, this rule is not a major rule as defined in Title 5, United States Code, section 804(2) and is not being forwarded to Congress for a 60-day review period.

3. Unfunded Mandate

The Unfunded Mandate Reform Act of 1995 also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits for any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more. The notice has no consequential effect on State, local, or tribal governments. We believe the private sector costs of this rule fall below the threshold, as well.

4. Rural Hospital Impact

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

Because this notice has no direct impact on small hospitals, in accordance with 5 U.S.C. 604, the Secretary certifies that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

B. Anticipated Effects

This impact analysis compares hospice payments under the FY 1999 hospice wage index (Column 3 of the table) to the estimated payments using the FY 2000 wage index (Column 4). The wage index blend for the second transition year (FY 1999) was one-third of the 1983 wage index added to two-thirds of the new wage index. The third transition year (FY 2000) fully implements the revised wage index. The data used in developing the quantitative analysis for this notice were obtained from the December 1998 update of the national claims history file of all bills submitted during fiscal year 1998. We deleted bills from hospices that have since closed. In addition to the information contained in Table C below, we have compared estimated payments using the original 1983 hospice wage index to estimated payments using the FY 2000 wage index and determined the new wage index methodology to be budget neutral as required by the negotiated rulemaking committee agreement.

Table C demonstrates the results of our analysis. In Column 2 of the table (below) we indicate the number of routine home care days that were included in our analysis, although the analysis was performed on all types of hospice care. Column 3 of the table indicates payments that were made using the FY 1999 wage index. Column 4 of Table C is based on FY 1998 claims and estimates payments to be made to hospices using the FY 2000 wage index. The final column, which compares Columns 3 and 4, shows the percent change in estimated hospice payments made based on the category of the hospice.

Table C categorizes hospices by various geographic and provider characteristics. The first row displays the results of the impact analysis for all Medicare certified hospices. The second and third rows of the table categorize hospices according to their geographic location (urban and rural). There are 1,375 hospices located in urban areas included in our analysis and 786 hospices located in rural areas. The next two groupings in the table indicate the number of hospices by census region, also broken down by urban and rural hospices. The sixth grouping shows the impact on hospices based on the size of the hospice's program. We determined that the majority of hospice payments are made at the routine home care rate. Therefore, we based the size of each individual hospice's program on the number of routine home care days provided in 1998. The next grouping shows the impact on hospices by type of ownership. The final grouping shows the impact on hospices defined by whether they are provider-based or freestanding.

The results of our analysis show that the greatest increases are for urban and rural hospices in the New England region, 3.0 percent and 2.7 percent respectively, and for rural hospices in the Pacific region, with 2.3 percent. The greatest decreases, besides Puerto Rico, are the urban West South Central and urban East North Central regions with 2.7 percent and 2.0 percent respectively. The most dramatic shift occurs in Puerto Rico, where urban payments decrease by 7.6 percent and rural payments decrease by 11.6 percent.

With the FY 99 wage index, Puerto Rico experienced a 11.6 percent decrease for urban areas and a 12.3 percent decrease for rural areas. The total percentage decrease in payments Puerto Rico will experience with the new hospice wage index is 21 percent for urban areas and 26.3 percent for rural areas, which is consistent with the estimated impact information HCFA provided to the negotiated rulemaking committee during their deliberations. Since the wage index values for the Puerto Rico region are more than 15 percent below the 1983 wage index value of 0.8, this region is most affected by the revision to the wage index floor. However, as mentioned above, Puerto Rico's hospital wage index is calculated in the same manner as the national hospital wage index but is based solely on Puerto Rico's wage data. This has an impact on Puerto Rico's hospice wage index in that the hospice wage index is calculated using the pre-reclassified hospital wage index.

Small hospice programs show small increases while larger programs experience only a negligible decrease. Government-based hospices show slight increases in payment due to the wage index change while proprietary hospices show slight decreases. Finally, freestanding hospices show slight decreases in their wage index values while provider-based hospice programs show small increases.

We have reviewed this notice under the threshold criteria of Executive Order 12612. We have determined that it does not significantly affect the rights, roles, and responsibilities of States.

TABLE C.—IMPACT OF HOSPICE WAGE INDEX CHANGE

	Number of hospices (1)	Number of routine home care days in thousands (2)	Payments using FY 1999 wage index in thousands (3)	Estimated payments using FY 2000 wage index in thousands (4)	Percent change in hospice payments (5)
All	2,161	18,455	2,135,750	2,128,347	−0.3
Urban Hospices	1,375	15,717	1,877,146	1,868,228	−0.5
Rural Hospices	786	2,738	258,604	260,118	0.6
Region (Urban):					
New England	98	607	79,780	82,145	3.0
Middle Atlantic	176	1,970	249,012	252,129	1.3
South Atlantic	188	3,509	433,746	433,786	0.0
East North Central	223	2,546	301,352	295,253	−2.0
East South Central	101	890	92,734	91,468	−1.4
West North Central	98	930	97,912	98,233	0.3
West South Central	185	2,090	224,483	218,502	–2.7
Mountain	90	945	125,720	123,558	−1.7
Pacific	187	2,028	257,817	259,665	0.7
Puerto Rico	29	203	14,592	13,489	–7.6
Region (Rural):					
New England	25	69	7,178	7,372	2.7
Middle Atlantic	36	162	16,287	16,306	0.1
South Atlantic	115	601	55,752	55,890	0.2
East North Central	132	490	46,469	46,864	0.9
East South Central	81	376	34,460	34,534	0.2
West North Central	168	358	33,204	33,579	1.1
West South Central	88	279	24,492	24,408	−0.3
Mountain	84	181	17,817	17,872	0.3
Pacific	54	202	21,593	22,098	2.3
Puerto Rico	3	19	1,352	1,195	−11.6
Size (Routine Home Care Days):					
0–1,754 Days	540	457	46,196	46,452	0.6
1,754–4,373 Days	539	1,603	164,904	164,822	0.0
4,372–9,681 Days	541	3,616	385,755	385,020	−0.2
9,681+Days	541	12,778	1,538,895	1,532,054	−0.4
Type of Ownership:					
Voluntary	1,374	12,342	1,427,656	1,427,863	0.0
Proprietary	574	5,535	648,731	640,829	−1.2
Government	180	494	50,974	51,319	0.7
Other	33	83	8,389	8,335	−0.6
Hospice Base:					
Freestanding	841	10,368	1,211,588	1,202,380	−0.8
Home Health Agency	757	4,852	558,520	559,505	0.3
Hospital	542	3,107	349,520	349,793	0.1
Skilled Nursing Facility	21	127	16,597	16,669	0.4

Authority: Section 1814(I) of the Social Security Act (42 U.S.C. 1395f (I)(1))

(Catalog of Federal Domestic Assistance Program No. 93.743 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 27, 1999.

Nancy-Ann Min DeParle,

Administrator.

Dated: July 2, 1999.

Donna E. Shalala,

Secretary.

[FR Doc. 99–20013 Filed 7–30–99; 1:30 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–0002–N]

Medicare Program; Year 2000 Readiness Letters

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

On May 24, 1999 the Health Care Financing Administration (HCFA) sent the following letters regarding Y2K readiness to physicians, hospitals, managed care organizations and other health care partners that provide services to Medicare beneficiaries. The letters are a follow-up to a January 1999 letter published in the **Federal Register** (64 FR 5667) that had been sent to the over one million providers of Medicare services.

The recent letters include several very important messages regarding Y2K and health care providers. First, HCFA's internal systems and the 75 mission-critical claims processing systems operated by the Medicare carriers and fiscal intermediaries are fully ready to handle all appropriately formatted claims and other data exchanges on January 1, 2000. Second, providers need to be aware that the Y2K computer problem goes beyond the matter of billing and can have a serious impact on the quality of patient care. Finally, the letters provide a list of steps and a number of web site resources that

providers can use to help them get ready for the Year 2000, including the preparation of contingency plans.

These letters from the Administrator are part of an extensive outreach effort that the agency has undertaken to keep health care providers informed about the status of HCFA's Y2K readiness and to encourage providers to take all steps necessary to become Y2K ready. We have received many questions from concerned providers and others during the last year about the status of agency's Y2K readiness. Our claims processing systems have been fully renovated, implemented and tested and are paying claims today. We will continue to retest systems through the end of the year. However, it should be recognized that HCFA readiness is not enough. In addition, providers must be ready and able to submit claims that can be processed in a Y2K environment. Medicare's fiscal intermediaries and carriers make Y2K compliant billing software available to all providers and claims submitters for free or at a minimal cost.

The best method for providers to be assured that they are Y2K ready and that we are able to process their claims is to test their systems with their Medicare contractor using test claims with future dates. Medicare contractors are prepared to conduct ''front end'' testing with providers and in some instances ''end to end'' testing may also be available. We recommend that providers test with as many of their payers as possible.

Many providers that use billing vendors to submit claims to HCFA and other payers appear to be under the incorrect impression that the Y2K transition does not affect them. Providers need to assure that they are able to interface with their bill submitters and that submitters are ready to submit bills and exchange data with Medicare contractors and other payers in a Y2K ready environment. In addition, providers should be aware that any system or equipment with an embedded chip can be affected by Y2K including patient management systems, medical devices, payroll systems, security and fire systems, telephones and other systems that are integral to providing quality patient care and supporting provider business operations.

We have developed very specific contingency plans to assure that we will be able to process claims and make payments to providers in the event of an unforseen failure of Medicare hardware, software or networks due to the Y2K transition. These contingency plans do not include estimated payments to providers who cannot submit a bill that can be processed. Being able to submit a valid bill is the minimal requirement that HCFA believes is necessary to assure that the provider is able to operate in a Year 2000 environment and is actually furnishing covered services. HCFA's accountability to taxpayers requires that payment be made only when a provider can document that a covered service has been delivered through submission of a proper claim. HCFA has always been able to receive paper claims, but this is not a preferred option. Processing paper claims requires additional human resources. Any significant increase in submission of paper claims could slow down the payment process. Payments will be processed more quickly and accurately if claims can be submitted electronically.

Health care providers must have business continuity and contingency plans in place in case of unanticipated problems. Contingency plans help ensure that providers can submit accurate and timely claims to Medicare, and continue to furnish safe and quality care to their patients. HCFA makes a variety of contingency planning resources available to providers, including the HCFA Year 2000 Business Continuity Plan Handbook published on HCFA's web site.

In addition to these letters to providers and the resource information on its web site, www.hcfa.gov, HCFA has established a Y2K Speakers Bureau and is prepared to make speakers available to health care provider meetings and conferences on request. In addition HCFA is holding a series of Y2K provider readiness conferences and public learning sessions in locations across the country. (See web site for locations). Also, a toll-free number is available specifically for providers with questions and concerns about Y2K. That number is 1–800–958–HCFA and is available Monday through Friday, 8:00 a.m. to 8:00 p.m. Eastern time.

FOR FURTHER INFORMATION CONTACT: Joe Broseker 410–786–1950 or Anita Shalit 202–690–7179.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)
(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: July 28, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

Dear Doctor:

In January, the Health Care Financing Administration (HCFA) wrote to you about the progress it had made in correcting problems in Medicare computer systems caused by the Year 2000 or ''Y2K'' problem. Many of you responded with letters and further questions. The two most frequently asked questions were: ''When will HCFA be fully ready to process our claims?'' and ''What do we as physicians need to be doing to be ready for the Year 2000?'

We are pleased to tell you that HCFA and its Medicare contractors are fully ready to handle all appropriately formatted claims and other data exchanges on January 1, 2000. All of HCFA's internal systems have been renovated, tested, certified; and necessary changes were implemented by the government-wide Year 2000 deadline of March 31, 1999. Among other things, these internal systems operate HCFA's accounts receivable and payable operations; manage the eligibility, enrollment, and premium status of our 39 million Medicare beneficiaries; and make payments to more than 400 managed care plans on behalf of over 6 million beneficiaries. All 75 mission-critical claims processing systems operated by our Medicare contractors are also certified as compliant, including end-to-end and future-date testing. We continue to test and retest our renovated systems. We want to be sure that you get paid for the valuable work you do.

The Y2K computer problem is far more than a billing problem. We are pleased so many of you are asking the second question about what you need to do. This is a patient care and quality of care issue as well as a technical one. Our expectation is that you will continue to provide the quality of care your patients depend upon. As physicians, you will need to prepare your internal office systems to communicate with HCFA systems and prepare other aspects of your practice to continue to function reliably after January 2000. We urge you to take the following steps toward Y2K readiness: (Please see the enclosed attachments for more details.)

- Understand the issue so that you can assure your patients of continued quality care.
- Access the numerous public and private websites offering Y2K guidance.
- Inventory your practice for other Y2K problems with the attached checklist.
- Contact your Medicare carrier now for testing of your billing submissions.
- Contact your other major third party payers and your State Medicaid Agency.
- Develop business contingency plans in the event something might go wrong.

More detail on each of these steps is attached. This is not an exhaustive list but is meant to guide you in your Y2K readiness efforts. I have also attached a Sample Provider Y2K Readiness Checklist for your information. Many of you have taken steps to prepare for Y2K and have helped us get ready for January 1, 2000, and we thank you. Please continue to let us know, through our Medicare contractors, our toll-free Y2K provider line (1–800–958–HCFA [4232]), and our website (www.hcfa.gov/y2k), what further HCFA activities would help you to get ready.

Sincerely,

Michael M. Hash,

Deputy Administrator.

Robert A. Berenson,

Director, Center for Health Plans and Providers.

Enclosures

Dear Health Care Partner:

I wrote to you in January about the substantial progress that the Health Care Financing Administration ((HCFA) had made in eliminating the Y2K bug from Medicare computer systems and about your part in assuring the continued quality of the health care system. Many of you responded with letters and further questions. The two most frequently asked questions were: ''When will HCFA be fully ready to process our claims?'' and ''What do we as providers need to be doing to be ready for the Year 2000?'

We are pleased to inform you that HCFA and its Medicare contractors are fully ready to handle all appropriately formatted claims and information exchanges on January 1, 2000. All of HCFA's mission critical internal systems were renovated, tested, certified, and implemented by the government-wide Year 2000 deadline of March 31, 1999. Among other things, these internal systems manage the eligibility, enrollment, and premium status of our 39 million Medicare beneficiaries; make payments to more than 400 managed care plans on behalf of over 6 million beneficiaries; and operate HCFA's accounts receivable and payable operations. All 75 mission-critical claims processing systems operated by our Medicare contractors are also certified as compliant, including end-to-end and future-date testing. We continue to test and retest our renovated systems. We want to be sure that you get paid for the valuable work you do.

The available surveys indicate that health care providers, particularly physicians, clinics, and skilled nursing facilities, have not resolved the problems that may occur on January 1, 2000. This so-called ''Y2K Bug'' is far more than a billing problem. We are pleased so many of you are asking the second question about what you need to do. This is a patient care and quality of care issue as well as a technical one. Our expectation is that you will continue to provide the quality of care your patients depend upon. We urge you to take the following steps toward Y2K readiness:

- Understand the issue so that you can assure your patients of continued quality care.
- Access the numerous public and private websites offering Y2K guidance.
- Inventory your business for other Y2K problems with the attached checklist.
- Contact your Medicare contractor now for testing of your billing submissions.
- Contact your other major third party payers and your State Medicaid Agency.
- Develop business contingency plans in the event something might go wrong.

More detailed information on each of these steps is attached as well as a Sample Provider Y2K Readiness Checklist. This is not an exhaustive list but is meant to guide you in your Y2K readiness efforts. Also, we want to thank the many of you who have already taken steps to prepare for the millennium and have helped us get ready for January 1, 2000. Please continue to let us know, through your Medicare contractors, our toll-free Y2K provider line (1–800–958–HCFA [4232]), and our website (www.hcfa.gov/y2k) what further HCFA activities would help you to get ready.

Sincerely,

Michael M. Hash,

Deputy Administrator.

Enclosures

Attachment A—Suggested Steps Toward Y2K Readiness

Understand the issue so that you can assure your patients of continued quality care.

Become informed about your office's readiness for the Year 2000. If any patients develop concerns in the upcoming months about how Y2K may affect the continuity of their health care, they will be greatly reassured by informed responses from you and your staff.

Access the numerous public and private websites offering Y2K guidance.

- The Food & Drug Administration (FDA) website, www.fda.gov/cdrh/yr2000/year2000.html, offers an extensive listing of the status of medical equipment readiness, by manufacturer.
- The General Services Administration (GSA) website, www.itpolicy.gsa.gov/mks/yr2000/y2khome.htm, offers valuable information to assess your building and infrastructure.
- The Small Business Administration (SBA) website, www.sba.gov/financing/fry2k.html, offers information on how to obtain SBA-guaranteed bank loans that may help small, for profit providers pay for a variety of Y2K-generated needs, including: Y2K adjustments, repair, and acquisition of hardware, software, and consultants.
- Professional organizations such as your state, national and specialty medical societies and associations, and your professional liability carrier offer additional specialized Y2K information.
- Attend programs that will be provided throughout this year from HCFA, continuing medical education providers and professional organizations. HCFA sponsored programs are listed on our website, www.hcfa.gov/y2k.

Inventory your practice for other Y2K problems.

Anything that depends on a microchip or date entry could be affected, whether it belongs to you or to an organization you depend upon. The attached checklist, which can also be found on the HCFA website (www.hcfa.gov/y2k), will help you in this inventory. Don't forget to:

- Identify your mission critical items, that is, those items without which you cannot run your practice, and focus on those first.
- Contact the vendors and service contractors for your computer hardware and software, service companies such as your security company or paging system, and your medical equipment suppliers (EKG machines, for example, may actually give inaccurate diagnostic results) to obtain information regarding the Y2K status or impact on their products.
- Update or replace systems, software programs, and devices that are not Y2K ready and that you decide are critical for your business continuity. There is no time to lose on this activity as the replacement systems you need may be back-ordered.

Keep notes on all your communications and testing information for possible use later and do not assume that a system or a program is Y2K ready just because someone said it is. For critical items, get assurance in writing and/or attempt to have them tested.

- The original manufacturer of a product knows the product best and is in the best position to assess the Y2K status of it and provide advice. Industry experts recommend that you not test biomedical devices until you have checked with the supplier or manufacturer to determine the advisability of such testing. Particular attention should be given to interconnected devices or systems whose components share or communicate data and that are not from a single manufacturer or source.

Contact your Medicare contractor now for testing of your billing submissions.

- Medicare carrier and fiscal intermediary Y2K information numbers can be found on HCFA's website, www.hcfa.gov/y2k, or can be obtained from our toll free provider information line at 1–800–958–HCFA [4232].
- HCFA is now requiring all Medicare contractors to establish a test environment that will allow Medicare claim formats from providers/submitters to be validated. In some instances, you may be able to arrange with your contractor to have ''end to end'' testing done, whereby your billing submissions are tested into their system and back again to your system. This latter form of test is only available on a limited basis, provided time and resources are available at the contractor.
- HCFA has dedicated software that will give you a way to submit electronic claims in a compliant format in the event your system is not fully compliant. This software is available from your Medicare contractor.

Contact other major third party payers.

- The above considerations are equally applicable for transactions with your other payers. Contact them directly to arrange Y2K testing.

Develop business contingency plans in the event something goes wrong. Focus on the things that would be most problematic for you and your patients.

- While storing claims information on paper may be a part of your contingency, actually submitting them for payment is ill advised, as an enormous increase in paper claims cannot be accommodated by payor systems, and this could significantly delay your payments. We recommend that your billing office work with your carrier to create the appropriate electronic contingency, as noted above.

The Health Care Financing Administration does not assume any responsibility for your Y2K compliance.

Attachment B—Sample Provider Y2K Readiness Checklist

This checklist is intended as a supplemental guide to help you determine your Y2K readiness. Consider using this, along with other diagnostic and reference tools you have obtained for this venture. The purpose of this checklist is to aid you in determining your Y2K readiness. This information is not intended to be all inclusive. The Health Care Financing Administration does not assume any responsibility for your Y2K compliance.

Item	Y2K Ready	Not Y2K Ready
Appointment scheduling system.		
Answering machines.		
Bank debit/credit card expiration dates.		
Banking interface.		
Billing system.		
Building access cards.		
Clocks.		
Computer hardware (list).		
Computer software (list).		
Custom applications (list).		
Diagnostic equipment (list).		
Elevators.		
Fire/smoke alarm.		
Indoor lighting.		
Insurance/pharmacy coverage dates.		
Medical devices (list).		
Membership cards.		
Monitoring equipment (list).		
Office forms (claims, order, referral).		
Outdoor lighting.		
Paging system.		
Payroll system.		
Physician referral forms.		
Security system.		
Telephone system.		
Television/VCR.		
Sprinkler system.		
Treatment equipment (list).		
Safety vaults.		

[FR Doc. 99–19940 Filed 8–3–99; 8:45 am]
BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center; Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Program Support Center (PSC), publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following information collection was recently submitted to OMB:

1. Proposed Project: Application to the Board for Correction of Public Health Service (PHS) Commissioned Corps Records (PSC–54) (Formerly PHS–6190)—OMB 0937–0095—Revision.

An application is submitted by commissioned officers of the PHS Commissioned Corps, former officers, their spouses or heirs who appeal to the Board for Correction to request removal of an alleged error or injustice in an officer's record. The information submitted is used by the Board for Correction to determine if an error or injustice has occurred and to rectify such error or injustice. An appeal cannot be considered without the information furnished on this form. The form has been revised to reflect: (1) Organizational changes which have occurred since its last revision in May 1985; (2) a streamlined form to permit a more logical entry of data; and (3) a need for additional information to process appeals and release records.

Respondents: Individuals or households and Federal employees. *Total Number of Respondents:* ten per calendar year. *Number of Responses per Respondent:* one response per request. *Average Burden per Response:* four hours. *Estimated Annual Burden:* 40 hours.

OMB Desk Officer: Allison Eydt.

The information collection package listed above can be obtained by calling the PSC Reports Clearance Officer on (301) 443–2045. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503.

Comments may also be sent to Norman E. Prince, Jr., Acting PSC Reports Clearance Officer, Room 17A–08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 30 days of this notice.

Dated: July 28, 1999.

Lynnda M. Regan,

Director, Program Support Center.

[FR Doc. 99–19980 Filed 8–3–99; 8:45 am]
BILLING CODE 4168–17–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Application

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of

the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit Number TE 015551

Applicant: Jeffrey A. Laborda, Indiana State University, Terre Haute, Indiana

The applicant requests a permit to take (capture and release) endangered Gray bats (*Myotis grisescens*) and Indiana bats (*Myotis sodalis*) in the State of Indiana. Activities are proposed for the enhancement of survival of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5343); Fax (612/713–5292).

Dated: July 28, 1999.

Charles M. Wooley,

Program Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 99–20055 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Statewide Electrified Fence Project in California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The California Department of Corrections has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed permit would authorize incidental take of the federally threatened desert tortoise (*Gopherus agassizii*), Aleutian Canada goose (*Branta canadensis leucopareia*), bald eagle (*Haliaeetus leucocephalus*), western snowy plover (*Charadrius alexandrinum nivosus*), coastal California gnatcatcher (*Polioptila californica californica*), and the federally endangered blunt-nosed leopard lizard (*Gambelia silus*), California brown pelican (*Pelecanus occidentalis californicus*), American peregrine falcon (*Falco peregrinus anatum*), southwestern willow flycatcher (*Empidonax taillii extimus*), Tipton kangaroo rat (Dipodomys nitratoides nitratoides) and San Joaquin kit fox (*Vulpes macrotis mutica*).

The proposed taking of these species would be incidental to the implementation of the Statewide Electrified Fence Project at 25 existing prisons and 4 planned prison sites throughout California. The proposed permit also would authorize future incidental take of 51 currently unlisted species, should any of them become listed under the Act in the future. The permit would be in effect for 50 years. The permit application, available for public review, includes a Habitat Conservation Plan (Plan) which describes the proposed project and mitigation, and the accompanying Implementing Agreement.

The Service also announces the availability of an Environmental Assessment for the incidental take permit application. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

DATES: Written comments should be received on or before September 3, 1999.

ADDRESSES: Comments should be addressed to the Field Supervisor, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Written comments may be sent by facsimile to (916) 979–2723.

FOR FURTHER INFORMATION CONTACT: Ms. Lori Rinek, Fish and Wildlife Biologist, at the above address (telephone: 916–979–2129).

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the application, Environmental Assessment, the Plan, and Implementing Agreement for review should immediately contact the above office. Documents also will be available for public inspection, by appointment, during normal business hours at the above address.

Background Information

Section 9 of the Act and Federal regulation prohibit the ''take'' of animal species listed as endangered or threatened. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). Under limited circumstances, the Service, however, may issue permits to authorize ''incidental take'' of listed animal species (defined by the Act as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity). Regulations governing permits for threatened species and endangered species, respectively are at 50 CFR 17.32 and 50 CFR 17.22.

Background

The California Department of Corrections seeks a permit for take of the federally listed desert tortoise, Aleutian Canada goose, bald eagle, western snowy plover, coastal California gnatcatcher, blunt-nosed leopard lizard, California brown pelican, American peregrine falcon, southwestern willow flycatcher, Tipton kangaroo rat and the San Joaquin kit fox incidental to the implementation by the Department of lethal electrified fences at 25 existing prisons and 4 planned prison sites throughout California. The proposed permit also would authorize future incidental take of 39 bird, 9 mammal, and 3 reptile species that are currently unlisted, should any of them become listed under the Act in the future. Collectively these listed and unlisted species addressed in the Plan are referred to as the ''covered species'' for the Statewide Electrified Fence project.

The California Department of Corrections has installed and is operating lethal electrified fences at 25 existing prison sites throughout California, and is considering installation of such fences at 4 future prison sites. The primary reason for implementing the Statewide Electrified Fence Project is to reduce the operational costs of State prisons, while maintaining perimeter security. The project involves the installation and activation of lethal electrified fences within the secured perimeter of the prison facilities. The potential cause of the taking is the direct mortality of animals by accidental electrocution on the lethal electrified wires of the fence. The 29 prison sites are generally located near rural communities or in isolated areas in 16 counties. All of the electrified fence sites are located on State property.

To compensate for project impacts, California Department of Corrections has organized their minimization and mitigation program into three tiers. Tier 1 measures include maintenance and operational-related measures designed to modify or remove habitat or other attractions to wildlife from the secured

perimeter area of each prison, which in turn would reduce wildlife use of the perimeter and thus lower electrocution risks. These measures affect only previously disturbed areas and do not result in the modification or destruction of any listed species habitat. Tier 2 measures involve installation of exclusion and deterrent fence devices which are designed to prevent or deter wildlife from making contact with the electrified fences. The most critical exclusion device that California Department of Corrections has/will install that prevents most birds from contacting the fence is vertical mesh netting that envelops both sides of the electrified fence. Tier 3 measures are designed to offset the residual loss of wildlife resources at the prisons as a result of electrocution risks that remain even after Tier 1 and Tier 2 measures have been implemented. Tier 3 measures include acquisition of lands; habitat enhancement via creation, restoration, or management; and monetary contributions to species recovery efforts.

The Environmental Assessment considers the environmental consequences of five alternatives in addition to the Proposed Action. The Proposed Action consists of the issuance of an incidental take permit to the California Department of Corrections and implementation of the Plan and its Implementing Agreement. Under Alternative 1, the Selective Use of Electrified Fences, California Department of Corrections would reinstate the traditional perimeter security approach of guard tower surveillance at the seven prisons with the highest wildlife mortality or the three prisons with the least labor cost to staff guard positions, thereby reducing the overall risk of incident take of the covered species. Alternative 2 would entail the use of the stun-lethal alternative design for the electrified fences instead of the lethal design. Alternative 3 would involve netting the electrified fence all the way to the top. Alternative 4 would entail installing netting at the five prison sites which have the smallest numbers of bird electrocutions. Under Alternative 5, the No Action Alternative, the Service would not issue an incidental take permit. The electric fences would not be energized, and no incidental take of the listed species would occur.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of law. If the Service determines that the requirements are met, a permit will be issued for the covered species. The final permit decision will be made no sooner than 30 days from the date of this notice.

Dated: July 22, 1999.

Elizabeth H. Stevens,

Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 99–19972 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Tulare Irrigation District Main Intake Canal Lining Project, Tulare County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: The Tulare Irrigation District has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended. The Service proposes to issue a 5-year permit to the Tulare Irrigation District that would authorize take of the threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) incidental to otherwise lawful activities. Such take would occur during the concrete lining of 9.7 miles of an existing canal in Tulare County, California. Lining of the canal would result in the loss of up to 54 elderberry plants with 227 stems which provide habitat for the valley elderberry longhorn beetle.

We request comments from the public on the permit application, which is available for review. The application includes a Habitat Conservation Plan (Plan). The Plan describes the proposed project and the measures that the Tulare Irrigation District would undertake to minimize and mitigate take of the valley elderberry longhorn beetle.

We also request comments on our preliminary determination that the Plan qualifies as a ''low-effect'' Habitat Conservation Plan, eligible for a categorical exclusion under the National Environmental Policy Act. The basis for this determination is discussed in an Environmental Action Statement, which also is available for public review.

DATES: Written comments should be received on or before September 3, 1999.

ADDRESSES: Send written comments to Mr. Wayne White, Field Supervisor, Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments may be sent by facsimile to 916–979–2744.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Davis, Fish and Wildlife Biologist, at the above address or call (916) 979–2728.

SUPPLEMENTARY INFORMATION:

Document Availability

Please contact the above office if you would like copies of the application, Plan, and Environmental Action Statement. Documents also will be available for review by appointment, during normal business hours at the above address.

Background

Section 9 of the Endangered Species Act and Federal regulation prohibit the ''take'' of fish or wildlife species listed as endangered or threatened. Take of listed fish or wildlife is defined under the Act to include kill, harm, or harass. The Service may, under limited circumstances, issue permits to authorize incidental take; i.e., take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Regulations governing incidental take permits for threatened and endangered species are found in 50 CFR 17.32 and 17.22, respectively.

The Tulare Irrigation District operates the Main Intake Canal (canal) primarily to transport an average of 60,000 acre-feet of water from the St. Johns and Kaweah Rivers to agricultural areas within Tulare Irrigation District boundaries. The canal begins at a turnout on the Friant-Kern Canal, approximately 4 miles east of the community of Ivanhoe in Tulare County, and proceeds in a general southwesterly direction to the Tulare Irrigation District boundary at Road 132, approximately 3 miles west of the community of Farmersville. The existing canal is unlined with a varying capacity up to 900 cubic feet per second. Since 1978, the canal has conveyed water an average of 177 days per year. According to the Tulare Irrigation District, approximately 10 percent of water conveyed through the canal is lost to seepage. Therefore, the Tulare Irrigation District has proposed to line the canal to conserve water, increase water deliveries, and decrease

per-unit costs associated with water deliveries.

Although the maintained banks of the canal are generally unvegetated, elderberry bushes and several mature oaks and cottonwoods are present within adjacent Tulare Irrigation District right-of-ways. Land use adjacent to the canal is primarily agricultural (vineyards, orchards, and nurseries) interspersed with stretches of sparse residential and industrial developments. The Tulare Irrigation District comprises approximately 70,000 acres of land that has been entirely developed for agricultural, residential, and/or commercial purposes.

In 1998, biologists surveyed the project area for special-status wildlife and plant species that could be affected by the project. Based upon those surveys, the Service concluded the project may result in take of one federally listed species, the threatened valley elderberry longhorn beetle.

The Tulare Irrigation District has agreed to implement the following measures to minimize and mitigate take of the valley elderberry longhorn beetle: (1) Protect elderberry bushes in place where possible by using protective fencing and conducting educational meetings with contractors to highlight the importance of protecting elderberry bushes; and (2) make a one-time payment into the Valley Elderberry Longhorn Beetle Mitigation Fund that has been established through a joint agreement between the Service and the Center for Natural Lands Management. Payments made to the Mitigation Fund would be dispersed by the Center for Natural Lands Management at the direction of the Service to preserve and manage large tracts of habitat suitable for supporting valley elderberry longhorn beetle.

The Proposed Action consists of the issuance of an incidental take permit and implementation of the Plan to minimize and mitigate impacts of the project on the valley elderberry longhorn beetle. An alternative to the taking of listed species under the Proposed Action is considered in the Plan. Under the No Action Alternative, no permit would be issued. Under this alternative, canal operation would continue to result in the loss of up to 6,000 acre-feet of water per year. The Tulare Irrigation District considered five other alternatives described in the Plan, but did not select them for various reasons, including disagreement among, or opposition from, local landowners.

The Service has made a preliminary determination that the Plan qualifies as a ''low-effect'' plan as defined by its Habitat Conservation Planning Handbook (November 1996). We made this determination by evaluating the following criteria: (1) Implementation of the Plan would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) implementation of the Plan would result in minor or negligible effects on other environmental values or resources; and (3) impacts of the Plan, considered together with the impacts of other past, present and reasonably foreseeable similarly situated projects would not result, over time, in cumulative effects to environmental values or resources which would be considered significant. As more fully explained in the Service's Environmental Action Statement, the Tulare Irrigation District Plan likely qualifies as a ''low-effect'' plan for the following reasons:

1. Approval of the Plan would result in minor or negligible effects on the valley elderberry longhorn beetle and its habitat. The Service does not anticipate significant direct or cumulative effects to the valley elderberry longhorn beetle resulting from lining of the existing canal.

2. Approval of the Plan would not have adverse effects on unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the Plan would not result in any cumulative or growth inducing impacts and, therefore, would not result in significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service therefore has preliminarily determined that approval of the Plan qualifies as a categorical exclusion under the National Environmental Policy Act, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Based upon this preliminary determination, we do not intend to prepare further National Environmental Policy Act documentation. The Service will consider public comments in making its final determination on whether to prepare such additional documentation.

The Service provides this notice pursuant to section 10(c) of the Endangered Species Act. We will evaluate the permit application, the Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Endangered Species Act. If the requirements are met, the Service will issue a permit to the Tulare Irrigation District for incidental take of the valley elderberry longhorn beetle during lining of the canal. We will make the final permit decision no sooner than 30 days from the date of this notice.

Dated: July 24, 1999.

Elizabeth H. Stevens,

Deputy Manager, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 99–19973 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–55–P

GEOLOGICAL SURVEY

Technology Transfer Act of 1996

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of proposed cooperative research and development agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is contemplating entering into a Cooperative Research and Development Agreement (CRADA) with the Conservation Fund to further develop a new method for treating water degraded by acidic mine drainage or other sources of acid.

INQUIRIES: If any other parties are interested in similar activities with the USGS, please contact Barnaby Watten, USGS–BRD, Leetown Science Center, 1700 Leetown Road, Kearneysville, WV 25430.

BUREAU CLEARANCE OFFICER: John Cordyack, 703–648–7313.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: July 26, 1999.

Byron K. Williams,

Acting Chief Biologist.

[FR Doc. 99–19946 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection for Class III Procedures

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of emergency clearance and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) this notice announces that the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs approved an information collection request for emergency clearance under 5 CFR 1320.13. The information

collection, Class III Gaming Procedures, is cleared under OMB Control Number 1076–0149 through October 31, 1999. We are seeking comments from interested parties to renew the clearance.

DATES: Written comments must be submitted on or before October 4, 1999.

ADDRESSES: Comments should be sent to the Bureau of Indian Affairs, Indian Gaming Management Staff, 1849 C Street, NW, Mail Stop 2070–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Interested person may obtain copies of the information collection requests without charge by contacting Ms. Paula Hart, (202) 219–4066, Facsimile number (202) 273–3153, or E-mail: Paula__Hart@IOS.DOI.GOV.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Department has issued regulations prescribing procedures to permit Class III gaming when a State interposes its immunity from suit by an Indian tribe in which the tribe accuses the state of failing to negotiate in good faith. The rule announces the Department's determination that the Secretary may promulgate Class III gaming procedures under certain specified circumstances. It also sets forth the process and standards pursuant to which any procedures would be adopted.

II. Request for Comments

The Department invites comments on:

(1) Whether the collection of information is necessary for the proper performance of the functions of the BIA, including whether the information will have practical utility;

(2) The accuracy of the BIA's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility and clarity of the information to be collected; and,

(4) Ways to minimize the burden of the information collection on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other collection techniques or forms of information technology.

III. Data

(1) *Title of the Information Collection:* Class III Gaming Procedures.

(2) *Summary of Collection of Information:* The collection of information will ensure that the provisions of IGRA, the relevant provisions of State laws, Federal law and the trust obligations of the United States are met.

(3) *Affected Entities:* Federally recognized tribes who submit Class III procedures for review and approval by the Secretary of the Interior.

(4) *Frequency of Response:* Annually.

(5) *Estimated Number of Annual Responses:* 12.

(6) *Estimated Time per Application:* 1,000 hours.

(7) *Estimated Total Annual Burden Hours:* 12,000 hours.

Dated: July 23, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–19958 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW72456]

Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW72456 for lands in Campbell County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW72456 effective March 1, 1999, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 99–20029 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Submission for Office of Management and Budget Review; Comment Request; Extension

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of extension of a currently approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), we are notifying you that MMS is planning to submit an information collection request to the Office of Management and Budget (OMB) to request an extension of a currently approved collection. Under the PRA, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on requirements relating to Bids and Financial Statements for Sale of Royalty Oil and Gas (RIK Pilots), (OMB Control Number 1010–0129).

DATES: Submit written comments on the collection of information by October 4, 1999.

ADDRESSES: Submit written comments on the collection of information to the Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS–3021, Denver, Colorado 80225–0165; courier address is Building 85, Room A613, Denver Federal Center, Denver, Colorado 80225; e:mail address is RMP.comments@mms.gov.

FOR FURTHER INFORMATION CONTACT: For questions concerning this collection of information, please contact Anne Ewell, Royalty-in-Kind (RIK) Study Team, telephone (703) 787–1584. You may also obtain copies of this collection of information by contacting MMS's Information Collection Clearance Officer at (202) 208–7744.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. Section 3506(c)(2)(A) of the PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To

comply with this requirement, MMS is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, MMS invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of MMS's functions, including whether the information will have practical utility; (2) the accuracy of MMS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''cost'' burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

Title: Bids and Financial Statements for Sale of Royalty Oil and Gas (RIK Pilot Study)—Extension.

OMB Control Number: 1010–0129.

Abstract: The Secretary of the Interior, under the Mineral Leasing Act (30 U.S.C. 192) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353), is responsible for the management of royalties on minerals produced from leased Federal lands. MMS carries out these responsibilities for the Secretary. Most royalties are now paid in value—when a company or individual enters into a contract to develop, produce, and dispose of minerals from Federal lands, that company or individual agrees to pay the United States a share (royalty) of the full value received for the minerals taken from leased lands. MMS has undertaken several pilot programs to study the feasibility of taking the Government's royalty in the form of production, that is, as RIK. MMS is also evaluating the feasibility and efficiency of providing royalty production to other Federal agencies for consumption.

Submission of bids and financial statements is part of the process MMS has established to comply with statutory requirements that, when RIK is offered for sale to the public, the sale must be competitive. On May 24, 1999, OMB granted emergency approval for MMS to accept financial statements and bids from individuals wishing to purchase Federal RIK production.

The information collected in the bids and financial statements are essential to assure that a fair and competitive return to the Federal Treasury is likely to result from a competitive sale. Further, submission of such bids and financial statements is a routine aspect of doing business in the oil and gas markets, in which privately-owned oil and gas production is often sold competitively and qualifications of the potential purchaser are evaluated, as well as their bid. MMS releases winning bidders' names, but not the amounts or terms of winning bids. Any proprietary information submitted to MMS under this collection will be securely stored and access to them limited as required by applicable regulations of the Department (43 CFR part 2). No items of a sensitive nature are collected. A response is required to obtain a benefit.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

Burden Statement: The reporting burden is estimated to average 1 hour per response—(1 hour to prepare, review and submit a bid and 1 hour to prepare update and submit a financial statement). This includes the time for reviewing the instructions and gathering and maintaining supporting data.

In calculating the burden, we assume that respondents perform many of the requirements and maintain records in the normal course of their activities. We consider these usual and customary and take that into account in estimating the burden.

Respondents/Affected Entities: Potential purchasers of RIK production from Federal oil or gas leases participating in RIK pilot programs.

Frequency of Collection: Occasional.

Estimated Number of Respondents: 37 in Year 1; 37 in Year 2; and 37 in Year 3.

Estimated Total Annual Burden on Respondents: 142 hours in Year 1; 532 in Year 2; and 757 in Year 3.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach (202) 208–7744.

Dated: July 29, 1999.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 99–19956 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Mines

Privacy Act of 1974; As Amended; Deletions of Existing Systems of Records

AGENCY: Department of the Interior.

ACTION: Deletions of systems of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior has deleted from its inventory of Privacy Act systems of records, notices describing records formerly maintained by the Bureau of Mines (USBM).

DATES: These changes will be effective immediately August 4, 1999.

FOR FURTHER INFORMATION CONTACT: Additional information regarding this action may be obtained from the Departmental Privacy Act Officer, Office of the Secretary, 1849 ''C'' Street, NW., Mail Stop 5312, (OIRM), Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The systems of records notices being abolished are entitled: (1) ''Travel Advance File—Interior, WBM–2,'' previously published in the **Federal Register** on August 28, 1986 (51 FR 30712). Records in this system were disposed of, in accordance with Federal regulations, at the time the USBM was closed; (2) ''Travel Voucher and Authorizations—Interior, WBM–3,'' previously published in the **Federal Register** on August 28, 1986 (51 FR 30713). Records in this system were disposed of, in accordance with Federal regulations, at the time the USBM was closed; (3) ''Property Control—Interior, WBM–4,'' previously published in the **Federal Register** on March 30, 1992 (57 FR 10769). Records in this system were disposed of, in accordance with Federal

regulations, at the time USBM was closed.

However, some information on employee inventions that was in this system today is maintained under Interior system of records, ''Patent Files—Interior/SOL–3;'' (4) ''Personnel Identification—Interior, WBM–5,'' published in the **Federal Register** on March 30, 1992 (57 FR 10769). Records in this system were disposed of, in accordance with Federal regulations, at the time USBM was closed; (5) ''Safety Management Information System—Interior, WBM–6,'' published in the **Federal Register** on March 30, 1992 (57 FR 10770). Records in the system were disposed of, in accordance with Federal regulations, at the time USBM was closed. However, some information that was in this system today is maintained under Interior system of records, ''Safety Management Information System—Interior/DOI–60; (6) ''Personnel Security Files—Interior, WBM–7,'' published in the **Federal Register** on March 30, 1992 (57 FR 10771). Records in this system were disposed of in accordance with Federal regulations at the time USBM was closed. Therefore, all records were destroyed except for the nondisclosure agreements (General Records Schedule 18, Item 25) which have not reached destruction date (70 years). These records are maintained at the Federal Records Center, Washington, DC and may be requested under Privacy Act system ''Security Clearance Files and other Reference Files—Interior/OS–45.''

Roy M. Francis,

Departmental Privacy Act Officer.

[FR Doc. 99–19974 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before July 24, 1999. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20013–7127. Written comments should be submitted by August 18, 1999.

Patrick Andrus,

Acting Keeper of the National Register.

COLORADO

Fremont County

Canon City State Armory, 110 Main St., Canon City, 99001011

FLORIDA

Marion County

Lake Lillian Neighborhood Historic District, Roughly bounded by Lillian Cir., SE Stetson Rd., SE Mimosa Rd., SE Earp Rd. and CSX RR tracks, Belleview, 99001012

LOUISIANA

Caddo Parish

Antoine, C.C. House, 1941 Perrin St., Shreveport, 99001013

St. John The Baptist Parish

Sorapuru House (Louisiana's French Creole Architecture MPS), 971 LA 18, Edgard vicinity, 99001014

Union Parish

Terrral, Dr., Clinic, 107 N Washington St., Farmerville, 99001015

MARYLAND

Baltimore County

Aigburth Vale, 212 Aigburth Rd., Towson, 99001016

MISSOURI

Montgomery County

Baker, Sylvester Marion and Frances Anne Stephens, House, 60 Boonslick Rd., Montgomery City vicinity, 99001018

Osage County

Bolton, Lewis and Elizabeth, House, 9514 MO W, Jefferson City vicinity, 99001017

St. Louis County

Farmers State Bank of Chesterfiled, 16676–78 Chesterfield Airport Rd., Chesterfield, 99001019

PENNSYLVANIA

Centre County

Bellefonte Forge House, 4098 Axemann Rd., Spring Township, 99001020

PUERTO RICO

Barranquitas Municipality

Palo Hincado Site (Ball Court/Plaza Sites of Puerto Rico and the U.S. Virgin Islands) Address Restricted, Barranquitas vicinity, 99001021

Lares Municipality

Callejones Site (Ball Court/Plaza Sites of Puerto Rico and the U.S. Virgin Islands) Address Restricted, Lares vicinity, 99001022

TEXAS

Smith County

Charnwood Residential Historic District, Roughly bounded by E Houston, RR tracks, E Wells, S Donnybrook, E Dobbs, and S Broadway, Tyler, 99001023

[FR Doc. 99–19942 Filed 8–3–99; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–380; Enforcement Proceeding]

Certain Agricultural Tractors Under 50 Power Take-off Horsepower; Commission Determination Concerning Violation of Cease and Desist Orders and Civil Penalty

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission determined that the respondents in the above-captioned formal enforcement proceeding have violated the Commission cease and desist orders issued to them on February 25, 1997, and determined to impose a civil penalty for the amount of $2,320,000.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3090.

SUPPLEMENTARY INFORMATION: The trademark-based section 337 investigation that preceded this enforcement proceeding was instituted on February 14, 1996, based on a complaint filed by Kubota Corporation, Kubota Tractor Corporation, and Kubota Manufacturing of America, Inc. (collectively ''Kubota''). On February 25, 1997, at the conclusion of the original investigation, the Commission issued cease and desist orders directed, *inter alia,* to Gamut Trading Co., Inc. (''Gamut Trading'') and Gamut Imports. The cease and desist orders provide that Gamut Trading and Gamut Imports, as well as their ''principals, stockholders, officers, directors, employees, agents, licensees, distributors, controlled (whether by stock ownership or otherwise) and/or majority-owned business entities, successors and assigns,'' shall not ''import or sell for importation into the United States'' or ''sell market, distribute, offer for sale, or otherwise transfer (except for exportation) in the United States'' covered product, defined as ''agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe federally-registered U.S.

trademark ''KUBOTA'' (Reg. No. 922,330) and that are not imported by, under license from, or with the permission of the trademark owner.'' The orders further provide that Gamut Trading and Gamut Imports ''shall report to the Commission'' on an annual basis ''the quantity in units and the value in dollars of foreign-produced covered product'' that they have ''imported or sold in the United States during the reporting period or that remains in inventory at the end of the period.'' Finally, the orders provide that they ''shall retain any and all records relating to the importation, sale, offer for sale, marketing, distribution, or otherwise transferring in the United States of imported covered product made and received in the usual and ordinary course of business, whether in detail or in summary form, for a period of two (2) years from the close of the fiscal year to which they pertain.''

On July 16, 1998, Kubota filed a complaint seeking institution of a formal enforcement proceeding against Gamut Trading, Gamut Imports, Ronald A. DePue (Chief Executive Officer and Chairman of the Board of Directors of Gamut Trading), and Darrell J. DuPuy (Chief Financial Officer, President, and member of the Board of Directors of Gamut Trading) (collectively ''the Gamut respondents''), alleging that they are violating the cease and desist orders directed to them. Kubota supplemented its complaint on August 26, 1998. On September 28, 1998, the Commission issued an order instituting a formal enforcement proceeding and instructing the Secretary to transmit the enforcement proceeding complaint to the Gamut respondents and their counsel for a response. The following were named as parties to the formal enforcement proceeding: (1) Kubota Corporation, 2–47 Shikitsuhigashi 1-chome, Naniwa-ku, Osaka 556–8601, Japan; Kubota Tractor Corporation, 3401 Del Amo Boulevard, Torrance, California 90503; and Kubota Manufacturing of America Corporation, Industrial Park North, 2715 Ramsey Road, Gainesville, Georgia 30501; (2) Gamut Trading Co., Inc., 13450 Nomwaket Road, Apple Valley, California 92308; (3) Gamut Imports, 14354 Cronese Road, Apple Valley, California, 92037; (4) Ronald A. DePue, Chief Executive Officer and Chairman of the Board of Directors of Gamut Trading Co., Inc.; (5) Darrell J. DuPuy, Chief Financial Officer, President, and member of the Board of Directors of Gamut Trading Co., Inc.; and (6) a Commission investigative attorney to be designated by the Director of the Commission's Office of Unfair Import Investigations. On October 19, 1998, the Gamut respondents filed a joint response to the enforcement complaint denying violation of any of the Commission's remedial orders and infringement of the ''KUBOTA'' trademark, and asserting that the Commission lacks jurisdiction to address the enforcement complaint.

On October 28, 1998, the Commission issued an order referring the formal enforcement proceeding to an administrative law judge (ALJ) for issuance of an initial determination (ID) regarding whether respondents violated the cease and desist orders and for a recommended determination (RD) regarding what enforcement measures, if any, are appropriate in light of the nature and significance of such violations.

On November 13, 1998, the Gamut respondents filed a motion to dismiss the enforcement complaint contending that the Commission lacked jurisdiction over the subject matter. On November 18, 1998, the Gamut respondents filed a further motion seeking sanctions against complainants under Commission rule 210.4(d)(1) for filing an allegedly frivolous enforcement complaint over which the Commission has no jurisdiction. The ALJ denied both motions by orders dated December 8, 1998 (Orders Nos. 62 and 63). On December 11, 1998, complainants moved for sanctions against the Gamut respondents for filing the two foregoing motions. On January 21, 1999, the ALJ issued Order No. 69, granting complainants' motion for monetary sanctions against the Gamut respondents and their attorney, Lloyd J. Walker, on the grounds that respondents' two motions were ''not objectively reasonable under the circumstances when they were filed.'' Order No. 73, issued March 2, 1999, denied the Gamut respondents' motion for interlocutory appeal of Order No. 69.

Order No. 72, issued March 2, 1999, denied the Gamut respondents' motion to suppress the use of certain information acquired by recording telephone conversations between agents of complainants and certain employees of the Gamut respondents. Order No. 76, issued April 28, 1999, granted in part complainants' motion for adverse inferences based on the Gamut respondents' destruction of certain documents. Specifically, the ALJ found that respondents had destroyed all records showing the profits they made on sales of certain accused tractors and that an adverse inference as to their margin of profit on such sales was therefore warranted.

By agreement of the parties, no evidentiary hearing was held before the ALJ. The parties did submit position statements, proposed findings of fact, documentary exhibits, and certain joint stipulated facts, as well as rebuttal statements, findings of fact, and exhibits. On April 28, 1999, the ALJ issued his 72-page ''Final Initial and Recommended Determinations'' (ID and RD), finding that the Gamut respondents violated the cease and desist orders directed to them and recommending that the Commission assess a civil penalty against them in the amount of $652,476.

In order to allow the parties to express their views to the Commission prior to final disposition of this enforcement proceeding, the Commission provided the parties with the opportunity to file petitions for review of the ID and/or comments on the appropriate remedy, if any. The Commission also provided an opportunity for public comment on the appropriate remedy. Petitions for review of the ID, comments on remedy, and replies thereto were filed by all parties. The Commission received no public comments.

Having considered the ID and RD, the submissions of the parties, as well as the entire record in this proceeding, the Commission determined that the Gamut respondents had violated the Commission's cease and desist orders by importing and selling infringing tractors on fifty-eight (58) days between February 27, 1997, and October 13, 1998. The Commission adopted the ID with respect to the ALJ's determinations that (1) the Commission has jurisdiction over the subject matter of this enforcement proceeding; (2) respondents violated the cease and desist orders by selling in the United States 172 accused ''L'' series tractors on 56 days; and (3) respondents violated the reporting and recordkeeping provisions of the cease and desist orders by making false reports to the Commission and destroying certain records. The Commission also determined to adopt ALJ Orders Nos. 62, 63, and 69.

The Commission declined to adopt the ID with respect to the ALJ's determinations that (1) respondents did not violate the cease and desist orders by selling in the United States accused ''B'' series tractors because those tractors are not ''covered product'' within the meaning of the orders; and (2) consequently, respondents did not violate the reporting and recordkeeping requirements of the cease and desist orders with respect to accused ''B'' series tractors. The Commission determined that respondents violated

the cease and desist orders by (1) selling in the United States 16 accused ''B'' series tractors on seven days, for a combined total of 58 violation days; and (2) failing to comply with the reporting and recordkeeping requirements of the cease and desist orders with respect to such sales. The Commission further determined to impose a civil penalty in the amount of $2,320,000 on the Gamut respondents and determined that respondents should have joint and several liability for the payment of this civil penalty.[1] A Commission opinion concerning the Commission's violation and remedy determinations will be issued shortly.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and § 210.75 of the Commission's Rules of Practice and Procedure (19 CFR 210.75).

Issued: July 28, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–20044 Filed 8–3–99; 8:45 am]

BILLING CODE 7020–02–P

[1] Commissioner Crawford determined to impose a civil penalty in a different amount.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–364 (Review)]

Aspirin From Turkey

Determination

On the basis of the record[1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on aspirin from Turkey would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted this review on March 1, 1999 (64 FR 10012) and determined on June 3, 1999, that it would conduct an expedited review (64 FR 31608).

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Carol T. Crawford and Thelma J. Askey dissenting, determining that revocation of the antidumping duty order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 29, 1999. The views of the Commission are contained in USITC Publication 3215 (July 1999), entitled Aspirin from Turkey: Investigation No. 731–TA–364 (Review).

Issued: July 30, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–20048 Filed 8–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–70]

Circular Welded Carbon Quality Line Pipe

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) (the Act).

SUMMARY: Following receipt of a petition filed on June 30, 1999, as amended on July 2, 1999, on behalf of Geneva Steel, IPSCO Tubulars, Inc., Lone Star Steel Company, Maverick Tube Corporation, Newport Steel, Northwest Pipe Company, Stupp Corporation, and the United Steelworkers of America, AFL–CIO, the Commission instituted investigation No. TA–201–70 under section 202 of the Act to determine whether welded carbon quality[1] line pipe of circular cross section, of a kind used for oil and gas pipelines, whether or not stencilled, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Such line pipe is classified in subheadings 7306.10.10 and 7306.10.50 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

EFFECTIVE DATE: June 30, 1999.

FOR FURTHER INFORMATION CONTACT: Valerie Newkirk (202–205–3190), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Participation in the Investigation and Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than 21 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Confidential Business Information (CBI) Under an Administrative Protective Order (APO) and CBI Service List

Pursuant to section 206.17 of the Commission's rules, the Secretary will make CBI gathered in this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than 21 days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive CBI under the APO.

Hearings on Injury and Remedy

The Commission has scheduled separate hearings in connection with the

[1] For purposes of this investigation, carbon quality is defined to mean: products in which (1) iron predominates, by weight, over each of the other contained elements, (2) the carbon content is 2 percent or less, by weight, and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium

injury and remedy phases of this investigation. The hearing on injury will be held beginning at 9:30 a.m. on September 30, 1999, at the U.S. International Trade Commission Building. In the event that the Commission makes an affirmative injury determination or is equally divided on the question of injury in this investigation, a hearing on the question of remedy will be held beginning at 9:30 a.m. on November 10, 1999. Requests to appear at the hearings should be filed in writing with the Secretary to the Commission on or before September 23, 1999, and November 3, 1999, respectively. All persons desiring to appear at the hearings and make oral presentations should attend prehearing conferences to be held at 9:30 a.m. on September 27, 1999 and November 5, 1999, respectively, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by §§ 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs on injury is September 24, 1999; that for filing prehearing briefs on remedy, including any commitments pursuant to 19 U.S.C. 2252(a)(6)(B), is November 3, 1999. Parties may also file posthearing briefs. The deadline for filing posthearing briefs on injury is October 6, 1999; that for filing posthearing briefs on remedy is November 17, 1999. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the consideration of injury on or before October 6, 1999, and pertinent to the consideration of remedy on or before November 17, 1999. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain CBI must also conform with the requirements of section 201.6 of the Commission's rules.

In accordance with § 201.16(c) of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or CBI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 202 of the Trade Act of 1974; this notice is published pursuant to § 206.3 of the Commission's rules.

Issued: July 29, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–20045 Filed 8–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–768 (Final Remand)]

Fresh Atlantic Salmon From Chile; Scheduling of Remand Proceedings

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: The U.S. International Trade Commission (the Commission) hereby gives notice of the court-ordered remand of its final antidumping investigation No. 731–TA–768 (Final).

EFFECTIVE DATE: July 23, 1999.

FOR FURTHER INFORMATION CONTACT: Woodley Timberlake, Office of Investigations, telephone 202–205–3188 or Neal J. Reynolds, Office of General Counsel, telephone 202–205–3093, U.S. International Trade Commission. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1999, the Court of International Trade remanded to the Commission its final determination in *Fresh Atlantic Salmon from Chile,* Inv. No. 731–TA–768 (Final), USITC Pub. 3116 (July 1998).[1] In its order, the Court directs the Commission to ''reopen the administrative record to verify the accuracy of its foreign production, shipments and capacity data'' and to ''take any action necessary after reexamining the foreign production, shipments and capacity data.'' It also directs the Commission to issue a remand determination within ninety days of the date of the order, i.e., by September 30, 1999.

Reopening Record

In order to assist it in making its determination on remand, the Commission is reopening the record on remand in this investigation to verify the accuracy of its foreign production, capacity and shipments data and to permit parties to file comments on whether that data should be revised. If necessary, the Commission will permit the parties to file additional briefs on whether any such revisions should affect the Commission's threat analysis in the investigation.

Participation in the Proceedings

Only those persons who were interested parties to the original administrative proceedings (i.e., persons listed on the Commission Secretary's service list) may participate in these remand proceedings.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Information obtained during the remand investigation will be released to parties under the administrative protective order (''APO'') in effect in the original investigation. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make business proprietary information gathered in the final investigation and this remand investigation available to additional authorized applicants, that are not covered under the original APO, provided that the application is made not later than seven (7) days after publication of the Commission's notice of reopening the record on remand in the **Federal Register**. Applications must be filed for persons on the Judicial Protective Order in the related CIT case, but not covered under the original APO. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO in this remand investigation.

Written Submissions

Each party who is an interested party in this remand proceeding may submit comments to the Commission. These comments must be concise and must be limited specifically to the issue of whether the foreign production, capacity and shipments data of Fiordo Blanco S.A., a Chilean producer of salmon, was double-counted during the

[1] The Commission made an affirmative determination by a 2–1 vote in July 1998. Chairman Bragg determined that the domestic industry was threatened with material injury by reason of the subject imports and Vice Chairman Miller determined that the industry was materially injured by reason of the subject imports. Commissioner Crawford dissented, finding that the industry was neither materially injured nor threatened with material injury by reason of the subject imports.

original investigation, based on data submitted during that investigation and in this remand proceeding. Any material in these comments that does not address this limited issue will be stricken from the record. These comments shall be limited to ten (10) pages, and must be filed no later than the close of business on August 23, 1999.

If the Commission finds that it double counted Fiordo Blanco's data in the original investigation, each party who is an interested party in this remand proceeding will also be permitted to submit a written brief to the Commission. Briefs should be concise and thoroughly referenced to information on the record in the original investigation or information obtained during the remand investigation. Briefs will be strictly limited to the issue of whether any revisions to the original foreign production, capacity, and shipments data that occur as a result of this remand investigation affect the Commission's threat analysis in this proceeding. Any material in the briefs that does not address this limited issue will be stricken from the record. Written briefs shall be limited to fifteen (15) pages, and must be filed no later than the close of business on September 17, 1999. Parties will be informed as to whether these briefs are necessary by September 2, 1999. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain business proprietary information (BPI) must also conform with the requirements of § 201.6, 207.3, and 207.7 of the Commission's rules. In accordance with §§ sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This action is taken under the authority of the Tariff Act of 1930, title VII.

By order of the Commission.

Issued: July 30, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–20047 Filed 8–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–271 and 731–TA–318 (Review)]

Oil Country Tubular Goods From Israel

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in May 1999 to determine whether revocation of the existing countervailing duty and antidumping duty orders would be likely to lead to continuation or recurrence of dumping and of material injury to a domestic industry. On July 27, 1999, the Department of Commerce published notice that it was revoking the orders because it determined that no domestic interested party intends to participate in the reviews (64 FR 40548, July 27, 1999). Accordingly, pursuant to § 207.69 of the Commission's rules of practice and procedure (19 CFR 207.69), the subject reviews are terminated.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.69 of the Commission's rules (19 CFR 207.69).

Issued: July 30, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–20046 Filed 8–3–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil action No. 53–7989]

U.S. v. The Kansas City Star Co.; Proposed Modification of Final Judgment

Notice is hereby given that defendant Kansas City Star Company (the ''Star'') has filed with the United States District Court for the Western District of Missouri a motion to modify the Final Judgment in *United States* v. *Kansas City Star Company*, 1957 Trade Cas. (CCH) ¶ 68,857 (W.D. Mo. 1957). The Department of Justice (''Department''), in a stipulation also filed with the Court, has consented to modification of the Final Judgment, but has reserved the right to withdraw its consent based on public comments or for other reasons. The Complaint in this case (filed January 6, 1953) focused on the period 1950–51 and alleged that the Star dominated the sale of news and advertising in Kansas City and engaged in a variety of practices designed to exclude competition, in violation of Section 2 of the Sherman Act, 15 U.S.C. 2.

The Final Judgment (entered on November 15, 1957) ordered the Star to divest its radio and television interests and enjoins the defendants from acquiring ''any interest in any commercial radio or television broadcasting station in Metropolitan Kansas City except upon application to this Court.'' The defendants were further enjoined from acquiring any interest in any newspaper publication with a circulation in Metropolitan Kansas City.

The Final Judgment also enjoins the defendants from price discrimination, certain types of discounts, and tying of advertising in various editions of the newspaper. Some of these provisions are obsolete; others prevent the Star from undertaking certain procompetitive initiatives.

The proposed modification terminates the existing judgment in its entirety and substitutes an Amended Final Judgment that requires that the Star provide the Department with advance notification of Kansas City newspaper acquisitions valued at $5 million or more but not subject to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a. The Amended Judgment will expire in ten years.

The Department has filed with the Court a memorandum setting forth the reasons why it believes that modification of the Final Judgment would be in the public interest. Copies

of the Complaint, the proposed modified Final Judgment, the defendant's motion papers, the Stipulation containing the Government's tentative consent, the Department's memorandum, and all further papers filed with the Court in connection with this motion will be available for inspection at Room 215, Antitrust Division, Department of Justice, 325 Seventh Street, NW., Washington, DC 20530 (Telephone: (202) 514–2481), and at the Office of the Clerk of the United States District Court for the Western District of Missouri, in Kansas City, Missouri. Copies of any of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department regulations.

Interested persons may submit comments to the Department regarding the proposed modification of the Final Judgment. Such comments must be received within the sixty-day period established by court order, and will be filed with the Court by the Department. Comments should be addressed to M.J. Moltenbrey, Chief, Civil Task Force, Antitrust Division, Department of Justice, 325 7th Street, NW., Washington, DC 20530 (telephone: (202) 616–5935).

Rebecca Dick,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 99–20028 Filed 8–3–99; 8:45 am]

BILLING CODE 4410–11–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

July 30, 1999.

TIME AND DATE: 9:30 a.m., Friday, August 6, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of the Commission that the Commission discuss in closed session the pending application for a prosecutor in Disciplinary Matter, Docket No. D–99–1.

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 99–20227 Filed 8–2–99; 3:49 am]

BILLING CODE 6735–01–M

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 8:30 a.m., August 24, 1999.

PLACE: On board MISSISSIPPI V at City Front, Winona, MN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary of national and regional issues affecting Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within St. Paul District; and (3) views and comments on issues affecting programs or projects of the Commission and the Corps.

TIME AND DATE: 9 a.m., August 25, 1999.

PLACE: On board MISSISSIPPI V at Ice Harbor, Dubuque, IA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary of national and regional issues affecting Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within Rock Island District; and (3) views and comments on issues affecting programs or projects of the Commission and the Corps.

TIME AND DATE: 1:30 p.m., August 27, 1999.

PLACE: On board MISSISSIPPI V at Melvin Price Locks and Dam, Alton, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary of national and regional issues affecting Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within St. Louis District; and (3) Views and comments on issues affecting programs or projects of the Commission and the Corps.

TIME AND DATE: 1:30 p.m., August 30, 1999.

PLACE: On board MISSISSIPPI V at City Front, New Madrid, MO.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary of national and regional issues affecting Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within Memphis District; and (3) views and comments on issues affecting programs or projects of the Commission and the Corps.

TIME AND DATE: 8:30 a.m., August 31, 1999.

PLACE: On board MISSISSIPPI V at City Front, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: Summary of national and regional issues affecting Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within Memphis District; and (3) views and comments on issues affecting programs or projects of the Commission and the Corps.

TIME AND DATE: 8:30 a.m., September 1, 1999.

PLACE: On board MISSISSIPPI V at City Front, Greenville, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary of national and regional issues affecting Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within Vicksburg District; and (3) views and comments on issues affecting programs or projects of the Commission and the Corps.

TIME AND DATE: 9:30 a.m., September 3, 1999.

PLACE: On board MISSISSIPPI V at Cenac Towing Company Dock, Houma, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary of national and regional issues affecting Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within New Orleans District; and (3) views and comments on issues affecting programs or projects of the Commission and the Corps.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Gwen C. Edris, telephone 601–634–5768.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–20196 Filed 8–2–99; 2:31 pm]

BILLING CODE 3710–PU–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–103]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Solar System Exploration Subcommittee.

DATES: Monday, August 23, 1999, 8:30 a.m. to 5 p.m., and Tuesday, August 24, 1999, 8:30 a.m. to 5 p.m.

ADDRESSES: NASA Headquarters, Conference Room 5H46, 300 E Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Carl Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2470.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The Agenda for the meeting is as follows:

—SScAC meeting summary.
—Office of Space Science Program update.
—Solar System Program update.
—Mission to the Kuiper Belt.
—Building Blocks and our Chemical Origins.
—Evolution of Earth-like Environment.
—Astrophysical Analogues.
—General discussion on mission priorities.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: July 30, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–20070 Filed 8–3–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Proposed Collection; Comment Request

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) is soliciting public comments on the proposed information collection described below. The proposed information collection will be sent to the Office of Management and Budget (OMB) for review, as required by the provisions of the Paperwork Reduction Act of 1995.

DATES: Comments on this information collection must be submitted on or before October 4, 1999.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Room 311, Washington, D.C. 20506, or by email to: sdaisey@neh.gov. Telephone 202–606–8494.

SUPPLEMENTARY INFORMATION: The National Endowment for the Humanities will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This notice is soliciting comments from members of the public and affected agencies. NEH is particularly interested in comments which help the agency to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, 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 submissions of responses.

This Notice also lists the following information:

Type of Review: Extension of a currently approved collection.

Agency: National Endowment for the Humanities.

Title of Proposal: My History Is America's History Website.

OMB Number: 3136–0136.

Frequency of Collection: Continual.

Affected Public: General Public.

Number of Respondents: Approximately 100,000 per year.

Estimated Time per Respondent: Approximately one hour per response.

Estimated Total Burden Hours: 100,000.

Total Annualized capital/startup costs: 0.

Total Annual costs (operating/maintaining systems or purchasing service): 0.

DESCRIPTION: Comments submitted in response to this notice will be summarized and/or included in the request submitted to the Office of Management and Budget for extended approval of the information collection request; they will also become a matter of public record.

Juan Mestas,

Deputy Chairman.

[FR Doc. 99–19935 Filed 8–3–99; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting

AGENCY HOLDING MEETING: National Science Foundation, National Science Board, Executive Committee.

DATE AND TIME: August 10, 1999: 2:00 p.m., Closed Session.

PLACE: The National Science Foundation, 4201 Wilson Boulevard, Room 1205, Arlington, VA 22230.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Closed Session (2:00 p.m. to 5:00 p.m.)—FY 2001 Budget.

Marta Cehelsky,

Executive Officer.

[FR Doc. 99–20146 Filed 8–2–99; 1:05 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–269, 50–270, and 50–287]

Duke Energy Corporation (Oconee Nuclear Station, Units 1, 2, and 3); Exemption

I

The Duke Energy Corporation (Duke/the licensee) is the holder of Facility Operating License Nos. DPR–38, DPR–47, and DPR–55, that authorize operation of the Oconee Nuclear Station, Units 1, 2, and 3 (Oconee), respectively. The licenses provide, among other things, that the facilities are subject to all rules, regulations, and orders of the US Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities consist of pressurized water reactors located on Duke's Oconee site in Seneca, Oconee County, South Carolina.

II

Title 10 of the *Code of Federal Regulations* (10 CFR) part 50, Appendix G requires that pressure-temperature (P–T) limits be established for reactor pressure vessels (RPVs) during normal operating and hydrostatic or leak rate testing conditions. Specifically, 10 CFR part 50, Appendix G states that ''[t]he appropriate requirements on * * * the pressure-temperature limits and minimum permissible temperature must be met for all conditions.'' Appendix G of 10 CFR part 50 specifies that the requirements for these limits are the American Society of Mechanical Engineers (ASME) Code, section XI, Appendix G limits.

Pressurized water reactor licensees have installed cold overpressure mitigation systems/low temperature overpressure protection (LTOP) systems in order to protect the reactor coolant pressure boundary (RCPB) from being operated outside of the boundaries established by the P–T limit curves and to provide pressure relief of the RCPB during low temperature overpressurization events. The licensee is required by the Oconee Units 1, 2, and 3 Technical Specifications (TS) to update and submit the changes to its LTOP setpoints whenever the licensee is requesting approval for amendments to the P–T limit curves in the Oconee Units 1, 2, and 3 TS.

Therefore, in order to address provisions of amendments to the TS P–T limits and LTOP curves, the licensee requested in its submittal dated May 11, 1999, that the staff exempt Oconee Units 1, 2, and 3 from application of specific requirements of 10 CFR part 50, section 50.60(a) and 10 CFR part 50, Appendix G, and substitute use of three ASME Code Cases as follows:

1. N–514 as an alternate methodology for determining the low temperature overpressure protection system enable temperature,

2. N–588 for determining the reactor vessel P–T limits derived from postulating a circumferentially-oriented reference flaw in a circumferential weld, and

3. N–626 as an alternate reference fracture toughness for reactor vessel materials for use in determining the P–T limits. (As a result of recent ASME code committee action, the designation for Code Case N–626 was changed to N–640. Therefore, Code Case N–640 will be discussed below rather than Code Case N–626, the designation referenced in the submittal.)

The proposed action is in accordance with the licensee's application for exemption contained in a submittal dated May 11, 1999, and is needed to support the TS amendments that are contained in the same submittal and are being processed separately. The proposed amendments will revise the P–T limits of TS 3.4.3 for Oconee Units 1, 2, and 3 related to the heatup, cooldown, and inservice test limitations for the Reactor Coolant System of each unit to a maximum of 33 Effective Full Power Years (EFPY). It will also revise TS 3.4.12, Low Temperature Overpressure Protection System, to reflect the revised P–T limits of the reactor vessels.

Code Case N–514

During staff review of this submittal, the staff determined that granting of an exemption to use Code Case N–514 to redefine the LTOP enable temperature as RT_{NDT} +50 °F was not necessary. Since the prior definition of the enable temperature as RT_{NDT} +90 °F is found only in an NRC Branch Technical Position, an exemption is not required.

Code Case N–588

This requested exemption will allow the use of ASME Code Case N–588 to determine stress intensity factors for postulated defects in circumferential welds. Appendix G of 10 CFR part 50 requires, in part, that Article G–2120 of ASME section XI, Appendix G, be used to determine the maximum postulated defects in reactor pressure vessels (RPV) when determining the P–T limits for the vessel. Article G–2120 specifies that the postulated defect be in the surface of the vessel material and normal (perpendicular in the plane of the material) to the direction of maximum stress. ASME section XI, Appendix G, also provides methodology to determine the stress intensity factors for a maximum postulated defect normal to the maximum stress. The purpose of this article is to prevent non-ductile failure of the RPV by providing procedures to identify the most limiting postulated fractures to be considered in the development of P–T limits.

Per Article G–2120 of ASME section XI, Appendix G, the postulated flaw ''normal to the direction of maximum stress'' would be an axially-oriented flaw for each reactor vessel beltline material. This postulated reference flaw is intended to be a conservative, bounding defect when compared to those defects that may have gone undetected during the fabrication process.

Engineering experience and non-destructive examinations over the course of the last thirty years have shown this to be a valid assumption and have shown that no service-induced degradation mechanism exists in pressurized water reactors that would cause significant growth of preservice flaws.

However, for a circumferential weld, it is extremely unlikely that axial flaws of appreciable size would be introduced perpendicular to the weld seam during fabrication since the nature of the welding process leads to any extended flaws being introduced parallel to the direction of travel of the welding head. In addition, the size of flaw required to be postulated by the ASME Code, if oriented axially, would extend across the entire nominal width of the circumferential weld and into the base material on either side. Given the strict procedure controls required during the fabrication of ASME Code Class 1 reactor vessels and the extensive amount of preservice and inservice non-destructive examination to which their welded regions have been subjected, it has been confirmed that any remaining defects are small and do not cross transverse to the weld bead orientation. Therefore, the NRC staff finds that the application of this degree of non-physical conservatism is not necessary to achieve the underlying intent of 10 CFR part 50, Appendix G.

In summary, the underlying purpose of 10 CFR part 50, Appendix G and ASME section XI, Appendix G, is to satisfy the requirement that: (1) The reactor coolant pressure boundary be operated in a regime having sufficient margin to ensure that when stressed the vessel boundary behaves in a non-brittle manner and the probability of a rapidly propagating fracture is minimized, and (2) P–T operating and test curves provide margin in consideration of uncertainties in determining the effects of irradiation on material properties.

Application of Code Case N–588 to determine P–T operating and test limit curves per ASME section XI, Appendix G, provides appropriate, conservative procedures to determine limiting maximum postulated defects and to consider those defects in the P–T limits. This application of the code case maintains the margin of safety for circumferential welds equivalent to that originally contemplated for plates/forgings and axial welds.

Therefore, pursuant to 10 CFR 50.12(a)(2)(ii), application of the code case would continue to achieve the underlying purpose of the rule.

Code Case N–640 (Formerly Code Case N–626)

The licensee has proposed an exemption to allow use of ASME Code Case N–626 (which is now Code Case N–640) in conjunction with ASME

section XI, 10 CFR 50.60(a) and 10 CFR part 50, Appendix G, to determine that the P–T limits meet the underlying intent of the NRC regulations.

The proposed amendment to revise the P–T limits for Oconee Units 1, 2, and 3 rely in part on the requested exemption. These revised P–T limits have been developed using the K_{Ic} fracture toughness curve shown on ASME section XI, Appendix A, Figure A–2200–1, in lieu of the K_{Ia} fracture toughness curve of ASME section XI, Appendix G, Figure G–2210–1, as the lower bound for fracture toughness. The other margins involved with the ASME section XI, Appendix G process of determining P–T limit curves remain unchanged.

Use of the K_{Ic} curve in determining the lower bound fracture toughness in the development of P–T operating limits curve is more technically correct than the K_{Ia} curve. The K_{Ic} curve appropriately implements the use of static initiation fracture toughness behavior to evaluate the controlled heat-up and cooldown process of a reactor vessel. The licensee has determined that the use of the initial conservatism of the K_{Ia} curve when the curve was codified in 1974 was justified. This initial conservatism was necessary due to the limited knowledge of reactor pressure vessel materials. Since 1974, additional knowledge has been gained about reactor pressure vessel materials, which demonstrates that the lower bound on fracture toughness provided by the K_{Ia} curve is well beyond the margin of safety required to protect the public health and safety from potential reactor pressure vessel failure. In addition, P–T curves based on the K_{Ic} curve will enhance overall plant safety by opening the P–T operating window with the greatest safety benefit in the region of low temperature operations. The two primary safety benefits in opening the low temperature operating window are a reduction in the challenges to RCS power operated relief valves and elimination of RCP impeller cavitation wear.

Since the RCS P–T operating window is defined by the P–T operating and test limit curves developed in accordance with the ASME section XI, Appendix G procedure, continued operation of Oconee with these P–T curves without the relief provided by ASME Code Case N–640 would unnecessarily restrict the P–T operating window. This restriction requires, under certain low temperature conditions, that only one reactor coolant pump in a reactor coolant loop be operated. The licensee has found from experience that the effect of this restriction is undesirable degradation of reactor coolant pump impellers that results from cavitation sustained when either one pump or one pump in each loop is operating. Implementation of the proposed P–T curves as allowed by ASME Code Case N–640 does not significantly reduce the margin of safety. Thus, pursuant to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the regulation will continue to be served.

In summary, the ASME section XI, Appendix G procedure was conservatively developed based on the level of knowledge existing in 1974 concerning reactor pressure vessel materials and the estimated effects of operation. Since 1974, the level of knowledge about these topics has been greatly expanded. The NRC staff concurs that this increased knowledge permits relaxation of the ASME section XI, Appendix G requirements by application of ASME Code Case N–640, while maintaining, pursuit to 10 CFR 50.12(a)(2)(ii), the underlying purpose of the ASME Code and the NRC regulations to ensure an acceptable margin of safety.

III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50, when (1) The exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. The staff accepts the licensee's determination that an exemption would be required to approve the use of Code Cases N–588 and N–626 (now Code Case N–640). The staff examined the licensee's rationale to support the exemption request and concurred that the use of the code cases would also meet the underlying intent of these regulations. Based upon a consideration of the conservatism that is explicitly incorporated into the methodologies of 10 CFR Part 50, Appendix G; Appendix G of the Code; and RG 1.99, Revision 2, the staff concluded that application of the code cases as described would provide an adequate margin of safety against brittle failure of the RPVs. This is also consistent with the determination that the staff has reached for other licensees under similar conditions based on the same considerations. Therefore, the staff concludes that requesting the exemption under the special circumstances of 10 CFR 50.12(a)(2)(ii) is appropriate and that the methodology of Code Cases N–588 and N–626 may be used to revise the LTOP setpoints and P–T limits for the Oconee Units 1, 2, and 3 reactor coolant system.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Therefore, the Commission hereby grants Duke an exemption from the requirements of 10 CFR part 50, section 50.60(a) and 10 CFR part 50, Appendix G, for the Oconee Nuclear Station, Units 1, 2, and 3.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant effect on the quality of the human environment (64 FR 40901).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 29th day of July 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–19986 Filed 8–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of August 2, 9, 16, and 23, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 2

Thursday, August 5

9:55 p.m. Affirmation Session (Public Meeting) (If needed)

10:00 a.m. Briefing on EEO Program (Public Meeting) (Contact: Irene Little, 301–415–7380)

Week of August 9–Tentative

Thursday, August 12

11:30 a.m. Affirmation Session (Public Meeting) (If needed)

Week of August 16–Tentative

There are no meetings scheduled for the Week of August 16.

Week of August 23–Tentative

Wednesday, August 25

9:55 a.m. Affirmation Session (Public Meeting) (If needed)

10:00 a.m. Briefing on PRA Implementation Plan (Public Meeting) (Contact: Tom King, 301–415–5828)

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: July 30, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–20114 Filed 8–2–99; 10:34 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Notice of Correction to Biweekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

On July 28, 1999 (64 FR 40903), the **Federal Register** published the Biweekly Notice of Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations. On page 40907, under Southern California Edison Company, Docket Nos. 50–361 and 50–362, the date of the amendment request was inadvertently left out. It should read, ''Date of amendment requests: December 31, 1998, as supplemented June 14, 1999 (PCN–501).''

Dated at Rockville, Maryland, this 29th day of July 1999.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Deputy Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–19985 Filed 8–3–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23923; 812–11202]

Internet Capital Group, Inc.; Notice of Application

July 28, 1999

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under section 3(b)(2) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY: Applicant Internet Capital Group, Inc. (''ICG'') seeks an order under section 3(b)(2) of the Act declaring it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities. Applicant is an operating company engaged in business-to-business electronic commerce.

Filing Dates: The application was filed on June 26, 1998 and amended on July 26, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 20, 1999 and should be accompanied by proof of service on the applicant, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609; Applicant, 435 Devon Park Drive, Building 800, Wayne, PA 19087.

FOR FURTHER INFORMATION CONTACT: Nadya B. Roytblat, Assistant Director, at (202) 942–0693, Division of Investment Management, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. ICG, a Delaware corporation, was formed in 1996.[1] ICG's initial investors were Safeguard Scientifics, Comcast Corporation, and General Electric Corporation. ICG states that its goal from its inception has been to become a premier business-to-business electronic commerce company, primarily engaged in business-to-business electronic commerce through a network of partner companies (''Partner Companies''). ICG represents that it is not in the business of investing, reinvesting or trading in securities.

2. The Partner Companies fall into two categories: (i) Companies that bring buyers and sellers together by creating Internet-based markets for the exchange of goods, services and information, and (ii) companies that sell software and services to businesses engaged in electronic commerce. As of June 15, 1999, ICG owned interests in 35 Partner Companies, 3 of which were majority-owned subsidiaries of ICG and 16 of which were companies in which ICG owned more than 25% of the outstanding voting securities and thus controlled within the meaning of section 2(a)(9) of the Act (majority-owned and controlled subsidiaries of ICG, collectively, ''Controlled Companies'').[2] ICG states that it also holds small minority interests in four other companies.

3. ICG states that many of the Partner Companies currently are early development stage businesses, in which the entrepreneur seeks to retain a large ownership stake. ICG further states that it invests in the Partner Companies for the long term. As ICG builds its network of companies, ICG expects that it might have a need to sell its interest in certain companies that no longer fit or contribute to the network. ICG does not contemplate selling interests in non-controlled companies in the ordinary course of business. As a general matter, ICG expects that it will seek to increase its ownership interests in Partner Companies it considers strategically important to the network.

4. ICG states that it seeks to acquire and build business-to-business market leaders in electronic commerce and integrate them into the ICG network of companies. ICG states that its infrastructure provides a framework for nurturing emerging companies and

[1] ICG was formed initially as a Delaware limited liability company.

[2] Section 2(a)(9) defines ''control'' as the power to exercise a controlling influence over the management or policies of a company. That section creates a presumption that an owner of more than 25% of the outstanding voting securities of a company controls the company.

institutionalizing operating practices among the Partner Companies, resulting in efficiencies and economies of scale. ICG also states that the network provides an environment of information exchange and innovation that gives ICG companies a competitive advantage over more isolated Internet firms. ICG states that the network also provides breadth in operations, technology and experience within a narrowly defined but fast growing industrial segment. In addition, ICG states that the network enables information and resources to be rapidly allocated and reallocated among the participating companies with ICG acting as the ''parent'' or hub or the network.

Applicant's Legal Analysis

1. ICG requests an order under section 3(b)(2) of the Act declaring that it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities, and therefore not an investment company as defined in the Act.

2. Under section 3(a)(1)(C) of the Act, an issuer is an investment company if it is engaged or proposes to engage in the business of investing, reinvesting, owning, holding or trading in securities, and owns or proposes to acquire investment securities having a value in excess of 40% of the value of the issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Under section 3(a)(2) of the Act, investment securities include all securities except Government securities, securities issued by employees securities companies, and securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exclusions from the definition of investment company in sections 3(c)(1) or 3(c)(7) of the Act.

3. ICG states that approximately 96% of its assets consists of investment securities as defined in section 3(a)(2). Accordingly, ICG may be deemed an investment company within the meaning of section 3(a)(1)(C) of the Act.[3] ICG asserts that, as of June 15, 1999, 90% of its total assets was comprised of interests in majority-owned subsidiaries and companies primarily controlled by ICG for purposes of rule 3a-1 under the Act. Rule 3a-1 provides an exemption from the definition of investment company if no more than 45% of a company's total assets consist of, and not more than 45% of its net income over the last four quarters is derived from, securities other than Government securities and securities of majority-owned subsidiaries and companies primarily controlled by it. ICG states that it is currently unable to rely on rule 3a-1 because of the net income generated from the sale of two minority interests in 1998.

4. Section 3(b)(2) of the Act provides that, notwithstanding section 3(a)(1)(C), the Commission may issue an order declaring an issuer to be primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses. ICG states that it meets the requirements of section 3(b)(2) because it is primarily engaged in business-to-business electronic commerce through its Controlled Companies.

5. In determining whether applicant is ''primarily engaged'' in a non-investment company business under section 3(b)(2), the Commission considers the following factors: (i) Applicants's historical development, (ii) applicant's public representations of policy, (iii) the activities of applicant's officers and directors, (iv) the nature of applicant's present assets, and (v) the sources of applicant's present income.[4]

a. *Historical Development.* ICG states that since its inception in 1996, it has considered itself to be an operating company engaged in business-to-business electronic commerce. ICG states that its business strategy has not changed since 1996, but has become more refined and focused, and that ICG has taken increasingly larger stakes in Partner Companies that ICG believes to be of strategic importance to its network of business-to-business electronic commerce companies.

b. *Public Representations of Policy.* ICG states that it has consistently held itself out as being engaged in the Internet business and not in the investment company business. ICG states that it describes itself as an operating company that holds interests in a group of Internet-related companies and actively participates in the management of those companies. ICG states that, as part of promoting its business operations in building the network, ICG intends, among other things, to pursue a strategy of ''branding'' its Partner Companies.

c. *Activities of Officers and Directors.* ICG states that it has three levels of operations: internal operations, Partner Company operations, and acquisitions. ICG states that approximately 27% of the ICG's officers' and employees' time (excluding administrative staff) is currently being allocated to internal operations, 56% to Partner Company operations, and 17% to acquisitions. ICG asserts that its officers have extensive experience in the information technology and Internet industries and are active board members for the Partner Companies. Twenty two of ICG's 25 full-time employees devote the majority of their time to issues involving the integration and management of ICG's Network Companies and ICG's operations. ICG has senior management dedicated exclusively to providing operational support and services to the Partner Companies in the areas of human resources, legal, finance, information technology, sales and marketing. ICG also possesses an advisory board composed of leading information technology executives who are actively involved in the affairs of ICG's Partner Companies.

d. *Nature of Assets.* ICG states that, as of June 15, 1999, ICG's three majority-owned subsidiaries represented 4.7%, and the other 16 controlled subsidiaries represented 90%, of ICG's total assets on an unconsolidated basis. ICG states that the rest of its assets was invested in Partner Companies in which ICG had an interest of below 25% and small minority interests in other companies. ICG represents that at least 60% of its total assets on an unconsolidated basis (exclusive of Government securities and cash items) will continue to be invested in Partner Companies that ICG controls within the meaning of the Act.

e. *Sources of Income.* ICG states that its Partner Companies are emerging Internet businesses that typically generate little or no income for ICG in the form of dividends. ICG also states that it may generate net income from time to time as a result of sales or dispositions of assets. ICG asserts that its activities as an operating company therefore are more appropriately analyzed by evaluating ICG's proportionate share of the revenues of its Controlled Companies as well as ICG's total revenues. ICG states that, for the 12 month period ending March 31, 1999, ICG's revenues attributable to its Controlled Companies represented approximately 68% of ICG's total revenues.[5] ICG states that this figure

[3] ICG currently is relying on rule 3a-2 under the Act. Rule 3a-2 provides a temporary exemption from the Act for companies with ''a bona fide intent to be primarily engaged * * * within a year in a business other than that of investing, reinvesting, owning, holding or trading in securities.''

[4] *Tonopah Mining Company of Nevada,* 26 SEC 426, 427 (1947).

[5] ICG states that, for purposes of this analysis, revenues from ICG's majority-owned subsidiaries were consolidated, and revenues of other

was derived by comparing (i) ICG's consolidated revenues, ICG's proportionate share of the revenues of its Controlled Companies, and ICG's income derived from interests in Controlled Companies to (ii) ICG's total revenues comprised of the items in (i) as well as income derived from sales of interests in non-controlled companies and interest income. ICG represents that it does not intend to derive a significant percentage of its revenues from income derived from sales of interest in non-controlled companies.

6. ICG thus asserts that it satisfies the standards for an order under section 3(b)(2) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19950 Filed 8–3–99; 8:45 am]

BILLING CODE 8010–01–M

Controlled Companies were attributed to ICG in proportion to ICG's interests in the Controlled Companies. ICG uses the equity method of accounting for these Controlled Companies, which under Generally Accepted Accounting Principles means that the Companies' income or losses, but not revenues, are attributed to ICG based on its ownership interests in the Companies. ICG notes that ICG's revenues attributable to its Controlled Companies would represent approximately 66% of ICG's total revenues if the revenues of ICG's consolidated majority-owned subsidiaries were attributed to ICG in proportion to ICG's interests in the majority-owned subsidiaries.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23927; 812–11654]

Nations Fund Trust, et al.; Notice of Application

July 30, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain series of Nations Institutional Reserves (''NIR'') to acquire all of the assets and liabilities of certain series of Nations Fund Trust (''NFT'), Nations Fund, Inc. (''NFI''), and Nations Fund Portfolios, Inc. (''NFP'') (the ''Reorganization''). Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

Applicants: NIR, NFT, NFI, NFP, and NationsBanc Advisors, Inc. (''NBAI'').

Filing Dates: The application was filed on June 9, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

Hearing of Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 19, 1999 and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, One Bank of America Plaza, 101 South Tryon Street, Charlotte, NC 28255.

FOR FURTHER INFORMATION CONTACT: Bruce R. MacNeil, Staff Attorney, (202) 942–0634, or Michael W. Mundt, Branch Chief, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. NFT, a Massachusetts business trust, NFI, a Maryland corporation, and NFP, a Maryland corporation, are open-end management investment companies registered under the Act. NFT currently offers 28 series, 2 of which will participate in the Reorganization. NFI offers 9 series, 2 of which will participate in the Reorganization. NFP currently offers one series, which will participate in the Reorganization. The participating series of NFT, NFI, and NFP are collectively referred to as the ''Acquired Funds.''

2. NIR, a Massachusetts business trust, is an open-end management investment company registered under the Act. NIR is organizing five new series, (the ''Acquiring Funds,'' and together with the Acquired Funds, the ''Funds'').[1] Three of the Acquiring Funds are feeder funds (''Feeder Funds'') which will invest all of their assets in a corresponding master portfolio of Nations Master Investment Trust (''NMIT''), an open-end management investment company registered under the Act.

3. NBAI is registered under the Investment Advisers Act of 1940 (''Advisers Act'') and is the investment adviser for the Funds and NMIT. NBAI is a wholly-owned subsidiary of Bank of America Corporation. Bank of America Corporation, NationsBank, N.A., and/or certain of their affiliates that are under common control with NBAI (the ''BankAmerica Group''), hold of record, in their name and in the names of their nominees, more than 5% (and with respect to certain of the Acquired Funds more than 25%) of the outstanding voting securities of each of the Acquired Funds. All of these securities are held for the benefit of others in a trust, agency, custodial, or other fiduciary or representative capacity.

4. On March 31, 1999, and May 26, 1999, respectively, the board of trustees of NIR (the ''Acquiring Funds' Board'') and the boards of directors or trustees of NFT, NFI and NFP (the ''Acquired Funds' Boards,'' together with the Acquiring Funds' Board, the ''Boards'') including a majority of the directors or trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Disinterested Members''), approved Agreements and Plans of Reorganization (each a ''Plan'' and collectively, the ''Plans'') between each of the Acquiring and Acquired Funds. Pursuant to the Plans, each Acquiring Fund will acquire all of the assets and liabilities of the corresponding Acquired Fund in exchange for shares of the Acquiring Fund.[2]

5. Each of the Funds has five classes of shares: Primary A, Primary B, Investor A, Investor B, and Investor C. The number of Acquiring Fund shares to be issued to shareholders of the Acquired Fund will be determined by dividing the aggregate net assets of each Acquired Fund class by the net asset value per share of the corresponding Acquiring Fund class, each computed as of the close of business on the closing date (''Closing Date''). The Plans provide that these Acquiring Fund shares will be distributed pro rata to the

[1] A registration statement for the five shell Acquiring Funds was filed with the SEC on June 4, 1999.

[2] The Acquired Funds and the corresponding Acquiring Funds are: (i) NFT Nations Marsico Focused Equities Fund and NIR Nations Marsico Focused Equities Fund; (ii) NFT Nations Marsico Growth and Income Fund and NIR Nations Marsico Growth and Income Fund (iii) NFI Nations International Equity Fund and NIR Nations International Equity Fund; (iv) NFI Nations International Value Fund and NIR Nations International Value Fund; (v) NFP Nations Emerging Markets Fund and NIR Nations Emerging Markets Fund.

shareholders of record in the applicable Acquired Fund class, determined as of the close of business on the Closing Date, in complete liquidation of each Acquired Fund. Applicants anticipate that the Closing Date will be on or around August 20, 1999.

6. Applicants state that the Acquiring Funds will pursue investment objectives and follow principal investment strategies that are identical to those of the corresponding Acquired Fund. Applicants state that the distribution and shareholder servicing arrangements for the respective classes of the Acquired and Acquiring Funds are also identical. Primary A and Primary B shares of the Funds do not have a sales charge. Investor A shares of the Funds are subject to a maximum front-end sales charge of 5.75%, and certain holders of Investor A shares of the Acquired Funds may be subject to a maximum deferred sales charge of 1% or a redemption fee of 1%. Investor B shares of the Funds are subject to a maximum deferred sales charge of 5%. Investor C shares of the Funds are subject to a maximum deferred sales charge of 1%. No sales charge will be imposed in connection with the Reorganization.

7. The Boards, including a majority of their Disinterested Members, found that participation in the Reorganization is in the best interest of each Fund and that the interests of existing shareholders of the Funds will not be diluted as a result of the Reorganization. In approving the Reorganization, the Boards considered, among other things: (a) the potential effect of the Reorganization; (b) the expense ratios of the Acquiring Funds and the Acquired Funds; (c) the compatibility of the investment objectives and investment strategies of the Acquiring Funds and Acquired Funds; (d) the terms and conditions of the Plans; (e) the tax-free nature of the Reorganization; and (f) the advantages of the master-feeder structure. The Funds will bear the expenses associated with the Reorganization, as determined by the Board of each Fund.

8. The Plans may be terminated by mutual written consent of the Acquiring Fund and the respective Acquired Fund at any time prior to the Closing Date. In addition, either party may terminate a Plan if: (a) the other party materially fails to perform its obligations prior to the Closing Date; (b) the other party materially breaches its representations, warranties, or covenants; or (c) a condition precedent to the party's obligations cannot be met.

9. Definitive proxy solicitation materials have been filed with the SEC and were mailed to the Acquired Fund's shareholders on July 7, 1999. A special meeting of the Acquired Funds' shareholders will be held on or about August 13, 1999.

10. The consummation of the Reorganization is subject to the following conditions: (a) A registration statement under the Securities Act of 1933 for the Acquiring Funds will have become effective; (b) the Acquired Fund shareholders will have approved the Plan; (c) applicants will have received exemptive relief from the SEC with respect to the issues in the application; (d) the Funds will have received an opinion of counsel concerning the tax-free nature of the Reorganization; and (e) each Acquired Fund will have declared a dividend to distribute substantially all of its investment company taxable income and net capital gain, if any, to its shareholders. Applicants agree not to make any material changes to the Plans that affect the application without prior SEC staff approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of that person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person that directly or indirectly owns, controls, or holds with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by, or under common control with the other person; and (d) if the other person is an investment company, any investment adviser of that company.

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants state that the BankAmerica Group holds of record more than 5% of the outstanding voting securities of each of the Acquired Funds, and more than 25% of certain Acquired Funds. Because of this ownership, applicants state that the funds may be deemed affiliated persons for reasons other than those set forth in rule 17a–8 and therefore unable to rely on the rule. Applicants request an order pursuant to section 17(b) of the Act exempting them from section 17(a) to the extent necessary to consummate the Reorganization.

4. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b). Applicants note that the Boards, including a majority of the Disinterested Members, found that participation in the Reorganization is in the best interests of each Fund and that the interests of the existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants also note that the Reorganization will be based on the Funds' relative net asset values.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20071 Filed 8–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41664; File No. SR–BSE–99–10]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc. Relating to the Minimum Variation for Nasdaq-100 Shares and Disclaimer of Liability With Respect to the Nasdaq-100 Index

July 27, 1999.

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 July 16, 1999, the Boston Stock Exchange, Inc. (''BSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or the ''SEC'') the proposed rule change as

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

described in Items I and II below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and simultaneously is approving the filing.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Chapter XXIV, Section 5, Interpretations and Policies thereunder, to permit dealings in Nasdaq-100 Shares of the Nasdaq-100 Trust (''Nasdaq-100 Shares'') in increments smaller than the minimum variation, and to add proposed Section 7 to Exchange Chapter XXIV relating to disclaimer of liability with respect to the Nasdaq-100 Index.

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 self-regulatory organization 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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend an interpretation to the Portfolio Depository Receipt (''PDR'') listing rule set forth in Exchange Chapter XXIV, Section 5 to permit dealings in Nasdaq-100 Shares in increments of 1/64 of $1.00. The Nasdaq-100 Trust is a unit investment trust sponsored by Nasdaq-Amex Investment Product Services, Inc. with a portfolio based on the component stocks of the Nasdaq-100 Index. The Exchange intends to trade these securities pursuant to unlisted trading privileges (''UTP''). These securities are currently traded on the American Stock Exchange (''Amex'') in increments of 1/64 of $1.00 and, thus, the Exchange believes it is appropriate to trade these securities on the Exchange with the same minimum increment of 1/64 of $1.00 as well.[3]

In connection with the Exchange's license agreement with the Nasdaq Stock Market (''Nasdaq'') relating to, among other things, the use of the name ''Nasdaq-100 Shares,'' and the disclaimer of liability relating to the Nasdaq-100 Index, the Exchange is proposing to amend Chapter XXIV to add a new Section 7 to codify a rule governing disclaimers of liability relating to the Nasdaq-100 Index. The proposed rule change is consistent with the disclaimer of liability language adopted by the Amex in its Rule 1006.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–99–10 and should be submitted by August 25, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the BSE's proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] Specifically, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act[7] because it will facilitate transactions in securities by permitting the BSE: (1) to trade Nasdaq-100 Shares, on a UTP basis, in increments of 1/64th of $1.00, and (2) to adopt a disclaimer of liability rule relating to the Nasdaq-100 Index, consistent with the license agreement between Nasdaq and the Exchange.

The Exchange has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change prior to the thirtieth day after the publication of the proposal in the **Federal Register**. The Commission believes that such action is appropriate, in that the proposed rule change establishes the same minimum trading variation as the Amex has adopted for Nasdaq-100 Shares. Further, the proposed rule relating to the disclaimer of liability adopted by the Amex.[8] For the reasons set forth above, the Commission does not believe that this proposal raises any new regulatory issues. Accordingly, the Commission finds that there is good cause for approving the proposed rule change prior to the thirtieth day after the publication of the proposal in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the

[3] *See* Securities Exchange Act Release No. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (SR–Amex–98–34).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] In reviewing the proposed rule change, the Commission considered its potential impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] The Amex disclaimer of liability provision was approved in Securities Exchange Act Release Nos. 41119 (February 26, 1999), and 41562 (June 25, 1999). It was subject to the full notice and comment process in Securities Exchange Act Release No. 41119 and no comments were received with respect to the disclaimer.

[9] 15 U.S.C. 78s(b)(2).

proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20026 Filed 8–3–99; 8:45 am]

BILLING CODE 8010–01–M

[10] 17 CFR 200.30–3(a)912).

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lawrence County, Ohio

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement will be prepared for a proposed highway project in Lawrence County, Ohio.

FOR FURTHER INFORMATION CONTACT: Scott McGuire, Field Operations Engineer, Federal Highway Administration, 200 North High Street, Room 328, Columbus, Ohio 43215, Telephone: (614) 280–6852.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Ohio Department of Transportation, will prepare a supplement to the final environmental impact statement (EIS) on a proposal to improve State Route (SR) 7 and SR 607 in Lawrence County, Ohio. The original EIS for the improvements (FHWA–OH–EIS–72–8–F) was approved on January 31, 1974. The supplement is being prepared due to the time elapsed since the original approval in 1974 and to adequately address new legislative and regulatory requirements. In response to the October 28, 1995 Federal planning regulations, a major investment study for the corridor has been completed by KYOVA Interstate Planning Commission.

The existing facility, which travels thru the Villages of Chesapeake and Proctorville (on a two-lane roadway) is prone to heavy traffic numbers exacerbated by turning movements and resulting in a high accident situation. SR 7 in this area is also prone to flooding which results in roadway closure and impairs emergency vehicles. The section of roadway to be relocated is situated in southern Lawrence County across the Ohio River from Huntington, West Virginia, a major metropolitan area. This section of roadway is predominantly used for residences living in Ohio and working in the Huntington area. The project is situated in the Ohio River valley with steep hills to the north. The flatter lands to the south along the river have been developed for residential and commercial buildings. Improvements to the corridor are considered necessary to provide for existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) building a 4-lane limited access facility on new alignment. The alignments under consideration are slightly north of Chesapeake, Proctorville, and Rome.

FHWA, ODOT and other local agencies invite participation in defining the alternatives to be evaluated in the supplemental EIS, and any significant social, economic, or environmental issues related to the alternatives. Information describing the purpose and need of the project, the proposed alternatives, the areas to be evaluated, the citizen involvement program, and the preliminary project schedule may be obtained from the FHWA at the address provided above.

Coordination with concerned federal, state, and local agencies has been ongoing throughout project development. A public meeting was held on June 27, 1996 at a point in time when an EIS was not believed to be necessary. Coordination will be continued throughout the study with federal, state, and local agencies, and with private organizations and citizens who express or are known to have interest in this project. On August 26, 1999, a public meeting will be held to obtain input on a preferred alignment. A Public Hearing will be held and may take place in the year 2000. Public notice will be given of the exact time and place of the meeting and the hearing to be held for the project. The Draft EIS will be available for public and agency review and comment prior to the Public Hearing. No formal scoping meeting will be held.

To ensure that the full range of issues relating 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 supplemental EIS should be sent to the FHWA at the address provided above. (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program).

Issued on: July 29, 1999.

Scott A. McGuire,

Field Operations Engineer, Federal Highway Administration, Columbus, Ohio.

[FR Doc. 99–20068 Filed 8–3–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 99–60]

Customs Accreditation of Coastal Gulf & International Inc. as an Accredited Laboratory

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of accreditation of Coastal Gulf & International, Inc. as a Commercial Accredited Laboratory.

SUMMARY: Coastal Gulf & International, Inc., of Luling, Louisiana has applied to U.S. Customs for accreditation to perform petroleum analysis methods under Part 151.13 of the Customs Regulations (19 CFR 151.13) to their Luling, Louisiana facility. Customs has determined that Coastal Gulf & International, Inc. meets all of the requirements for accreditation as a Commercial Laboratory to perform (1) API Gravity, (2) Distillation, (3)Viscosity, (4) Sediment by Extraction and (5) Percent by Weight of Sulfur. Therefore, in accordance with Part 151.13(f) of the Customs Regulations, Coastal Gulf & International, Inc., is granted accreditation to perform the analysis methods listed above.

LOCATION: Coastal Gulf & International, Inc. accredited site is located at: 13615 River Road, Luling, Louisiana, 70070.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Michael J. Parker, Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Room 5.5–B, Washington, D.C. 20229 at (202) 927–1060.

Dated: July 27, 1999.

Ira S. Reese,

Acting Director, Laboratories and Scientific Services.

[FR Doc. 99–19945 Filed 8–3–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Proposed Collection of Information: Claims Against the U.S. for Amounts Due in Case of a Deceased Creditor

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Financial Management Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection. By this notice, the Financial Management Service solicits comments concerning the form ''Claims Against the U.S. For Amounts Due in Case of a Deceased Creditor.''

DATES: Written comments should be received on or before October 4, 1999.

ADDRESSES: Direct all written comments to Financial Management Service, Programs Branch, Room 144, 3700 East-West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to the Judgment Fund Branch, 3700 East-West Highway, Hyattsville, Maryland 20782, (202) 874–7801.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, (44 U.S.C. 3506(c)(2)(A)), the Financial Management Service solicits comments on the collection of information described below.

Title: Claims Against the U.S. for Amounts Due in Case of a Deceased Creditor.

OMB Number: 1510–0042.

Form Number: SF–1055.

Abstract: This form is required to determine who is entitled to the funds of a deceased Postal Savings depositor or deceased award holder. The form, with supporting documentation, enables the government to decide who is legally entitled to payment.

Current Actions: Extension of currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 400.

Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: July 29, 1999.

Judith R. Tillman,

Assistant Commissioner.

[FR Doc. 99–19934 Filed 8–3–99; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0014]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0014.''

SUPPLEMENTARY INFORMATION:

Title: Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status, VA Form 28–1905.

OMB Control Number: 2900–0014.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information collected on VA Form 28–1905 ensures that veterans or other eligible persons do not receive benefits for periods when they did not actually begin to participate in any rehabilitation or special restorative or specialized vocational training program. The information is used by VA to establish the correct beginning and ending dates for the education, training, or other rehabilitation services and the correct rates for subsistence allowance payments.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on June 22, 1999, at pages 20058–20059.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, and State, Local or Tribal Government.

Estimated Annual Burden: 2,917 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 35,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0014'' in any correspondence.

Dated: June 24, 1999.

By direction of the Secretary:

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–19961 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0068]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0068.''

SUPPLEMENTARY INFORMATION:

Title: Application for Service-Disabled Insurance, VA Form 29–4364.

OMB Control Number: 2900–0068.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used by veterans to apply for Service Disabled Veterans Insurance, to designate a beneficiary and to select an optional settlement. The data collected on the form is used by VA to determine the veteran's eligibility for insurance.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 23, 1999 at page 20059–20060.

Affected Public: Individuals or households.

Estimated Annual Burden: 4,250 hours.

Estimated Average Burden Per Respondent: 40 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 2,833.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0068'' in any correspondence.

Dated: June 15, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–19962 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0236]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. ''Please refer to ''OMB Control No. 2900–0236.''

SUPPLEMENTARY INFORMATION:

Title: Application for Education Loan, VA Form 22–8725.

OMB Control Number: 2900–0236.

Type of Review: Revision of a currently approved collection.

Abstract: This form requests information needed to determine eligibility for an education loan. VA uses the information to determine whether an eligible student's education-related expenses will exceed his or her financial resources during a specific enrollment period. The amount of the education may not be more than the difference between an applicant's education-related expenses and his or her available financial resources. Without this information, VA might underpay or overpay the amount of an education loan.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 23, 1999, at pages 20061–20062.

Affected Public: Individuals or households.

Estimated Annual Burden: 20 hours.

Estimated Average Burden Per Respondent: 40 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 30.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0236'' in any correspondence.

Dated: June 24, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–19963 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0253]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0253.''

SUPPLEMENTARY INFORMATION:

Title: Nonsupervised Lender's Nomination and Recommendation of Credit Underwriter, VA Form 26–8736a.

OMB Control Number: 2900–0253.

Type of Review: Extension of a currently approved collection.

Abstract: The VA Form 26–8736a is used to evaluate loans proposed for guaranteed financing under 38 U.S.C. 3710. Information collected aids determinations and final action on lender's application.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on April 5, 1999 at page 16524.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 1,000 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 3,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0253'' in any correspondence.

Dated: July 9, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–19964 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0320]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0320.''

SUPPLEMENTARY INFORMATION:

Title: Escrow Agreement for Postponed Exterior Onsite Improvements, VA Form 26–1849.

OMB Control Number: 2900–0320.

Type of Review: Extension of a currently approved collection.

Abstract: The data collected is used to allow a veteran to gain occupancy of a property when specified exterior onsite improvements must be postponed because of delays such as bad weather.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 1999 at page 4745–4746.

Affected Public: Individuals or households and business or other for-profit.

Estimated Annual Burden: Because escrow agreements such as VA Form 26–1849 area common practice in the building and lending industry, only 1 hour is being shown in Item 13 of SF 83 for reporting purposes.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 10,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 12035, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0320'' in any correspondence.

Dated: May 28, 1999.

By direction of the Secretary.

Sandra McIntyre,

Management and Program Analyst, Information Management Service

[FR Doc. 99–19965 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0355]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8135 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0355.''

SUPPLEMENTARY INFORMATION:

Title: Verification of Pursuit of Course (Leading to a Standard College Degree Under Chapters 32, 34, and 35, Title 38, U.S.C., and Section 903 of Public Law 96–342), VA Form 22–6553.

OMB Control Number: 2900–0355.

Type of Review: Extension of a currently approved collection.

Abstract: The information collection is used to verify the continued enrollment or report change in enrollment status for any student receiving VA educational benefits for the pursuit of a college course. VA uses the information to determine if education benefits are to be continued unchanged, increased, decreased, or terminated. Without the information VA might underpay or overpay benefits.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on March 18, 1999 at page 13470.

Affected Public: State, Local or Tribal Governments, Not-for-profit Institutions.

Estimated Annual Burden: 24,485 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: The frequency of responses for each educational institution will vary according to the number of students who receive VA education benefits at that school. VA estimates an annual average of 27 responses per educational institution.

Estimated Number of Respondents: The number of respondents is arrived at based on the average number of educational institutions using VA Form 22–6553 which had veterans or eligible persons enrolled during the last 12 months, and a projected number of trainees. VA currently has an average of 5,441 active educational institutions (colleges, universities, or other institutions of higher learning).

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0355'' in any correspondence.

Dated: July 12, 1999.

By direction of the Secretary.

Sandra S. McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–19966 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0362]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0362.''

SUPPLEMENTARY INFORMATION:

Titles: Claim under Loan Guaranty, VA Form 26–1874. Claim Form Addendum—Adjustable Rate Mortgages, VA Form 26–1874a.

OMB Control Number: 2900–0362.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: a. VA Form 26–1874 is used by lenders and holder of VA guaranteed home loans as the notification to VA of default on such loans which is required by 38 U.S.C. 3732(a).

b. VA Form 2601874a is used by lenders and holder of VA loans as an attachment to VA 26–1874 when filing a claim under the loan guaranty resulting from the termination of an Adjustable Rate Mortgage loan.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on January 29, 1999 at page 4746–4747.

Affected Public: Business or other for-profit.

Estimated Annual Burden:

a. VA Form 26–1874—25,806 hours.

b. VA Form 26–1874a—1,000 hours.

Estimated Average Burden Per Respondent:

a. VA Form 26–1874—60 minutes.

b. VA Form 26–1874a—20 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents:

a. VA Form 26–1874—25,806.

b. VA Form 26–1874a—333.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 12035, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0362'' in any correspondence.

Dated: May 28, 1999.

By direction of the Secretary.

Sandra McIntyre,

Management and Program Analyst, Information Management Service.

[FR Doc. 99–19967 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0492]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0492.''

SUPPLEMENTARY INFORMATION:

Title: VAMATIC AUTHORIZATION, VA Form 29–0532–1.

OMB Control Number: 2900–0492.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The form is used by policyholders to authorize deductions from his/her bank account.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection

of information was published on April 23, 1999 at page 20062.

Affected Public: Individuals or Households.

Estimated Annual Burden: 1500 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: Generally one time.

Estimated Number of Respondents: 3,000.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0492'' in any correspondence.

Dated: June 15, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–19968 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0519]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before September 3, 1999.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: James Good, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8001 or FAX (202) 273–5981. Please refer to ''OMB Control No. 2900–0519.''

SUPPLEMENTARY INFORMATION:

Title: Locality Pay System, (DVA Nurse Pay Act of 1990), Health Care Occupation.

Data Collection Form, VA Form 10–0132.

OMB Control Number: 2900–0519.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: The information collected is necessary to comply with the provision of Public Law 101–366, Department of Veterans Affairs (VA) Nurse Pay Act of 1990, which specifically provides for a locality pay system for certain health care personnel within VA. The law requires that where available, data from the Bureau of Labor Statistics (BLS) will be used in determining the beginning rates of compensation. At this time, the BLS surveys do not capture beginning rates of compensation nor are the job descriptions used in the survey comparable to VA positions. Until BLS can supply this data, VA medical facility Directors remain responsible for collecting the data to implement and adjust rates for registered nurses, nurse anesthetists, and other health care personnel.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 23, 1998 at page 71191.

Affected Public: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Annual Burden: 2,531 hours.

Estimated Average Burden Per Respondent: 45 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 3,375.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Please refer to ''OMB Control No. 2900–0519'' in any correspondence.

Dated: July 2, 1999.

By direction of the Secretary.

Donald L. Neilson,

Director, Information Management Service.

[FR Doc. 99–19969 Filed 8–3–99; 8:45 am]

BILLING CODE 8320–01–P

Corrections

Federal Register
Vol. 64, No. 149
Wednesday, August 4, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-440-000]

Black Marlin Pipeline Company; Proposed Changes in FERC Gas Tariff

Correction

In notice document 99–18973 appearing on page 40360 in the issue of Monday, July 26, 1999, the docket number should read as set forth above.

[FR Doc. C9–18973 Filed 8–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-443-000]

Petal Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 99–19219 appearing on page 40861 in the issue of Wednesday, July 28, 1999, make the following correction:

On page 40861, in the second column, in the heading, the docket line is added as set forth above.

[FR Doc. C9–19219 Filed 8–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99-579-000, Docket No. CP580-000, Docket No. CP99-581-000, Docket No. CP99-58279-000]

Southern LNG Inc.; Notice of Applications for Section 7 Certificates and A Section 3 Authorization

Correction

In notice document 99–19075 beginning on page 40590 in the issue of Tuesday, July 27, 1999, make the following correction:

On page 40590, in the second column, in the heading, in the sixth line,''Docket No. CP99-58279-000'' should read, ''Docket No. CP99-582-000''.

[FR Doc. C9–19075 Filed 8–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Parts 1308 and 1312

[DEA-180F]

Schedules of Controlled Substances: Rescheduling of the Food and Drug Administration Approved Product Containing Synthetic Dronabinol [(-)-Δ^9-(trans)-Tetrahydrocannabinol] in Sesame Oil and Encapsulated in Soft Gelatin Capsules From Schedule II to Schedule III.

Correction

In rule document 99–16833 beginning on page 35928 in the issue of Friday, July 2, 1999, make the following correction:

On page 35929, in the third column, in ''3. Labeling and Packaging'', in the ninth line, after ''packaged before January 3, 2000'' insert ''that have Schedule II labeling may be distributed until April 3, 2000.''

[FR Doc. C9–16833 Filed 8–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Investment Act; Planning Guidance and Instructions for the Submission of the Strategic Five-Year Plan for Title I of the Workforce Investment Act of 1998 (Workforce Investment Systems) and Wagner-Peyser Act Proposed Collection; Comment Request

Correction

In notice document 99–18675, beginning on page 39531, in the issue of Thursday, July 22, 1999, make the following correction(s):

On page 39531, in the first column, in the **DATES:** section, in the fourth line, ''August 23, 1999'' should read ''September 20, 1999''.

[FR Doc. C9–18675 Filed 8–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-ACE-36]

Amendment to Class E Airspace; Parsons, KS

Correction

In rule document 99–18576 beginning on page 39007 in the issue of Wednesday, July 21, 1999, make the following correction:

§71.1 [Corrected]

On page 39008, in the second column, eleventh line beneath airspace description ''**ACE KS E5 Parsons, KS [Revised]**'', ''17°'' should read,''174°''.

[FR Doc. C9–18576 Filed 8–3–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
August 4, 1999

Part II

Environmental Protection Agency

40 CFR Parts 9, 122, 123, 124, and 501

National Pollutant Discharge Elimination System Permit Application Requirements for Publicly Owned Treatment Works and Other Treatment Works Treating Domestic Sewage; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 122, 123, 124, and 501

[FRL–6401–2]

RIN 2040–AB39

National Pollutant Discharge Elimination System Permit Application Requirements for Publicly Owned Treatment Works and Other Treatment Works Treating Domestic Sewage

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today amends permit application requirements and application forms for publicly owned treatment works (POTWs) and other treatment works treating domestic sewage (TWTDS). TWTDS include facilities that generate sewage sludge, provide commercial treatment of sewage sludge, manufacture a product derived from sewage sludge, or provide disposal of sewage sludge.

Today's rule consolidates POTW application requirements, including information regarding toxics monitoring, whole effluent toxicity (WET) testing, industrial user and hazardous waste contributions, and sewer collection system overflows. The most significant revisions require toxic monitoring by major POTWs (and other pretreatment POTWs) and limited pollutant monitoring by minor POTWs. EPA believes that permitting authorities need this information in order to issue permits that adequately protect the Nation's water resources.

Form 2A replaces existing Standard Form A and Short Form A to account for changes in the National Pollutant Discharge Elimination System (NPDES) program since the forms were issued in 1973.

The regulations also clarify the requirements for TWTDS and allow the permitting authorities to obtain the information needed to issue permits that meet the requirements of the 40 CFR Part 503 sewage sludge use or disposal regulations. Form 2S replaces the existing Interim Sewage Sludge Form. Form 2S is similar to the Interim Sewage Sludge Form but requires less information.

EPA is revising these regulations to ensure that permitting authorities obtain the information necessary to issue permits which protect the environment in the most efficient manner. The forms make it easier for permit applicants to provide the necessary information with their applications and minimize the need for additional follow-up requests from permitting authorities. EPA expects the rule to reduce current annual reporting and record keeping burdens by 21 percent, by standardizing the forms to match information requests with information needs.

This rule also lifts the stay of 40 CFR 501.15(d)(1)(i)(B) in a final rule streamlining state sewage sludge regulations published on August 24, 1998 (63 FR 45113).

DATES: This rule and 40 CFR 501.15(d)(1)(i)(B) expires on December 2, 1999. In accordance with 40 CFR 23.2, this rule shall be considered final for the purposes of judicial review at 1:00 p.m. (Eastern Standard Time) on August 18, 1999.

ADDRESSES: The record for this rulemaking, including all public comments on the proposal, will be available for inspection and copying at the Office of Water Docket. The docket is located at EPA, East Tower Basement, 401 M. St. SW, Washington, D.C. 20460. The docket is open Monday-Friday 9:00 am to 4:00 pm, please contact the docket at (202) 260–3027 to schedule an appointment.

FOR FURTHER INFORMATION CONTACT: For information on Form 2A and municipal wastewater permitting issues in this document, contact Robin Danesi, (202) 260–2991, Permits Division (4203), United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C., 20460.

For information on Form 2S and sewage sludge permitting issues in this document, contact Wendy Bell, (202) 260–9534, Permits Division (4203), United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C., 20460.

Copies of this document with the forms are available from the EPA home page at www.epa.gov under the Laws and Regulations section. Electronic copies of the forms will be available on the Office of Wastewater Management home page at www.epa.gov/owm. EPA plans to provide a word wizard of the form which should be available shortly after the final rule is promulgated.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are governmental entities responsible for implementation of the NPDES and sewage sludge programs and entities that are regulated by these programs. Regulated entities include:

Category	Examples of regulated entities
Local government.	Publicly Owned Treatment Works, owners and operators of treatment works treating domestic sewage.
Private	Privately owned treatment works or other treatment works treating domestic sewage.
State government.	Treatment works owned or operated by States or Tribes.
Federal government.	Federally owned treatment works.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability criteria in Parts 122 and 503 of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Information in the preamble is organized as follows:

I. Background
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6. Effluent Monitoring for Whole Effluent Toxicity
7. Industrial Discharges
8. Discharges From RCRA/CERCLA Waste Sources
9. Combined Sewer Overflows
10. Contractors
11. Certification
G. Application Requirements for TWTDS (40 CFR 122.21(q))
1. Facility Information
2. Applicant Information
3. Permit Information
4. Indian Country
5. Topographic Map
6. Sewage Sludge Handling
7. Sewage Sludge Quality
8. Requirements for a Person Who Prepares Sewage Sludge
9. Land Application of Bulk Sewage Sludge
10. Surface Disposal
11. Incineration
12. Disposal in a Municipal Solid Waste Landfill
13. Contractors
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15. Signature
H. Permit Conditions for POTWs (40 CFR 122.44(j)
I. State Program Requirements (40 CFR parts 123 & 501)
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A. Executive Order 12866
B. Executive Order 12875
C. Unfunded Mandates Reform Act
D. Paperwork Reduction Act
E. Regulatory Flexibility Act
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G. Submission to Congress and the General Accounting Office
H. Executive Order 13045
I. Executive Order 13084

I. Background

A. Overview

EPA provided an extensive discussion of the background for today's rule in the proposed rule published on December 6, 1995 (60 FR 62546). For the sake of brevity, EPA refers the reader to that action for information about the background of today's rule.

B. Public Consultation in the Rule Development

EPA made efforts to consult with interested stakeholders during the development of the December 6, 1995, proposed rule. In late 1993 and early 1994, EPA sought feedback on draft forms and other elements of the proposal from States with approved NPDES programs, local governments, the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), the Association of Metropolitan Sewerage Agencies (AMSA), the California Association of Sanitation Agencies (CASA), the Water Environment Federation (WEF), and several environmental groups. In response to this outreach effort, EPA received written comments from a dozen States, several municipalities, and from AMSA. EPA also met with State and municipal representatives and participated in a conference call with representatives from ten POTWs and two States.

EPA received 59 comments during the public comment period on the proposed rule and made numerous changes to the rule and the forms in response to the comments. Specific comments are mentioned throughout today's preamble in the applicable sections.

II. Description of Today's Final Rule and Response to Comments

A. Scope of Today's Rulemaking

Today's document finalizes two sets of application requirements and corresponding permit application forms, and provides instructions for each. Section 122.21(j) contains application requirements pertaining to wastewater treatment and discharge into and from publicly owned treatment works (POTWs). The requirements are incorporated into the new Form 2A which replaces Standard Form A and Short Form A, both of which were developed in 1973. Section 122.21(q) contains application requirements pertaining to generation, treatment, and disposal of sewage sludge at POTWs and other treatment works treating domestic sewage (TWTDS). These requirements are incorporated into the new Form 2S which replaces the Interim Sewage Sludge Permit Application Form.

EPA promulgates these application regulations and publishes the new forms for several reasons. First, this rulemaking addresses changes to the NPDES program since 1973. The NPDES program applicable to POTWs has changed significantly since that time, specifically in the areas of toxics control, water quality-based permitting and pretreatment programs. Second, the rule consolidates application requirements from existing regulations into a ''modular'' permit application form, thereby streamlining and clarifying the process for permit applicants. Third, these revisions provide permit writers with the information necessary to develop appropriate NPDES permits consistent with requirements of the Clean Water Act and thus, also provide greater certainty for permittees that compliance with their permits constitutes compliance with the CWA. Fourth, the Agency seeks to reduce redundant reporting by allowing NPDES permitting authorities to waive certain information requirements where information is already available to the permitting authority and, finally, to provide a platform for electronic data transmission.

EPA will use the forms in States where the Agency administers the NPDES and/or sewage sludge programs. Authorized States may choose to use these forms because the forms will provide the required application information. Authorized States can also elect to use forms of their own design so long as the information requested includes at least the information required by today's final permit application regulations. EPA and State authorities may request additional information from permit applicants whenever necessary to establish appropriate permit limits and conditions. See CWA sec. 308 and 402(b)(2)(B).

In the December 1995 proposal, EPA asked for comment on whether the forms and instructions should be included with the final rulemaking package. EPA received numerous comments that said that the forms and instructions should be published so they could be available for all to review along with the regulation. EPA has changed the forms significantly in response to comments and in order to facilitate electronic reporting. Therefore, EPA is publishing the forms in the new format with the final rule. The final forms and instructions are included as an appendix to today's notice, but will not be printed in the CFR.

B. Forms 2A and 2S

1. Form 2A

a. Overview. Prior to today's rule, NPDES permitting authorities generally gathered POTW data using Form 1, Standard Form A, and Short Form A. While all these forms are approved Federal forms, the NPDES regulations did not require use of the forms by POTWs when applying for a permit. Standard Form A was intended to be used by all POTWs with a design flow equal to or exceeding one million gallons per day (mgd). It contains questions about the facility and collection system, discharges to and from the facility (including information on some specific pollutant parameters), and planned improvements and implementation schedules. Short Form A was intended for use by all POTWs with a design flow of less than one mgd. It contains only fifteen questions of a summary nature, and asks for virtually no information on specific pollutants. Many States used one or both of the Federal forms, but a number of States

have developed forms that request information not included on the Federal forms.

The December 1995 proposed application form contained two parts, Basic Application Information and Supplemental Application Information. The basic application section was to be completed by all POTWs and contained facility information and monitoring requirements for 17 pollutants. The supplemental application information was for applicants providing data on toxic pollutants, applicants with significant industrial users, and applicants with CSOs.

During the comment period, EPA collected and scrutinized data on the types and quantities of toxic pollutants discharged by minor POTWs. EPA completed an evaluation of existing data sources and conducted toxic monitoring at selected minor POTWs. The results were published as ''Evaluation of the Presence of Priority Pollutants in the Discharges of Minor POTWs'' in June 1996. Copies of the report were sent to all State NPDES coordinators and an electronic version is available on the Office of Wastewater Management Home page (www.epa.gov/owm). The Study included a query of the Permit Compliance System (PCS), EPA's nationwide database for storing NPDES permit information. The June 1996 Study compiled the information from a PCS query for minor POTW data from 1990 to the present, an evaluation of minor POTW data provided by State agencies, and on-site monitoring for selected toxics at 86 minor POTWs located throughout the country.

Based on the information from the Minor POTW Study and comments received on the proposal, EPA decided to modify the proposed application requirement to reduce the information required from facilities under 0.1 mgd. The 0.1 mgd cut-off was based on data from the EPA Permit Compliance System (PCS). The data showed that facilities with design flows greater than 1.0 mgd (major facilities) account for 94.6% of the total POTW flow nationwide. Facilities with design flows between 1.0 mgd and 0.1 mgd account for 5% of the total flow. The remaining 0.4% of the nationwide POTW flow is discharged by facilities with design flows less than 0.1 mgd. A facility with a design flow of less than 0.1 mgd typically serves a population of 1,000 people or less. Approximately 40% of all POTWs fall into this less than 0.1 mgd category. Because these POTWs serve very small communities that contribute a small amount of flow (usually without an industrial influent component), EPA determined that requiring less information from these POTWs would reduce the costs associated with analytic monitoring without significantly affecting the information otherwise needed by permit writers.

Today's Form 2A still contains two parts, but the Basic Application Information has been subdivided to reduce the requirements for facilities with a design flow under 0.1 mgd. The ''Basic Application Information for All Applicants'' part includes information about the collection system and the treatment plant, general information concerning the types of discharges from the treatment plant, identification of outfalls, and effluent monitoring data from the plant for 6 parameters. The requirements are expanded to include effluent monitoring for 14 parameters and several additional questions for POTWs with design flows greater than or equal to 0.1 mgd but less than 1.0 mgd and without pretreatment programs. Larger POTWs and pretreatment POTWs must submit the information requested in the ''Supplemental Application Information'' part of Form 2A, which requires effluent monitoring data for metals and organic compounds, as well as the parameters required for smaller POTWs. This part also requires results of whole effluent toxicity tests, information on significant industrial users, and information on combined sewer overflows (CSOs) if applicable.

b. Applicability to Privately Owned and Federally Owned Treatment Works.

As in the case of existing Standard Form A and Short Form A, Form 2A and the application requirements at § 122.21(j) are required only for POTWs. EPA believes, however, that NPDES permitting authorities have the discretion to use the form on a case-by-case basis for treatment works that are not owned by a State or municipality. As previously discussed, the NPDES program has evolved considerably since EPA promulgated Standard Form A and Short Form A in 1973. The program can clearly be applied to facilities that are similar to POTWs but which do not meet the regulatory definition of ''publicly owned treatment works'' (POTWs). Although not owned by States or municipalities, such facilities nevertheless may receive predominantly domestic wastewater, provide physical and/or biological treatment, and discharge effluent to waters of the United States. Such facilities include Federally owned treatment works (FOTWs) and privately owned treatment works that treat primarily domestic wastewater.

EPA received eight comments regarding FOTWs and privately owned treatment works. All but one favored expansion of POTW application requirements to facilities that operate similarly to POTWs but that may be Federally or privately owned. One commenter stated that the current system of different forms for treatment works based on ownership creates an artificial difference between facilities. Other commenters agreed and felt that all facilities that operate similarly should complete the same application form. A commenter representing the Department of Defense provided comments on the similarities between FOTWs and POTWs based on size and scope of activities at military installations and compared the installations to small cities. The commenter argued that statutory differences prevent EPA from requiring the same information from Federal facilities that operate similarly to POTWs.

EPA is aware that Federal and State permitting authorities use a number of mechanisms for obtaining NPDES permit application information from non-POTW treatment works. These mechanisms include Standard Form A, Short Form A, Form 2C (''Existing Manufacturing, Commercial, Mining, and Silvicultural Operations''), and Form 2E (''Facilities Which Do Not Discharge Process Wastewater''). EPA believes that Form 2A is often the most appropriate application form for non-POTW treatment works.

Nevertheless, EPA is not requiring the Form 2A information from non-POTW treatment works. Despite many functional similarities to POTWs, such facilities do not share the same regulatory requirements. Non-POTW treatment works are not required under the CWA, for example, to develop pretreatment programs. The CWA does not require such facilities to meet secondary treatment requirements, though permits for such facilities often apply secondary treatment based limits after a best professional judgement evaluation has been performed by the permit writer. NPDES regulations do not require such facilities to report results of whole effluent toxicity testing with their permit applications. For these facilities, uniformly requiring the same information required in Form 2A might be unnecessary. EPA has added language to the introductory paragraph of § 122.21(j) of today's final rule that allows the Director to require such facilities to comply with the POTW application requirements (e.g. through Form 2A) on a case-by-case basis. This discretion will provide NPDES permit

writers with the information necessary to develop permits for facilities that may operate similarly to POTWs but that do not meet the regulatory definition.

2. Form 2S

a. Overview. Today, EPA finalizes a new form, Form 2S, to collect information on sewage sludge from treatment works treating domestic sewage (TWTDS). The term ''treatment works treating domestic sewage'' is a broad one, intended to reach facilities that generate sewage sludge or effectively change its pollutant characteristics as well as facilities that control its disposal. The term includes all POTWs and other facilities that treat domestic wastewater. It also includes facilities that do not treat domestic wastewater but that treat or dispose of sewage sludge, such as sewage sludge incinerators, composting facilities, commercial sewage sludge handlers that process sludge for distribution, and sites used for sewage sludge disposal. In addition, EPA may designate a facility a TWTDS when the facility's sludge quality or sludge handling, use, or disposal practices have the potential to adversely effect public health and the environment. Individual septic tanks or similar devices are not considered TWTDS.

EPA recognizes that the term ''biosolids'' is now being used by professional organizations and other stakeholders in place of ''sewage sludge'' to emphasize that it is a resource that can be recycled beneficially. EPA intends to work with these stakeholders to define the term ''biosolids'' consistent with the definition of ''sewage sludge'' in the CWA. Until then, EPA will continue to refer to sewage sludge in its regulations.

Form 2S consists of 2 sections. Part 1 asks for limited background information rather than a complete permit application. Only the information in Part 1 must be submitted by ''sludge-only'' facilities, i.e. facilities that do not discharge wastewater to surface waters, unless the permit writer determines that the information in Part 2 must also be provided. It is intended to give the permitting authority enough information to decide whether or not to issue a permit to that facility. The information in Part 2 must be submitted by all TWTDS with an NPDES permit and ''sludge-only'' facilities that have been asked by the permitting authority to submit a complete permit application.

b. Clarification of TWTDS. No change was proposed in the definition of TWTDS or who is required to provide the information in Form 2S, but EPA received several comments with questions or misconceptions on this subject. Since EPA did not propose to change nor solicit comments on the existing definition, EPA considers those comments on the definition to be beyond the scope of the proposal. Nonetheless, EPA provides clarifications of how it interprets the existing definition to assist in compliance with the existing rules. The first point of clarification is how sewage sludge land application sites (i.e., the land) fit into the definition of Treatment Works Treating Domestic Sewage (TWTDS). While the definition does include ''land dedicated for the disposal of sewage sludge,'' i.e., surface disposal sites, the definition does not include land application sites. A ''land application site'' is the land where sewage sludge is used to condition soil or fertilize crops or vegetation. EPA makes a distinction between *disposal* at a surface disposal site and *use* (also referred to as ''beneficial reuse'') at a land application site.

Commenters also asked questions about who must apply for a permit. Industrial treatment works that treat domestic sewage along with process wastes are TWTDS unless they generate hazardous sludge. However, EPA determined that it did not have enough information about these facilities to regulate them under Part 503, and it would be difficult to find a technical basis for routine case-by-case permitting. Since there are no Part 503 standards for industrial treatment works, there are no requirements to put in a permit. Therefore, even though these facilities are TWTDS, they are not required to apply for a sewage sludge permit at this time. Today's rule clarifies this issue by stating that ''all TWTDS whose sewage sludge use or disposal practice is *regulated by Part 503* must submit a permit application * * *''.

If EPA promulgates technical standards for industrial facilities in the future, they would then be required to apply for a permit. The permitting authority can, of course, ask for an application and issue a permit to an industrial facility if a permit is deemed necessary to protect public health and the environment (54 FR 18727, 58 FR 9324 & 9406). In those rare situations where an industrial facility treats domestic sewage and industrial wastewater through totally separate treatment trains, the facility would be required to apply for a permit for its domestic sludge, but not for its industrial sludge.

One commenter raised the situation of TWTDS that use a community septic tank with the effluent routed to a recirculating sand filter. The commenter questioned whether this type of a facility was a TWTDS because septic tanks are excluded from the definition of TWTDS. EPA intended the septic tank exclusion to refer to individual septic tanks because the Agency did not believe it was necessary to ask for information from individual homeowners. EPA believes that community systems that include septic tanks are TWTDS.

Because the type of facility identified by this commenter does not discharge, it probably would not have an NPDES permit. As a ''sludge-only'' facility, it is required to submit only limited background information (§ 122.21 (c)(2)(iii) (A) through (E)) when a sewage sludge standard applies to the facility's use or disposal practice. The TWTDS is not required to submit any additional application information unless the permitting authority requests a full permit application.

If there is no Part 503 standard for the facility's use or disposal practice, the owner/operator of the facility is not automatically required to submit a permit application. For example, if the sewage sludge from this septic tank is taken to a POTW, the limited background information does not have to be submitted because Part 503 does not apply to this type of disposal method. If the owner/operator of this facility wanted to stop taking its sewage sludge to a POTW and start applying it to the land, it would be required to submit the limited background information to the permitting authority 180 days before changing its use or disposal practice. In addition, because this facility is a TWTDS, the permitting authority can require a permit application at any time if a permit is deemed necessary to protect public health and the environment.

One commenter stated that his State did not make a distinction between NPDES and non-NPDES facilities in setting permitting priorities and would require all TWTDS to submit a full permit application. Another commenter thought that EPA should not make such a distinction in its rules. EPA decided to stagger permit applications and require less information from non-discharging facilities in the February 19, 1993 amendments to Parts 122 and 501 (58 FR 9404). Permitting authorities have the option to require complete permit applications from all TWTDS at any time.

EPA received a comment that asked whether a POTW with a non-discharging lagoon system must apply for a permit. If the lagoon is part of the

waste treatment system and there is no sewage sludge being removed, there is no use or disposal practice to trigger an application requirement. Before sewage sludge is removed from the lagoon and used or disposed in a manner regulated by Part 503, however, the TWTDS must provide limited background information to the permitting authority.

As with any TWTDS, the permitting authority can require a permit application at any time if a permit is deemed necessary to protect public health and the environment. Such circumstances may arise where the permitting authority may ask for an application even after the sewage sludge has been sitting in the lagoon for several years. The permitting authority will decide, for example, whether the sewage sludge lagoon is truly part of the treatment process or a storage lagoon, or whether the lagoon should be regulated as a surface disposal site.

The regulatory situation is similar for a discharging lagoon, where the NPDES permitting authority should already have information about the treatment process. When the sewage sludge permitting authority is also the NPDES permitting authority, EPA expects that they would already know how the TWTDS's sewage sludge should be regulated.

3. Reasons for Separate Form 2A and Form 2S

EPA today publishes two separate forms for municipal wastewater discharges and for sewage sludge for several reasons. First, the requirements represented by the two forms differ in their applicability. The NPDES permit application requirements collected in Form 2A apply only to POTWs; the sewage sludge information requirements collected in Form 2S apply to all TWTDS, not just POTWs. Most facilities that generate, treat, or dispose of sewage sludge are POTWs, and will be required to submit both application forms. Several thousand TWTDS, however, do not discharge to surface waters and therefore are not required to have NPDES permits. Thus, such TWTDS are subject to sewage sludge requirements (Form 2S) but not to NPDES requirements (Form 2A).

Second, separate application forms are also appropriate because wastewater and sewage sludge may be regulated by different permitting authorities. In 43 States and territories, the NPDES program is administered at the State level through an EPA-approved NPDES program. There are currently only 3 States that administer an EPA-approved sewage sludge program. Therefore, until more States are authorized to administer the federal sewage sludge program, POTWs in most NPDES States will obtain NPDES permits from the State permitting authority (by submitting Form 2A or a similar State form to the State) and sewage sludge permits from EPA (by submitting Form 2S to the EPA Regional Office). Separate application forms will facilitate this bifurcated permitting process. In addition, even when a State sludge permitting program is approved, the program will not necessarily be administered by the State's NPDES permitting authority. For example, a POTW in a State with both NPDES and sewage sludge permitting authority could receive its NPDES permit from the water pollution control agency and its sewage sludge permit from a solid waste management agency. Separate Forms 2A and 2S will also facilitate permitting in this situation.

EPA received three comments supporting the use of separate forms. One of these commenters emphasized that applicants should be able to cross reference information submitted on the other form. As discussed in more detail in section II.G of today's preamble, applicants are allowed to photocopy other forms, or reference information that they know was previously submitted to the same permitting authority.

EPA also received several comments that suggested either combining parts of 2A and 2S or further separating them into segments applicable to different types of facilities. EPA considered many different types of form structures before proposing 2A and 2S and reconsidered the forms based on suggestions from commenters. While no form is ideal for all situations, EPA believes that the forms accompanying today's rule represent the best division of information for most applicants. Authorized States are free to create their own State forms as long as the forms request the same minimum information.

4. Electronic Application Forms

Consistent with recent amendments to the Paperwork Reduction Act, the Agency is developing electronic data submission as an alternative format for permit application. The use of electronic media should help to streamline the application process and to reduce the amount of repetition associated with completing application forms that are currently available only in hard copy. As previously noted, the elimination of redundant reporting is one of the goals of today's rulemaking.

EPA's first step in the submission of electronic data is the development of an electronic version of the application form. The Agency has developed such an electronic version, which is available by contacting the persons listed in the **FOR FURTHER INFORMATION** Section of this preamble or on the Internet from the EPA Home Page (www.epa.gov). The application forms will be made available in Word and Windows Wizard formats and include instructions that guide the applicant through the form. Some authorized States are also considering electronic reporting. EPA believes that providing the forms in an easily manipulated software will also assist States that want to use electronic permit applications.

EPA received 21 comments on the issue of electronic reporting. Most of the commenters agreed with the concept of electronic reporting for application forms but were concerned about implementation. A few commenters thought it was not a feasible option for small facilities. The major implementation issues from the comments include: signature; hardware; and software needs. Electronic permit application reporting options range from transmitting data electronically, submitting disk copies, or submitting hard copy permit applications provided to the applicant in an electronic format. The most feasible option currently available involves electronic forms that can be distributed and completed electronically, and subsequently printed, signed, and submitted. EPA continues to explore options for electronic permit application transmission.

C. Endangered Species and Historic Properties

In the December 1995 proposed rule, EPA invited comments related to information about endangered species and historic properties. Specifically, if EPA established permit application questions about endangered and threatened species (listed species) or historic properties, what kind of information could or should the permit applicant provide? Would it be appropriate to request that the permit applicant identify whether there are listed species or historic properties in the area of the POTW discharge or sewage sludge use or disposal site? How could or should EPA provide applicants with flexibility to assist regulatory officials in the consideration of potential impacts of activities on listed species or historic properties?

Most commenters stated that EPA should not require any information in the permit application. The commenters felt strongly that they did not want applicants to determine what listed species or historic properties would be affected by their discharge. The

commenters felt this was information that is more easily obtained by the permitting authority.

EPA is not requiring information about listed species or historic properties in today's rule. In many permitting situations, this information may already reside with the permitting authority and therefore EPA believes it would be of little use to require all applicants to submit this information. However, some permit applicants may already have information regarding listed species and historic properties or may be better able than the permitting authority to obtain such information. In such cases, permitting authorities may require such information from applicants on a case-by-case basis.

EPA is also working with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) to develop procedures to more closely coordinate efforts to protect water quality and listed species including the use of Endangered Species Act Section 7 consultations for EPA-issued permits and other Federal actions where appropriate.

D. Definitions

In the proposed rule, EPA proposed to revise the definition of the term ''POTW,'' as defined in 40 CFR Part 122 to conform more exactly with the definition of the term at 40 CFR Part 403. The proposed change, however, appeared to create confusion. EPA received 12 comments on this issue. Several commenters agreed that the definitions should be consistent. Most of the commenters raised various issues that they thought might be affected by the changed definition. One commenter thought that the Part 403 definition was too confusing and should not be used. Another thought EPA should consider that other federal regulatory programs, such as hazardous waste management programs, include references to ''POTWs'' and could be affected by a change in the NPDES definition. After considering the comments, EPA has decided that it is not necessary to change the definition because the existing definitions are not inconsistent (even though the Part 403 definition contains more detail related to Pretreatment Program requirements). Therefore, today's rule does not change the definition of the term ''POTW'' in Part 122.

E. Requirements Concerning the Use of Forms (§§ 122.21(a), (c), (d) and (f))

EPA today finalizes revisions to the existing general application requirements for all NPDES permittees, which can be satisfied by the use of Forms 2A and 2S by applicants for EPA-issued permits. Today's rule does not require applicants using these forms to use Form 1, because the same information is requested on Forms 2A and 2S. The final rule substantially incorporates the requirements of § 122.21(f) for Form 1 into the requirements of §§ 122.21(j) for Form 2A and 122.21(q) for Form 2S.

On December 11, 1996 (61 FR 65268), EPA proposed a rule to streamline various parts of the NPDES regulations (NPDES streamlining proposal). One of the changes proposed would consolidate the requirements of §§ 122.1(d)(1) and 122.21(d)(3) and move them to a new paragraph, § 122.21(a)(2). Both of these sections dealt with application requirements and were duplicative. EPA believed § 122.21(a) would be a more appropriate location because that subsection pertains to all permit applicants, whereas § 122.21(d) applies to permit reapplications. Section 122.1 is also not a particularly suitable location because it concerns the scope of the NPDES program and not application requirements. EPA proposed to retain the current § 122.21(a) regulation in new § 122.21(a)(1). The Agency proposed to remove § 122.21(d)(3) and reserve the section for future use.

In the proposal for today's rule, EPA proposed changes in the application requirements (paragraph (d)(3)) to reference the new application requirements for POTWs and TWTDS (§§ 122.21(j) and (q)) and Forms 2A and 2S. To avoid confusion and to simplify the changes, EPA decided to make all the changes to §§ 122.21(a) through (d) in today's final rule. Other changes in the NPDES streamlining proposal will be finalized in a later notice. EPA received only favorable comments on these changes in both proposals. Therefore, today's rule deletes § 122.21(d)(3). The requirements in existing § 122.21(a) have been moved to a new § 122.21(a)(1) and modified to clarify that a sludge-only facility must submit a permit for its use or disposal practice only if the practice is regulated by Part 503.

New § 122.21(a)(2) contains the requirements previously included in §§ 122.1(d)(1) and 122.21(d)(3). One commenter on the NPDES streamlining proposal thought that the wording for the storm water-related application forms needed clarification. This language was simply moved from § 122.26(c)(1) and was not changed in the proposal. However, EPA agrees that some of the commenter's suggestions provide clarification and the language of § 122.21(a)(2)(i)(G) has been modified accordingly. This section is finalized as proposed in the NPDES streamlining proposal, with a few minor changes that clarify who is required to submit each form.

As mentioned above in section II.B.4, EPA received numerous comments that support the concept of electronically submitted forms. Section 122.21(a)(2)(ii) explains that electronic forms can be used if approved by EPA or an NPDES authorized State.

Both the municipal/sewage permit applications proposal and the NPDES streamlining proposal contained revisions to § 122.21(c)(2) to reflect the changed location of the application requirements. Section 122.21(c)(2) of today's rule reflects the changes mentioned above to §§ 122.21(a) and (d). EPA is also deleting existing § 122.21(c)(2)(i) and renumbering the remaining paragraphs of § 122.21(c)(2). This provision was intended to allow the permitting authority to obtain applications for sewage sludge incinerators and others who requested site-specific pollutant limits before authorization for other sewage sludge use or disposal practices because these permits would take the most time to issue and EPA believed that incinerators pose the greatest risk to public health. However, there have been few requests for site-specific permits. In addition, changes to Part 503 (60 FR 54771) make the incineration standard totally self-implementing along with the rest of the rule, i.e., the standard must be met whether or not a permit is issued. Therefore, this paragraph is no longer necessary. As described in § 122.21(c)(2)(iii), the Director may require permit applications from any TWTDS at any time if necessary to protect public health and the environment.

EPA received a comment on § 122.21(q)(8) that refers to existing § 122.21(c)(2)(iii)(C), now renumbered as § 122.21(c)(2)(ii)(C). Paragraph (c)(2)(ii) lists the limited background information requested of non-NPDES TWTDS. In § 122.21(q)(8), if sewage sludge meets the ''exceptional quality'' (EQ) requirements, no additional information is required about land application sites or facilities that further treat the sewage sludge. As pointed out by the commenter, § 122.21(c)(2)(ii)(C) should also be modified to require less information for ''EQ'' sewage sludge to provide consistency with the full permit application requirements. Therefore, today's rule modifies § 122.21(c)(2)(ii)(C) and does not require the applicant to provide the name and address of facilities where sewage sludge is sent for treatment or disposal

and the location of land application sites if the sewage sludge meets the ''EQ'' requirements.

F. Application Requirements for POTWs (40 CFR 122.21(j))

The regulations in § 122.21 (j) provide the application requirements for POTWs. Submittal of a complete Form 2A satisfies the application requirements of this section. POTWs may also satisfy the requirements of this section by completing a State-issued version of the form which has been approved by the State Director.

In the proposal for today's rule, EPA acknowledged concerns relating to redundant reporting raised by State and municipal commenters during consultation. EPA proposed the introductory paragraph of § 122.21(j) to allow the Director to waive any requirement in paragraph (j) if the Director has access to substantially identical information. EPA solicited comment on this approach and other ways to provide the permitting authority with discretion to waive particular information requirements where he or she determines that such information is not necessary for the application.

EPA received numerous responses to the waiver question. Most of the commenters agreed that the Director should be allowed to waive any requirement in paragraph (j) if he or she already has access to the information. Several commenters also stated that applicants should be able to reference previously submitted information that is still accurate rather than resubmit the data. For example, commenters mentioned that much of the information required in the permit application has already been submitted to the same permitting authority in the permittee's reports.

In response, EPA has modified today's final rule to allow applicants to provide information by referencing (in their application) how and when the applicant previously submitted the information. Applicants should be very specific when referencing information so the permitting authority has no difficulty in locating the previous submission. Permitting authorities should recognize the need to keep information available for future action and to ensure the availability of information submitted to various departments. All referenced information should also be incorporated into the administrative record for the permit application.

Many of the commenters also felt that EPA should go further than the proposal and allow a waiver for any requirement that an authorized NPDES State feels is not necessary for the application. EPA has considered this option, and has modified § 122.21(j) of today's rule to provide States with the ability to waive any requirement of § 122.21(j) that the State believes is not of material concern for a specific permit, if approved by the Regional Administrator.

In developing this change from the proposal, EPA attempted to anticipate and avoid confusion in implementation. The primary actors involved in the process for request and approval of waivers are authorized NPDES States and EPA Regions. The permit applicant would be most significantly impacted by this process. EPA intends that, if the authorized NPDES State complies with (and the permit applicant is mindful of) the waiver approval process, then the permit applicant will avoid any adverse legal consequences related to the permit application phase. The two areas of concern are administrative continuation of expired permits (and ''completeness'' of re-applications), and the scope of the authorization to discharge, also referred to as the ''permit shield.''

The goal of the application requirements is to provide the permit writer with the information necessary to develop appropriate NPDES permits consistent with requirements of the CWA. The ''permit shield'' provided by Clean Water Act section 402(k) is predicated on the permit writer's presumed knowledge of the discharge. If a permit application contains information about specific pollutants, waste streams, or processes, then the permit writer is legally presumed to have knowledge about them. The ''permit shield'' applies whether or not the permit writer imposes regulatory controls in the permit based on that presumed knowledge. The Agency believes that the application information required under today's rule is necessary for the permit writer to consider in developing a permit, so a case-specific waiver may affect the scope of knowledge that EPA presumes of the permit writer. If the waiver approval processes are not followed and the permit applicant does not submit required information, then the scope of the permit shield is questionable. If the waiver approval processes are followed, the scope of the permit shield will not be affected.

When the permitting authority wishes to waive the submission of information, the Director must request approval for the waiver from the Regional Administrator. This request must include documentation that provides justification for the waiver. Section 123.43(b) has been amended to include provisions for this waiver of information. If a waiver is approved by EPA, the justification for the waiver must appear in the permit fact sheet for each facility receiving the waiver. A new paragraph (9) has been added to § 124.8(b) to include this fact sheet requirement.

As with the scope of the permit shield, the waiver opportunity may affect the validity of authorization to discharge under an expired permit. In order to discharge under an expired permit, a permittee must submit a timely and complete application for renewal prior to expiration. The waiver opportunities under today's rule may affect the determination of whether an application is ''complete.'' EPA has added a new paragraph (e)(2) to § 122.21(e) to clarify the completeness requirements. If a State submits its waiver request within 210 days of permit expiration and EPA either approves the waiver or does not act on the waiver within 30 days, the permit application is considered ''complete.'' If EPA disapproves the waiver, the permit application based on the waiver is not ''complete.''

EPA plans to develop guidance, in consultation with States and other interested stakeholders, to assist the Regions in making determinations for waivers. EPA expects to have this guidance finalized within approximately two years. Until this guidance is completed, EPA and the States must work together to decide on appropriate waivers. The performance partnership agreement process is one forum for determining such appropriateness.

1. Permit-as-a-Shield

Section 402(k) of the CWA, also known as the ''permit shield'' provision, provides that compliance with an NPDES permit shall be deemed compliance, for purposes of Section 309 and 505 enforcement, with Section 301, 302, 306, 307, and 403 of the CWA (except for any standard imposed under Section 307 for toxic pollutants injurious to human health). In response to questions raised regarding EPA's interpretation of the scope of the ''shield'' associated with NPDES permits under the CWA, EPA issued a policy statement on July 1, 1994, to describe the Agency's policy on the scope of the authorization by EPA to discharge under an NPDES permit and the ''shield'' thus associated with permit authorization.

As part of an application for an individual NPDES permit, EPA requires that an applicant provide certain information on its facility. Previous application requirements for municipal

discharges focused primarily on the operation and treatment processes at the municipal treatment works, although some quantitative information is also required.

Historically, EPA has viewed the permit, together with material submitted during the application process and information in the public record accompanying the permit, as important bases for an authorization to discharge under CWA section 402. The availability of the section 402(k) shield is predicated upon the issuance of an NPDES permit and a permittee's full compliance with all applicable application requirements, any additional information requests made by the permit authority and any applicable notification requirements under 40 CFR §§ 122.41(l) and 122.42, as well as any additional requirements specified in the permit.

On April 11, 1995, EPA reissued the memorandum to clarify that a discharger must provide all information in writing for the permit record in order to obtain the authorization to discharge and the ''shield'' provided by a National Pollutant Discharge Elimination System permit. EPA explained that a permit provides authorization and therefore a shield for the following pollutants resulting from facility processes, waste streams and operations that have been clearly identified in writing in the permit application process when discharged from specified outfalls:

(1) Pollutants specifically limited in the permit or pollutants which the permit, fact sheet, or administrative record explicitly identify as controlled through indicator parameters (of course, authorization is only provided to discharge such pollutants within the limits and subject to the conditions set forth in the permit);

(2) Pollutants for which the permit authority has not established limits or other permit conditions, but which are specifically identified in writing as present in facility discharges during the permit application process and contained in the administrative record which is available to the public; and

(3) Pollutants not identified as present but which are constituents of waste streams, operations or processes that were clearly identified in writing during the permit application process (the permit, of course, may explicitly prohibit or limit the scope of such discharges) and contained in the administrative record which is available to the public.

With respect to subparts 2 and 3 of the permit authorization described above, EPA recognizes that a discharger may make changes to its permitted facility (which contribute pollutants to the effluent at a permitted outfall) during the effective period of the NPDES permit. Pollutants associated with these changes (provided they are within the scope of the operations identified in the permit application) are also authorized provided the discharger has complied in a timely manner with all applicable notification requirements, assuming the permit does not otherwise limit or prohibit such discharges. See 40 CFR 122.41(l) and 122.42(a)&(b). Section 122.42(b) requires that POTWs must provide adequate notice, including information on the quality and quantity of discharges to the POTW and anticipated impacts on the quantity or quality of effluent discharged by the POTW, of new introductions of pollutants by indirect dischargers into the POTW and any substantial change in the volume or character of pollutants being introduced by sources introducing pollutants into the POTW at the time of permit issuance.

Notwithstanding any pollutants that may be authorized pursuant to subparts 1 and 2 above, an NPDES permit does not authorize the discharge of any pollutants associated with waste streams, operations, or processes which existed at the time of the permit application and which were not clearly identified during the application process.

In the policy statement, EPA committed to revise the NPDES permit application regulations for both municipal and industrial discharges, so as to ensure that applicants would have the responsibility to characterize more fully the nature of their effluents and the contributions of their effluents to receiving waters. EPA stated that, in addressing this issue, it would review its position on the scope of the permit shield provided by section 402(k).

Generally, the discharger is in the best position to know the nature of its discharge and potential sources of pollutants. Consequently, requiring as full a disclosure as technically possible in the permit application is one option EPA considered in light of the protection afforded the discharger by the permit shield. In the case of POTWs, however, providing a permit shield only for pollutant discharges fully and completely characterized in the permit application could represent a significant burden on POTWs if they were required to identify every pollutant discharged due to the wide variation in potential pollutant contributions into POTW sewer systems from industrial users and residential dischargers, both in terms of pollutant parameters and volumes. Narrowing the scope of the shield and consequent expansion of potential liability would likely raise the cost associated with the failure to anticipate, detect, and provide information on these discharges.

EPA was concerned that, using the 1973 application form, permitting authorities would not always receive the necessary information about an applicant's discharge to develop adequate permits consistent with the requirements of the CWA. In practice, permitting authorities have been requiring supplemental information in order to write credible permits. Today's rule updates the POTW discharge application requirements and § 122.21(j), to provide necessary information to permit writers and to streamline the permitting process by ensuring that the information needed from most applicants is consolidated onto a single form.

Fourteen commenters responded on the issue of the permit application requirements and the permittee's responsibility to fully characterize its waste stream for permit shield protection under the 1995 policy. All but two of the commenters thought that the requirements did not need to be expanded to include more information than the § 122.21(j) requirements of today's rule. Several commenters thought that permitting authorities already have access to a great deal of discharge data and have the authority to ask for additional data when necessary. In the commenters' view, these information sources, such as pretreatment program POTW annual reports, provide enough information for a permit writer to determine what pollutants can be expected in a POTW's influent from industrial sources, and this information falls within the boundaries of the permit-as-a-shield policy. EPA agrees that some required information that may be found in reports previously submitted to the permitting agency falls within the permit-as-a-shield policy. Today's rule allows reports to be referenced by the permittee in the application form provided they are incorporated into the administrative record for the application.

The proposal for this rule requested comment on whether EPA should ask for information on beach closings, fish kills, or citizens' complaints. Commenters did not believe that asking for any of this information would provide any additional benefit to the permit writer. Two of the commenters thought that a general question such as ''Does the permittee have any other information on pollutants not otherwise requested on the forms?'' might be

useful. EPA does not at this time believe additional generic questions are necessary on the permit application because the permitting authority already has access to much of this information.

EPA has concluded that the application requirements in § 122.21(j) of today's rule are sufficient to provide the permitting authority with a reasonable characterization of a permittee's discharge for protection under the permit-as-a-shield policy. Accordingly, the application requirements have not been expanded to include any further questions on beach closings, fish kills, or citizen complaints nor have the requirements been expanded to include a general question on other pollutants.

Since the initial proposal, questions have arisen regarding interpretation of one aspect of the Agency's permit-as-a-shield policy, specifically, applicability of the permit shield to discharges from outfalls identified in the permit application, but not identified or discussed in the permit. Because today's rule requires in the application specific identification of outfalls, including outfalls within the collection system (upstream from the POTW treatment plant), the Agency provides clarification and explicit notice to affected parties of its interpretation of the permit shield, as explained below. This interpretation further clarifies the Agency's April 11, 1995, policy memorandum addressing the shield.

EPA believes that the protection afforded by the permit-as-a-shield provision does not apply to discharges from outfalls or other locations not identified in the permit. EPA believes this interpretation best effectuates the requirements of CWA section 301, which specifies pollutant control standards applicable to discharges. EPA believes that a permit applicant may reasonably expect a permit ''shield'' when the permitting authority applies its technical expertise to derive permit conditions and effluent limitations based on a permit application that fully discloses the nature of the effluent to be discharged. Permittees cannot, however, reasonably expect a permit ''shield'' for discharges from outfalls identified in a permit application, but not specifically authorized in a permit. There needs to be some explicit acknowledgment by the permitting authority that discharge from that specific outfall is permissible. Such a discharge would be subject to the technology-based and water quality-based requirements of the CWA. This is distinguished from the Agency's approach for pollutants identified in the application but not limited in the permit because here it is clear that the permitting authority, by choosing at least one pollutant to measure or limit, chose not to establish limits for other pollutants.

This aspect of the Agency's permit-as-a-shield policy is particularly relevant for ''emergency'' or ''accidental'' discharges from locations within municipal sewage collection systems not identified in the permit which would not automatically receive the protection of the permit-as-a-shield provision. Rather, the legal status of these discharges is specifically related to the permit language and the circumstances under which the discharge occurs. The Agency notes that NPDES permit regulations do provide limited relief under the bypass and upset provisions of 40 CFR 122.44(m) and (n), respectively, for such discharges. The Agency is currently developing guidance that would clarify the applicability of the bypass and upset provisions to such discharges.

2. Basic Application Information

The December 1995 proposal would have required all POTW applicants to provide the information requested in § 122.21(j)(1) and the 18 questions in the Basic Application Information part of Form 2A. Many commenters suggested that the requirements were not appropriate for smaller facilities and would require these smaller facilities to collect data that might not be utilized in the permitting process. Based on these comments, EPA has restructured the application requirements and Form 2A questions to request less information from smaller facilities. EPA believes the requirements that remain in today's rule will result in the collection of the minimum information a permitting authority needs to issue a permit meeting CWA requirements.

In today's final rule, the basic application requirements in proposed § 122.21(j)(1) have been divided into two sections. Section 122.21(j)(1) contains the requirements for all applicants and requests very limited facility and process information, and 122.21(j)(2) contains additional questions and limited monitoring information. EPA carefully examined the proposed requirements for all facilities and, in conjunction with the comments received, determined the final rule requirements found in § 122.21(j)(1) for very small facilities. Many commenters stated that very small facilities would be able to provide basic information, such as location, discharge methods, and type of treatment. Additional information, such as inflow and infiltration, topographic maps, and process flow diagrams may be more difficult to provide because these facilities lack the resources to provide this information. EPA evaluated each application requirement to determine the impact on the application and permitting process. As discussed earlier in this rulemaking, EPA determined that facilities discharging less than 0.1 mgd account for only 0.4% of the total flow from all POTWs. Additionally, these small facilities are often ''package'' systems receiving mainly residential sewage discharges. The basic nature of these facilities and their small impact in terms of flow on receiving waters, supported the decision to reduce the application requirements. The information requested in § 122.21(j)(1) is the minimum information a permit writer needs to write a permit that complies with the CWA.

Many paragraphs from proposed § 122.21(j)(1) have been renumbered in today's final rule. The addition of § 122.21(j)(2) to the proposed rule also causes the other paragraphs of § 122.21(j) to be renumbered, e.g., proposed § 122.21(j)(2) is § 122.21(j)(3) in today's final rule.

Section 122.21(j)(1)(i) requests treatment plant identification information. Section 122.21(j)(1)(ii) requests information about the permit applicant which may describe the owner or operator of the facility and not the facility itself. No comments were received on either of these sections, and they are unchanged from the proposed rule.

Section 122.21(j)(1)(iii) asks the applicant to provide permit numbers of any existing environmental permits that have been issued to the facility. One commenter requested clarification of the scope of this requirement because it was unclear in the proposal whether the applicant should provide information on all permits at the facility. The purpose of the requirement is to obtain information on permits related to the treatment plant operation and maintenance. EPA intended to include only environmental permits related to the permittee's treatment plant or collection system operations, e.g., under RCRA, UIC, CAA, etc. EPA does not seek information regarding permits under OSHA, general construction, or other permits that do not implement federal environmental laws. The requirement remains in the final rule.

Section 122.21(j)(1)(iv) requires the applicant to list the municipalities and populations served by the POTW. The POTW may serve several areas in addition to the municipal jurisdiction in which the POTW is located. Systems which discharge into a larger POTW are also known as satellite collection

systems. This section asks the POTW to provide information on the satellite collection systems served. If known, the POTW would indicate the type of collection system used by the satellite municipalities and whether the municipality owns or maintains any part of the collection system.

The permit writer needs to know what areas are served and the actual population served in order to calculate the potential domestic sewage loading to the treatment plant. The information on the community served by the NPDES permittee is also useful for providing notice and public comment for permit reissuance and for public education. One commenter requested clarification of the term ''population served.'' By this term, EPA means the number of users of the system. EPA has expanded this requirement from the proposal in order to obtain a more complete picture of the area served by the POTW. The additional information on the satellite systems will be used by the permit writer to identify areas where there is a potential for unpermitted discharges in the collection system prior to the treatment plant. The identified areas may necessitate further investigation.

Section 122.21(j)(1)(v) requires the applicant to report whether the POTW is located in Indian country or discharges to a receiving water that flows through Indian country. This information enables the permit writer to identify the proper permitting authority and applicable requirements, including applicable water quality standards. Today's action also incorporates the definition of ''Indian country'' found at 18 U.S.C. section 1151. The term ''Indian country'' encompasses more area than the term ''Federal Indian Reservation,'' which was the term originally proposed. For the purposes of determining the proper permitting authority, the term ''Indian country'' is more appropriate because, even in States authorized to administer the NPDES program, EPA is generally the proper permitting authority in ''Indian country'' unless a Tribe is authorized to administer the program.

EPA received one comment on the information requirement regarding location relative to Federal Indian Reservations. The commenter felt that it might be difficult for new permittees to obtain information on discharges that might eventually flow through a Federal Indian Reservation. Readily available maps such as topographic and road maps often identify Federal Indian Reservations and other areas of Indian country, so in many cases a permittee should be able to easily obtain this information. Remaining questions should be directed to EPA Regional offices. The requirement is renumbered from proposed § 122.21(j)(1)(xii) to § 122.21(j)(1)(v).

Section 122.21(j)(1)(vi) requires the applicant to report the facility's design flow rate, annual average daily flow rate, and maximum daily inflow rate for each of the past three years. This information enables the permitting authority to calculate limits appropriate to the POTW, to alert the permitting authority to the need for special permit conditions or facility expansion, and to compare design and actual flows. Two commenters suggested this information is available from the facility's discharge monitoring reports (DMRs). EPA disagrees that this information is universally reported in all POTW DMRs but, as discussed previously, the permitting authority may waive submission of information already available to it or the applicant can reference the DMR if it contains the required information. This requirement remains unchanged from the proposal but it is renumbered from proposed § 122.21(j)(1)(v) to § 122.21(j)(1)(vi).

Section 122.21(j)(1)(vii) requires information on the type of sewer collection system used by the facility. The applicant must identify whether the collection system is a separate sanitary sewer system or a combined sewer system (conveying both storm water and sanitary wastes). The applicant must also estimate the percent of sewer line that each type comprises. Knowledge of the type of collection system enables the permit writer to determine whether the permit should include requirements based on the provisions of the 1994 CSO Control Policy (59 FR 18688). The current application form, Standard Form A, requests that the applicant provide the length of the collection system. Today's rule does not include this requirement because EPA does not believe that such information is useful to the permit writer. As noted previously, however, the application requirements do require identification of known outfalls and information about flow contributions from satellite municipalities. The latter information will be useful to identify areas within the collection system that would be particularly vulnerable to excessive flows. No comments were received on this section, and it is unchanged from the proposal but is renumbered from proposed § 122.21(j)(1)(vi) to § 122.21(j)(1)(vii).

Section 122.21(j)(1)(viii) requires general information regarding the disposition of treated wastes, whether discharged to waters of the United States, as well as to other destinations. This information enables the permit writer to account for all wastewater that enters the POTW plant, regardless of whether or not it is discharged directly to waters of the United States. From a watershed permitting standpoint, permitting authorities may use this information to identify: flows to surface impoundments; land application sites; underground injection; and flows that individually or collectively may have an impact on the watershed, whether or not they are discharged directly into waters of the U.S.

Section 122.21(j)(1)(viii)(A) of today's final rule has been modified slightly to clarify that information must be submitted about all types of outfalls throughout the sewer collection system as well as the POTW plant, including treated effluent, bypasses, CSOs, and constructed ''emergency'' outfalls within a separate sanitary sewer system.

If any effluent is discharged to a surface impoundment that is designed to avoid discharges to waters of the U.S., the applicant must report the location of each such surface impoundment, the annual average daily volume discharged to such surface impoundment(s), and whether the discharge is continuous or intermittent. If effluent is applied to the land, the applicant must provide the site location, the site size, and the average daily volume of effluent applied. The applicant must also state whether land application is continuous or intermittent. This information alerts the permit writer to the potential for point source discharges to arise from land application sites under exceptional circumstances, such as cold weather or high volume discharges, or from overflowing surface impoundments.

Section 122.21(j)(1)(viii)(D) requires the applicant to report whether wastewater is discharged to another treatment plant, the means by which the wastewater is transported, the average daily flow rate to that other facility, and information identifying the receiving facility. The applicant must also identify the person (owner or operator) transporting the discharge, if other than the applicant. The permit writer needs this information in order to track the wastewater and verify the transfer. One commenter questioned the need for this requirement due to the infrequent transfer of discharges among treatment works. Informal stakeholder comments indicate that this is a common practice at many POTWs, and EPA retains this requirement in today's rule.

Section 122.21(j)(1)(viii) also requires information on other types of disposal, such as underground percolation or injection, in paragraph (E). These types of disposal practices may result in the

transfer of pollutants to waters of the United States through underground flows and thus are of interest both to the permit writer in writing a watershed-based permit and to the permitting authority in designing watershed protection strategies. Section 122.21(j)(1)(viii) remains unchanged from the proposal but is renumbered from proposed § 122.21(j)(1)(xi) to § 122.21(j)(1)(viii).

3. Additional Information for Applicants With a Design Flow Greater Than or Equal to 0.1 mgd

Section 122.21(j)(2) contains additional requirements for applicants with a design flow greater than or equal to 0.1 mgd. EPA believes these requirements are necessary to account for the more complex nature of these more sophisticated facilities.

Section 122.21(j)(2)(i) requires information on estimated amount of inflow and infiltration (I&I) and steps taken and proposed to minimize it. Inflow is water other than sewage water that enters a sewerage system from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, surface runoff, street wash waters, or drainage. Infiltration is water other than waste water that enters a sewerage system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. These definitions are found at 40 CFR 35.2005.

Sixteen comments were received on this requirement, with most commenters wishing to have the requirement deleted. The commenters felt this information is difficult to quantify and could be overly burdensome for the permittee to obtain. This requirement has been eliminated for facilities under 0.1 mgd. However, for larger facilities EPA disagrees with this position. EPA does not expect facilities to complete extensive studies to provide the amount of I&I but rather to provide a best estimate based on average wet and dry weather flows. This estimate is used by the permit writer to determine if special conditions, such as I&I control programs, are necessary to reduce the unintended flow beyond the design capacity of the collection system or treatment capacity of the POTW plant. The information also helps identify portions of the collection system with potential for overflow or unplanned, untreated discharges. EPA understands that most facilities will have some amount of I&I entering their collection system and thus treatment plants. The Agency does not envision that every POTW will need special permit conditions to control I&I, for example, in cases where I&I is not excessive. The requirement applies only to facilities with a design flow equal to or greater than 0.1 mgd and has been renumbered from § 122.21(j)(1)(vii) to § 122.21(j)(2)(i).

Section 122.21(j)(2)(ii) requires the applicant to provide a topographic map (or other map if topographic map is unavailable) extending at least one mile from the boundaries of the plant, and including information on the layout of the treatment plant and all unit processes; intake and discharge structures; wells, springs, and other surface water bodies in the vicinity; sewage sludge management facilities; and the location(s) at which hazardous waste enters the treatment plant by truck, rail, or dedicated pipe.

Several commenters questioned the elements of the topographic map requirement stating that a topographic map containing this much information may be difficult to read. The contents of the map are necessary for the permit writer to understand the geography of the collection system and treatment facility and the potential for various water quality impacts due to the location of the treatment plant, the outfalls, and other structures and pipes. A topographic map helps the permitting authority identify nearby discharge sources or sensitive areas which may be necessary for a watershed-based approach to permitting. The map must include the major process units and primary structures that carry the wastewater to and from the plant. The permittee may provide another map if the topographic map is unavailable. Permittees may also provide a copy of an original topographic map. The requirement applies only to facilities with a design flow equal to or greater than 0.1 mgd and has been renumbered from § 122.21(j)(1)(viii) to § 122.21(j)(2)(ii).

This requirement is similar to section § 122.21(q)(5) of this rule that requires a topographic map for TWTDS. A facility required to comply with both sets of application requirements can use the same map if the map if the maps cover the same basic area.

Section 122.21(j)(2)(iii) requires the applicant to submit a process flow diagram or schematic, together with a narrative description. The permit writer uses this information to identify bypass and other ''emergency'' outfall structures and develop applicable permit conditions. Of the commenters on this requirement, half wished to keep it and half wanted it deleted. One commenter who wished to delete the requirement believed a more simplified schematic drawing should suffice. EPA does not intend this requirement to be complex. Instead, this drawing is meant to be a simple drawing of the basic unit processes with intake and discharge points labeled, as well as the design water flow identified for each component process.

This diagram requirement has been slightly modified to ask for information about backup power and identification of redundancy in the applicant's system in order to consolidate information and reduce the number of questions on the application form. Information on backup generators was included in the bypass section of proposed Form 2A but inadvertently left out of the proposed rule language. EPA has added information on backup generators to this part of the final rule because the separate bypass section (from the proposed rule) has been eliminated.

Facilities under 0.1 mgd are not required to submit a process flow diagram. The requirement applies only to facilities with a design flow greater than or equal to 0.1 mgd and has been renumbered from § 122.21(j)(1)(ix) to § 122.21(j)(2)(iii).

Proposed § 122.21(j)(1)(x) would have required information about bypasses, which are intentional diversions of waste streams from any portion of the treatment facility. The proposed rule would have required information about frequency, duration, and volume of bypass incidents. The Agency removed this from the final rule because it is already required by the bypass regulations at § 122.41(m). The bypass regulations set forth clear reporting and notification guidelines for each bypass incident.

Section 122.21(j)(2)(iv) requires the applicant to provide information about scheduled facility improvements. Improvements to the facility may change its flow or removal efficiency, necessitating a permit modification. The permit writer may modify the permit when the improvement is complete, or may include alternate limits in the permit that would take effect upon completion of the improvement. Comments favored keeping the information on facility improvements. One commenter suggested that submitting this type of information would help keep different groups in the same permitting agency informed of anticipated treatment plant upgrades. The requirement applies only to facilities with a design flow equal to or greater than 0.1 mgd and has been

renumbered from § 122.21(j)(1)(xii) to § 122.21(j)(2)(iv).

The existing application form, Standard Form A, requested certain information about required improvements including information on dates for completion of the preliminary plan, completion of the final plan, awarding of a contract, and site acquisition. Standard Form A also required the applicant to identify the authority imposing the improvement and the general and specific action codes. The Agency has deleted this requirement because permit writers have indicated that this information is unnecessary for writing the permit. Several commenters specifically endorsed removing this extra information from the final application requirements.

4. Information on Effluent Discharges

Proposed § 122.21(j)(2) has been renumbered in today's rule as § 122.21(j)(3). This section requires all POTWs that discharge effluent to waters of the United States to provide specific information for each outfall through which effluent is discharged to surface waters, excluding CSO outfalls and constructed ''emergency'' outfalls. This information will be reported in questions 9, 10, and 11 of the Basic Application Information part of Form 2A. The applicant is required to submit specific information for each outfall.

Section 122.21(j)(3)(i) requires general information about each outfall. The applicant must specify the outfall number, location, latitude and longitude, distance from shore and below surface, average daily flow, information about seasonal or periodic discharges, and information about diffusers at the outfall. EPA enters the latitude and longitude points into the water quality data base STORET and into the Permit Compliance System. Maps of the location of water discharges are developed to examine the relationship between NPDES outfalls and other areas of concern, such as drinking water intake points or sensitive ecosystems. This information is also used to establish water quality-based effluent limits appropriate for the particular receiving water. The locational data requested by this question also supports the watershed protection approach because it provides State and Federal environmental managers with information they need to geographically locate discharge points.

Latitude and longitude must be reported to the nearest second. This is consistent with EPA's Locational Data Policy, see ''Locational Data Policy Implementation Guidance, Guide to the Policy (March 1992).'' In accordance with this Policy, all latitude/longitude measurements in Agency data collection should have accuracies of better than 25 meters (i.e., roughly one second). One commenter disagreed with this requirement, stating that many facilities simply ''guess'' on this information so it is not accurate. However, EPA believes this information is vital to the permit writer's locating each discharge point. All of § 122.21(j)(3)(i) remains unchanged from the proposal.

Section 122.21(j)(3)(ii) solicits information that describes and identifies the receiving waters into which each outfall discharges. Information about the type of receiving water is useful to the permit writer because mixing zones and wasteload allocations may be calculated differently for different types of receiving waters.

This provision also requests the name of the watershed, the Soil Conservation Service watershed code, the name of the State management basin (if applicable), and the United States Geological Survey hydrologic code. This locational information supports the Watershed Protection Approach by providing Federal and State environmental managers with a means of locating dischargers within the U.S. Soil Conservation Service watershed categorization system, a State's river basin categorization system, and the U.S. Geological Survey cataloging scheme. Some States, as well as EPA Regions, are implementing basin management approaches to watershed protection and will use the information requested by this question to issue permits on a watershed basis.

Several commenters disagreed with this request for information, stating that many facilities will not be able to provide it with their applications. In response, though EPA believes this is important information for State and regional authorities, this information request is no longer mandatory. The permit applicant needs to provide this information only if known.

Section 122.21(j)(3)(iii)(A) requires information on the level of treatment expected for discharges from each outfall. The CWA requires POTWs, with some exceptions, to achieve pollutant reductions to a level based upon secondary treatment prior to discharge. Secondary treatment is defined at 40 CFR 133.102 in terms of five-day biochemical oxygen demand (BOD_5), total suspended solids (TSS), and pH. Part 133 allows adjustments to the secondary treatment requirements for POTWs that meet certain criteria. In addition, some POTWs are subject to requirements for ''treatment equivalent to secondary treatment,'' as described in Section 133.105. Finally, some POTWs may need more advanced levels of treatment to meet water quality-based effluent limits for certain pollutants, such as nitrogen and phosphorous.

This provision requires data on design removal efficiencies for BOD_5 and TSS. Information on these parameters is necessary for the permit writer to set pollutant limits that accurately reflect the pollutant removal that the POTW can achieve. It may also alert the permitting authority to the need for improvements to the treatment facility. The only comment on this section stated that this information may not be appropriate for lagoon systems because design removal efficiencies for BOD_5 and TSS are not readily available or pertinent to these systems. EPA disagrees with this commenter's statement that basic design information is not pertinent to lagoon systems. All POTWs should have a design BOD_5 and TSS removal efficiency. The requirement is not changed from the proposal.

Section 122.21(j)(3)(iii)(B) requires information on disinfection, which commonly occurs through chlorination. Many POTWs also dechlorinate their effluent prior to discharge because excessive free chlorine in a wastewater discharge can cause aquatic toxicity in the receiving water. No comments were received on this section and it remains as proposed.

5. Effluent Monitoring for Specific Parameters

The purpose of § 122.21(j) and Form 2A is to provide the permit writer with the minimum information necessary to issue an NPDES permit that contains effluent limitations and conditions consistent with the requirements of the CWA. EPA recognizes that the quality of a POTW's effluent depends on several factors, such as the number and type of industrial users of the POTW, and that not all POTWs need to report the same information to ensure that NPDES permits satisfy CWA requirements. Hence, EPA proposed a tiered approach to collect needed effluent monitoring information.

In the December 1995 proposal, EPA proposed to require all POTWs to report effluent monitoring information for the 17 parameters listed at proposed 40 CFR Part 122, Appendix J, Table 1 (''Effluent Parameters For All POTWs''). EPA thought these parameters had a high likelihood of occurrence in most POTW effluents. EPA also proposed to require additional reporting of pollutant-specific data for POTWs with design flows greater than or equal to 1.0 mgd,

POTWs that have or are required to have pretreatment programs, and other POTWs required to provide this information to the permitting authority. In general, the pollutants for which additional data was proposed to be required are those for which States have established water quality standards (other than dioxin, asbestos, and ''priority pollutant'' pesticides). The preamble to the December proposal explained how EPA chose the pollutants to be sampled.

One commenter disagreed with EPA's approach of using data from a survey of six States as a basis for nationwide requirements. The commenter felt EPA should be required to prove the necessity of the rule based on valid scientific research associated with risk assessments that represent the majority of POTWs as opposed to a limited regional survey. EPA examined many pollutant data options through the rule development period. The Agency considered numerous stakeholder comments along with other information and the pollutant scans to determine the requirements in this final rule. EPA determined what pollutant data was necessary in the final rule to maintain a balance between satisfactory environmental protection and burden on applicants. The pollutant requirements in today's rule maintain that balance by setting the minimum data collection requirements necessary to write environmentally valid permits.

Many commenters felt that the requirement for minor POTWs, i.e., facilities with design flows less than 1.0 mgd, to provide the basic application information in proposed Appendix J, Table 1, was overly burdensome. Most of the State commenters felt that it would be more appropriate to request information from minor facilities on a case-by-case basis as determined by the permitting authority. EPA understands the limited resource issue for minor POTWs and in response has reduced the application requirements for facilities with a design flow of less than 0.1 mgd.

Section 122.21(j)(4) requires that data be separately provided for each outfall through which treated sanitary effluent is discharged to waters of the United States. EPA recognizes that a POTW's effluent may have similar qualities at more than one of its outfalls. EPA proposed to allow applicants to provide the effluent data from only one outfall as representative of all such outfalls, where there are two or more outfalls with substantially identical effluents, and with the specific approval of the permitting authority. For outfalls to be considered substantially identical, the outfalls should, at a minimum, be located at the same plant with flows subject to the same level of treatment and having passed through the same types of treatment processes. Six commenters supported allowing information on substantially identical outfalls to be submitted once at the discretion of the Director. One commenter wanted EPA to expand this requirement to allow POTWs to composite samples from outfalls in close proximity that enter the same receiving water but may not be substantially identical. The commenter stated that in such cases it is the combined effect of the various effluents that is important as far as the toxicity of the receiving stream is concerned. The commenter also believes that expanding this requirement in the final rule could substantially reduce the cost of sampling and analysis for the POTW. EPA agrees and § 122.21(j)(4)(i) of today's final rule has been amended to allow POTWs to combine effluent discharges from one or more outfalls that discharge into the same mixing zone of a stream segment, upon approval of the permitting authority.

In the proposal, EPA set forth conditions for data acceptability that all monitoring data submitted to the permitting authority must meet. While commenters agreed with the basis for the conditions, several commenters disagreed with individual requirements. EPA had proposed all data submitted on the application should be from three scans collected within a 3-year period preceding the permit application date. Some commenters felt that the three year constraint on the data would require facilities to collect data specifically for the application by excluding data collected in the first two years of the permit cycle. Several commenters also disagreed with the seasonal constraints placed on the data in the proposed rule. EPA proposed the three samples should span three different calendar seasons. Three commenters felt the seasonal constraints might require a facility to resample because available data was not obtained during the required seasonal variation.

In response to these comments, EPA has modified the proposed sampling requirements to allow applicants to use more of their existing monitoring data. Today's rule extends the window for sampling data to encompass the period from permit issuance to the time of subsequent application submittal in the final rule, which is normally four and one-half years, provided the data represents the current facility operations. In addition, EPA has eliminated the requirement for sample data to be a minimum of 4 months and a maximum of 8 months apart. Instead, EPA is requiring that the samples represent typical daily discharges occurring during the permit term and be representative of seasonal variation in the discharges. These requirements are listed in § 122.21(j)(4)(vi) of today's rule. Because applicants are allowed to submit samples from a four and one-half year period, § 122.21(j)(4)(vii) has also been modified to require summarization of all data from the previous four and one-half years instead of the proposed three years. As in the proposal, when a pollutant is sampled on a monthly or more frequent basis, only the most recent year's worth of data need be summarized for that pollutant.

One commenter felt three data scans may be excessive, especially for smaller facilities. The smallest facilities are only required to monitor for six pollutant parameters which many POTWs sample on a regular basis. Because facilities can use existing data, EPA believes three samples over four and one-half years is easily obtainable for all POTWs.

A few commenters were concerned with the requirements in proposed § 122.21(j)(3)(vii) and the accompanying preamble language that required including all data in the submitted data summaries. They believed that data collected during pilot studies or for system process control should not be required to be included in data summaries. EPA understands that facility operators may wish to collect samples in the influent or throughout the system in order to determine if they are operating properly or returning to proper operations after correcting problems. The introductory language of § 122.21(j)(4)(i) states that the information required is ''effluent monitoring information for samples taken from each outfall * * *'' Therefore, this does not include information from samples collected in process (prior to discharge). EPA does not intend to require ''check samples'' or samples collected during pilot studies to be included with other routine samples.

One commenter asked for clarification as to whether applicants were required to submit all sample data or just summaries. The rule language in § 122.21(j)(4)(vii) has been modified to clarify that only the data summaries need be included. NPDES permitting authorities that want to review all the individual data reports are free to request them, either from all applicants or on a case-by-case basis.

Proposed § 122.21(j)(3)(viii) contained sample testing requirements. Commenters stated that time-proportional composite samples should

be allowed as an alternative to flow-weighted composite samples because flow proportional samples are not feasible in every situation. They also questioned a preamble statement that suggested that 4 grab samples be summarized for each day of sample collection because they felt 4 samples per day per parameter could be overly burdensome. EPA agrees with these comments and has modified the language of § 122.21(j)(4)(viii) to allow time-proportional sampling. Because the grab sample language is provided as guidance, and not part of the proposed rule, no rule language change was necessary.

One of the requirements of proposed § 122.21(j)(3)(ix) was to report the designated method endpoint for the analytical method used. This section also required applicants to submit pollutant data based upon actual sample values. The proposal explained that even where test values are below the detection or quantification level of the method used, the actual data value should be reported, rather than reporting ''non-detect'' or zero. EPA would require the endpoint of the method to be reported along with the actual sample results so that the permitting authority could determine if the data is in the ''non-detect'' range or merely in the ''below quantification'' range.

Most of the comments received on this issue disagreed with the requirement to submit actual data values when results are below the detection level. These commenters believe that data that is below the sampling method's level of detection is not valid or meaningful data. Two State commenters supported reporting data even if it is below detection level. EPA believes that the maximum measured data value required by § 122.21(j)(4)(ix)(A) should be reported if it is above the method detection limit. Data values that fall below the quantification level of a test method should be reported as the actual sample value. If the maximum value reported for a pollutant is below a detection limit for the sampling method, the permittee should report non-detect. Reporting the method end point will notify the permit writer to look more closely at maximum values that are below the quantification level of the test performed.

EPA agrees with commenters that actual sample values below the method detection level or non-detect values should not necessarily be used in computing the averages required by § 122.21(j)(4)(ix)(B). There are many different ways of averaging numbers that are below detection or quantification limits. In today's final rule, which is about permit application requirements, not permit limit development requirements, EPA does not require a specific averaging method. Applicants can use any statistically credible approach as long as the method is explained with the results and the permitting authority agrees. Permitting authorities may require a specific method to be used.

EPA has provided guidance to the applicant in the Form 2A instructions in order to minimize the conditions that lead to inaccurate sampling data. EPA believes that the permit applicant should: (1) alert its laboratory to the analytical and detection limit requirements and the expectations for documentation; and (2) report the necessary documentation to ensure that the permit writer is fully informed as to the methods used and the results obtained. For more detailed information concerning analytical issues (acceptable methods, effluent-specific detection limits, and documentation of data and analytical problems), applicants should refer to the ''Guidance on Evaluation, Resolution, and Documentation of Analytical Problems Associated with Compliance Monitoring'', EPA 821–B–93–001, June 1993.

a. Pollutant Data Requirements for All POTWs. As mentioned earlier, EPA has modified the proposed rule to limit the reporting burden for very small (<0.1 mgd) POTWs without significant industrial contributions. These facilities are required to submit effluent monitoring data for only 6 parameters: biochemical oxygen demand (BOD_5 or $CBOD_5$), total suspended solids (TSS), fecal coliform, pH, temperature, and flow. These parameters are listed in Appendix J, Table 1A. EPA selected them based on the secondary treatment regulations at 40 CFR Part 133, which describe the minimum level of effluent quality that POTWs must attain in terms of BOD_5, TSS, and pH. Control of BOD_5 or $CBOD_5$ is necessary to ensure sufficient dissolved oxygen in the receiving water to protect aquatic life. High TSS levels in the effluent block light in the receiving water and inhibit photosynthesis. TSS limits also help prevent solids accumulations that can lead to sediment oxygen demand and other sediment related problems. Permit writers use information on all of the parameters listed above to set appropriate water quality-based limits for permit applicants. When POTWs have been allowed to substitute chemical oxygen demand (COD) or total organic carbon (TOC) for BOD_5, in accordance with 40 CFR 133.104, applicants must report the substituted parameter.

b. Pollutant Data Requirements for POTWs with Design Flows Greater Than or Equal to 0.1 mgd. Facilities that have a design flow greater than or equal to 0.1 mgd are required by § 122.21(j)(4)(iii) to provide additional data on the parameters listed at Appendix J, Table 1. These parameters are oil and grease, total residual chlorine (TRC), Kjeldahl nitrogen (total organic as N), total dissolved solids, total phosphorus, dissolved oxygen, ammonia (as N), and nitrate/nitrite (as N).

EPA originally proposed a pollutant scan list that would have included *E. coli*, enterococci and hardness. Many commenters felt that EPA was premature in proposing requirements for *E. coli* and enterococci to be used as bacterial indicators because EPA had not approved methods to measure for these parameters in POTW effluent. The Agency has, however, developed and recommended water quality criteria for these pollutants. Today's rule does not require analysis for these two pollutants. The Agency notes, however, that pending legislation may direct the Agency to re-evaluate this decision through future rulemaking.

The Beaches Environmental Awareness, Cleanup, and Health Act of 1999, H.R. 999, 106th Cong., 1st Sess. (1999), recently passed in the House of Representatives, is designed to protect coastal recreation waters and beach users from pathogens and beach debris. The legislation would apply to coastal recreational waters, defined as the Great Lakes and marine coastal waters, including estuaries, used by the public for swimming, bathing, surfing, or other similar water contact activities. Section 2 of the legislation would require States to develop revised recommended water quality criteria for *E. coli* and enterococcus for coastal recreation waters. Section 3 would also require EPA to develop new water quality criteria guidance for other pathogen indicators, which States would be required to adopt thereafter. Regardless of whether the legislation is ultimately enacted, EPA intends to propose methods soon to measure for both *E. coli* and enterococci in POTW effluent. Until the Agency approves and promulgates new methods and modifications to the permit application requirements, however, today's permit application rule will continue to use fecal coliform as the pathogen indicator for wastewater.

Three commenters felt that hardness data should be deleted from the general POTW requirements because hardness data are typically used to establish

metals limitations in the effluent. If the POTW is not required to test for metals, the hardness data is of limited value on the application. Based on these comments, EPA has moved the hardness requirement to § 122.21(j)(4)(iv) which requires reporting of additional pollutants, including metals, by some POTWs.

In the proposal, EPA also solicited comment on the need to require chlorine data from POTWs that do not use chlorination for disinfection and do not otherwise use chlorine in their treatment process. Most commenters felt that chlorine data should not be required from such facilities because facilities would have no reasonable potential to discharge chlorine. EPA agrees with the commenters and has created an exemption from the chlorine testing requirement at § 122.21(j)(4)(iii) for facilities that do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent.

EPA received various other comments on all the remaining parameters. Some commenters questioned the testing requirement for oil and grease because facilities employing secondary treatment do not discharge significant quantities of the kinds of materials which would be measured with this parameter. EPA disagrees, and believes that many POTWS have the potential to discharge oil and grease, which may be significant even in very low quantities. Concentrations of oil and grease sufficient to create a sheen on the receiving water not only affect aesthetic qualities of these waters, but may also reduce the re-aeration rate of the receiving waters, potentially contributing to the dissolved oxygen sag problem. Oil and grease may also indicate the presence of other high molecular weight organic pollutants of concern because oil and grease are often discharged with or as a sink for such pollutants. For these reasons EPA is maintaining the oil and grease requirement for facilities with a design flow greater than or equal to 0.1 mgd.

EPA received comments to delete each of the following parameters: ammonia; total nitrate plus nitrite; Kjeldahl nitrogen; and total phosphate. Ammonia, which is common in nearly all sanitary sewage, is highly toxic to aquatic life and studies indicate frequent adverse effects from this compound in receiving waters. The commenter questioning ammonia testing suggested that testing should only be required at facilities which have ammonia limits in their permits. EPA disagrees. Without testing for ammonia in effluents, permit writers may lack the information to determine whether ammonia limits are necessary in the first place. In addition, many State water quality standards regulate ammonia due to its toxicity, thus making testing necessary to assure compliance with such standards.

EPA proposed three additional parameters, nitrate plus nitrite, Kjeldahl nitrogen and phosphorus, because they are prevalent in most POTW effluents and because of their potential for adverse impacts on receiving waters. Nitrogen and phosphorus are often ''limiting'' nutrients, which cause oxygen depletion in marine and fresh water systems, respectively. Excessive loadings of nitrogen (discharged as ammonia, nitrate, nitrite, and organic nitrogen) and phosphorus (discharged as phosphate) can stimulate algae growth, interfering with shoreline aesthetics and recreational uses. In addition, decaying algae can reduce dissolved oxygen concentrations, thus impairing the aquatic environment. One commenter felt the phosphorus testing should only be required for discharges into impounded lakes or reservoirs where phosphorus build up could result in a serious algal bloom. EPA disagrees with any such limitation because phosphorus is likely to be found in most POTW discharges and causes demonstrated problems in other types of water bodies, including estuaries (e.g. Chesapeake Bay) and in large rivers (e.g. Mississippi River). Therefore, testing for phosphorus and nitrate/nitrite and Kjeldahl nitrogen remain in the final rule.

EPA received no comments on the remaining two parameters, total dissolved solids and dissolved oxygen, and those parameters remain in Appendix J, Table 1 of today's rule.

In the proposal, EPA requested comment on the deletion of six parameters on Standard Form A. Commenters agreed that the six parameters, chemical oxygen demand, fecal streptococci, settleable matter, total coliform bacteria, total organic carbon, and total solids were no longer relevant or useful parameters for evaluation of POTW discharges. These parameters do not appear in the § 122.21(j) requirements.

In addition to the six parameters discussed above, Standard Form A required that POTWs indicate the presence of (but not provide quantitative data for) certain pollutants. These pollutants included metals, as well as other toxics and non-conventional pollutants. As proposed, certain POTWs would need to monitor and indicate the presence of the ''priority pollutants'' from that list. The requirements for these pollutants are discussed in the following section of this preamble.

Several commenters supported the proposed deletion of the other remaining parameters, which are not included in today's final rule. In the proposal, EPA asked for comment on requiring testing for sulfide, sulfate, aluminum, barium, and fluoride. All of the comments on these parameters supported EPA's proposal to not require testing for these parameters. Therefore, the final rule does not require such testing.

c. Additional Pollutant Data Requirements for Some POTWs. Section 122.21(j)(4)(iv) requires the testing of the additional parameters listed in Appendix J, Table 2, by certain POTWs specified below. EPA believes the specified POTWs are most likely to discharge such pollutants to receiving waters. The Table 2 pollutants are toxic and may interfere with POTW performance or pass through the POTW to receiving waters without treatment, thus causing adverse water quality impacts. As stated earlier, the Agency added hardness to the Table 2 list because permit writers use hardness data in conjunction with metals data to determine the need for and to derive water quality based effluent limits for metals.

Certain POTWs discharge toxic organic and inorganic pollutants primarily as a result of contributions from non-domestic sources. Section 122.21(j)(4)(iv) of today's rule requires the applicant to submit monitoring data for the pollutants listed in Appendix J, Table 2, if the POTW meets any one of the following criteria: (1) the POTW has a design flow rate equal to or greater than 1.0 mgd; (2) the POTW has a pretreatment program or is required to have one under 40 CFR Part 403; or (3) the POTW is otherwise required to submit this data by the permitting authority.

Two commenters felt that the designation of all facilities required to have pretreatment programs is overly burdensome for smaller facilities that are required to have pretreatment programs. The pretreatment regulations at 40 CFR 403.8 set forth the criteria for which POTWs must establish pretreatment programs. EPA believes that all POTWs with pretreatment programs have the potential to discharge Table 2 pollutants, regardless of size.

In addition to POTWs with design flows greater than or equal to 1.0 mgd and POTWs with pretreatment programs, the rule preserves the discretion of the permitting authority to

require any other POTW to submit monitoring data for some or all of the pollutants listed in Appendix J, Table 2. EPA recommends that the permitting authority require an applicant to perform a complete or partial pollutant scan if toxicity is known or suspected in a POTW's effluent. In addition, if the POTW's effluent causes adverse water quality impacts or if the POTW discharges to an already impaired receiving water, the permit writer has the discretion to require the applicant to provide analytical results from a complete pollutant scan. The permit writer should also consider whether to require the applicant to test for individual parameters depending on the numbers or kinds of industrial users discharging to the POTW.

Numerous commenters provided input on EPA's decision to require testing of the pollutants listed on the Appendix J, Table 2 list. Many commenters provided individual preferences on which parameters they felt should be required. EPA has reviewed the comments carefully and feels that testing for the complete list is necessary for the development of environmentally protective permits. A few commenters noted cost as a factor for deleting various organic parameters. Upon review, EPA anticipates that most laboratories will run the entire volatile organics scan, acid-extractable scan or base-neutral scan at one price with one sample. Thus, deleting one or two individual parameters will not reduce cost to the permittee. In fact, the Agency developed EPA Methods 624 and 625 (published at 40 CFR 136) so that these two tests would cover most organic priority pollutants.

In the December 1995 preamble, EPA asked for comment on various other approaches to collecting pollutant data. The comments received did not support the use of any of these other approaches.

6. Effluent Monitoring For Whole Effluent Toxicity (WET)

Existing regulations require certain POTWs to provide the results of whole effluent biological toxicity testing as part of their NPDES permit applications. The proposal moved these requirements to proposed § 122.21(j)(4) to require the same POTWs to conduct WET tests and to identify any biological tests the applicant believed to have been conducted within three years of the date of application.

EPA received several comments on the issue of POTWs providing data from the last three years of the permitting cycle. States tended to disagree with the three year limitation because many States require more frequent testing during the first one or two years in the permitting cycle, and a reduced amount for the remaining years. Other commenters disagreed with the three year limitation because they have already undergone several cycles of WET testing and they are now on a routine testing cycle such as annual testing. These permittees do not wish to perform testing for application purposes only. EPA proposed the three year limitation because some of the available WET testing information was not conducted in accordance with the nationally-approved test procedures in 40 CFR Part 136 that became effective on November 15, 1995 (60 FR 53529). EPA agrees that facilities who perform routine WET testing, and have historically shown compliance, should not be required to perform testing for the permit reapplication.

EPA studied several possible scenarios for testing and has determined that it is important for facilities to provide the current WET data available in order for permit writers to set appropriate permit conditions. The most useful data is quarterly data collected within the year prior to the application form. This data provides the most useful and relevant characterization of the applicant's discharge at the time of the application. The Agency does understand that many facilities currently perform WET testing on a routine basis and may have a history of no toxicity. For these facilities, the Agency understands that collecting quarterly data for one year prior to the application may be unnecessary. Today's rule allows facilities who have performed WET analyses at least annually in the five year period prior to the application to submit that data on the application in lieu of collecting new data for the application. EPA presumes the validity of such data provided it shows no appreciable toxicity using a safety factor determined by the permitting authority. The data must also have been conducted in accordance with approved Part 136 methods.

EPA solicited comment on whether the requirement to conduct WET testing should be extended to other POTWs. EPA received several responses all recommending that the requirement should not be expanded. The commenters felt the permitting authority was in the best position to require WET testing from additional facilities on a case-by-case basis. EPA agrees; therefore, today's rule does not expand the WET requirement to other facilities.

Section 122.21(j)(5)(iii) allows the POTW applicant to provide the results of WET testing from only one outfall as representative of all outfalls where the POTW has two or more outfalls with substantially identical effluents discharging to the same receiving stream and where the permitting authority provides specific approval. For outfalls to be considered substantially identical, the outfalls should, at a minimum, be located at the same treatment plant with flows subject to the same level of treatment and having passed through the same types of treatment processes. This section has been modified in the same manner as § 122.21(j)(4)(i) to include a provision to allow an applicant to submit a composite sample in lieu of individual samples for discharges from one or more outfalls that discharge into the same mixing zone if approved by the permitting authority.

Existing WET testing requirements did not specify the number or frequency of tests required, the number of species to be used, or whether to provide the results of acute or chronic toxicity tests. Therefore the December 1995 proposal set minimum reporting requirements of four quarterly tests for a year, required multiple species (no less than two taxonomic groups, e.g., fish, invertebrate, plant), and specified testing for acute or chronic toxicity depending on the range of receiving water dilution.

Many commenters stated that permitting authorities often establish a permit reporting frequency that may change throughout the permit life based on the results. In setting a minimum permit application frequency of quarterly testing for a year, EPA indicated the frequency interval was necessary to adequately assess the effluent variability of toxicity observed over the course of the year. EPA understands that many permitting authorities commonly only require one cycle of quarterly testing at some time during the permit cycle. Most of the commenters agreed that four quarterly samples was an appropriate test size; they disagreed on the three year limitation of the data. One commenter, a permitting authority, stated that EPA should define the minimum data set size and let the NPDES permitting authority define acceptability of data based on when the data was generated. EPA agrees with this recommendation and has expanded the three year requirement for data to the most current permitting cycle in this final rule. EPA did not, however, change the requirement for four quarterly tests.

The existing whole effluent toxicity testing requirements do not specify whether applicants should test for acute or chronic toxicity. An acute toxicity

test typically measures the lethality of the test sample to test organisms over a period of 96 hours or less. A chronic toxicity test measures effects over longer time periods and measures sublethal effects, such as fertilization, growth, and reproduction, in addition to lethality. See Technical Support Document for Water Quality-Based Toxics Control (1991) (TSD) p. 4.

In the December 1995 proposal, EPA recommended that testing for acute or chronic toxicity be based upon the ratio of receiving water to effluent at the edge of the mixing zone as recommended in the TSD. Many commenters felt this determination should be left to the permitting authority because permit writers are more qualified than permit applicants to assess the discharge and its impacts on the receiving stream. In the final rule, EPA has not specified whether permit applicants must measure for either acute or chronic toxicity based on the ratio of receiving water to effluent though the Agency still maintains that the recommendation is reasonable based on the discussion in the TSD. Permit applicants should consult with the permitting authority to determine applicable testing requirements. Permitting authorities retain discretion to require testing for either acute or chronic toxicity. In jurisdictions where EPA administers the NPDES program, the Agency expects EPA Regions to follow the guidance in the TSD.

Section 122.21(j)(5)(ix) now requires that an applicant provide any information it may have on the cause of any toxicity. Further, applicants must provide written details of any toxicity reduction evaluation conducted. Toxicity reduction evaluations (TREs) are used to investigate the causes and sources of toxicity and identify the effectiveness of corrective actions to reduce it. The permitting authority may require a permittee to conduct a TRE in those cases where the discharger is unable to adequately explain and immediately correct non-compliance with a whole effluent toxicity permit limit or otherwise reduce the toxicity to a level below a ''trigger'' for the TRE.

7. Industrial Discharges

Today's rule requires certain applicants to provide certain information about industrial users. The proposed rule would have required the applicant to list the total number of categorical industrial users (CIUs) and other significant industrial users (SIUs) discharging to the POTW, to estimate the average daily flow from these users and from all industrial users, and to estimate the percent of total influent contributed by each class of users. Today's rule reduces the scope of required information from the proposal.

A categorical industrial user is any discharger subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N. ''Significant industrial user'' is defined at 40 CFR 403.3(t) as any categorical industrial user and any other industrial user that: (1) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); (2) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW; or (3) is designated as such by the Control Authority (40 CFR 403.12(a)) because of a reasonable potential to adversely affect the POTW's operation or violate pretreatment requirements.

Several commenters stated that these requirements would be overly burdensome given the fact the term ''industrial user'' (IU) includes any non-domestic source regulated under Section 307(b), (c), or (d) of the CWA. The commenters also questioned the usefulness of the requirement to report average daily flow from all IUs and to estimate the percent of total influent contributed by each class.

Section 122.21(j)(6)(i) of the final rule has been modified from the proposal. It does not require reporting of the total SIU, CIU, and IU average daily flow and the estimated percent of total influent because this information can be difficult to obtain and the permit writer may be able to estimate this information from other sources. Today's final rule now only asks the applicant to list the total number of CIUs and other SIUs discharging to the POTW. EPA has not modified the definition of ''industrial users'' as some commenters suggested. The definition includes commercial sources of non-domestic wastewater because these facilities have the potential to adversely impact the POTW's discharge in the same way as other industrial discharge sources. This comment is beyond the scope of the proposal.

EPA proposed to require POTWs with approved pretreatment programs to describe any substantial modifications to the POTW's pretreatment program that had been submitted, but not yet approved by the approval authority in accordance with 40 CFR 403.18. EPA has determined this requirement is not necessary and the Agency has not included it in the final rule. The permitting authority should already be aware of program modifications submitted but not yet approved by the approval authority so it is not necessary for the applicant to resubmit this information.

EPA proposed to require information on individual SIUs discharging to POTWs. Several commenters suggested various deletions of the information required on SIUs. EPA believes that permit writers need this information to determine if a facility should be required to have a pretreatment program and to evaluate the SIUs and determine if any are more appropriately characterized as CIUs. Therefore, today's rule retains these requirements but renumbers them as § 122.21(j)(6)(ii).

EPA received several comments questioning the difference between the Standard Form A and proposed Form 2A requirements on principal products and raw materials, and the need for such information. Standard Form A required the applicant to identify the quantities of products and raw materials while proposed Form 2A would only have required a narrative description of these products and raw materials. EPA believes that the permit writer only needs this narrative information if the products or raw materials are present in the SIU's discharge. Therefore, today's final rule further modifies this provision to require only information on products or raw materials that may affect or contribute to the SIU's discharge.

Today's rule deletes a requirement on Standard Form A to characterize each SIU's industrial discharge. In many cases, the permit writer is able to determine parameters of concern from the principal products and raw materials for that SIU. If necessary, the permit writer may request this information on a case-by-case basis. Commenters supported this deletion.

In an attempt to reduce duplication of effort, the proposal requested comment on whether a POTW should be allowed to reference substantially similar information about SIUs previously submitted to the permitting authority or to waive SIU information reporting for a POTW who operates an approved pretreatment program and has submitted an annual report containing the required information within the year preceding the application. All of the comments received on this question supported this provision for facilities with approved pretreatment programs who have filed annual reports.

Today's rule contains a new § 122.21(j)(6)(iii) that allows the Director to waive requirements for reporting SIU information for POTWs that submit substantially similar information in an annual report or with a pretreatment

program submittal. All referenced information should also be incorporated into the administrative record for the permit application. This new provision responds to comments that POTWs provide much of this information on previously submitted pretreatment program reports.

8. Discharges From RCRA and CERCLA Waste Sources

EPA proposed to require applicants to provide general information concerning discharges to POTWs of wastes that would be considered ''hazardous wastes'' under the Resource Conservation and Recovery Act (RCRA) as well as discharges to POTWs from hazardous waste cleanup or remediation sites. This information would alert the permit writer to potential concerns regarding the constituents of such discharges.

Therefore, section 122.21(j)(7)(i) requests information on RCRA hazardous wastes received by truck, rail, or dedicated pipe. Generator information does not have to be reported on RCRA hazardous wastes discharged to a sewer system that mix with domestic sewage before reaching the POTW because the Domestic Sewage Exclusion (under RCRA section 1004(27)) provides that ''solid or dissolved material in domestic sewage is not solid waste'' and therefore is not a hazardous waste. Such materials, however, remain subject to the prohibited discharge standards of 40 CFR 403.5.

As noted by one commenter, the information requested in this section is already a POTW requirement under RCRA permit-by-rule (40 CFR 270.60(c)). The RCRA rule, however, does not require the POTW to report this information to the NPDES permitting authority. Today's rule ensures that the permitting authority is aware of any hazardous materials that may enter the POTW.

In many cases, POTWs will also already have the information required by § 122.21(j)(7)(ii) because similar information on hazardous constituents is required by the pretreatment requirements at § 403.12(p). This section of today's rule requires the POTW to report information on wastewaters from remedial activities that are accepted at the POTW. Two commenters were concerned that the requirement to identify all hazardous constituents of the wastewater did not have a de minimis exclusion. One of these commenters also questioned the meaning of ''hazardous constituent'' because it is not defined in the rule. The language has been modified to address these concerns in today's final rule. Section 122.21(j)(7)(ii)(B) clarifies that the hazardous constituents to be identified are those listed in Appendix VIII of 40 CFR part 261. Section 122.21(j)(7)(iii) provides a small quantity exemption for POTWs that receive less than fifteen kilograms of hazardous wastes per month from all discharges into the collection system, unless the wastes are acutely hazardous wastes. This exemption is the same as the exemption for IUs that must report hazardous wastes to POTWs under § 403.12(p) of the pretreatment requirements.

In today's rule language, hazardous constituents in remedial waste need only be reported if known. If a POTW has not required the remedial site to report all the hazardous constituents, the POTW is not required to sample the waste. If the hazardous constituents are not known, the permit writer may require such sampling on a case-by-case basis when he or she believes it is necessary to write a complete permit.

The proposed language requested the same information three separate times, for CERCLA wastes, RCRA corrective action wastes, and other remedial wastes. One commenter suggested that these three questions should be combined. EPA agrees and has done so in today's rule. Commenters also stated that POTWs do not know all the potential sources of hazardous wastes at the time of permit application so they should not be asked about wastes that they expect to receive. One of these commenters was concerned that the proposed language meant that POTWs could not accept remedial waste unless it was identified in the permit application. In response, EPA has changed the language of today's rule to require information on hazardous constituents in wastes that the POTW has received or has agreed or expects to receive. This rule does not preclude POTWs from accepting additional such wastes during the permit, though such wastes do remain subject to the prohibited discharge standards of 40 CFR 403.5.

9. Combined Sewer Overflows (CSOs)

Section 122.21(j)(8)(i) requires information about the combined sewer system (CSS), including a system map and system diagram that describe the relevant features of the system. EPA deleted other information from the proposed rule, such as a system evaluation, because the Agency agrees with commenters that such additional information is unnecessary or is requested elsewhere.

Today's rule at section 122.21(j)(8)(ii) requires that applicants provide information on each CSO outfall specifically covered by the application. This includes locational information similar to the information required for outfalls discharging treated effluent. As discussed previously, this sort of locational data is consistent with Agency policy concerning the reporting of such information and it provides permitting authorities with a means of locating dischargers.

This provision also requires reporting of any parameter monitoring conducted on discharges from CSO outfalls and requests information about any CSO events that occurred in the year previous to the permit application.

Section 122.21(j)(8)(ii)(E) requires the permittee to describe any known water quality impacts, such as beach or shellfish bed closings and fish kills. EPA considers this to be the minimum amount of information needed by the permit writer to specifically authorize discharges at each of the identified CSO outfalls. Originally, EPA proposed to require identification of any significant industrial users that introduce pollutants to the collection system upstream from a CSO outfall. No such requirement exists in the final rule because the information is provided in § 122.21(j)(6)(i) with other information on SIUs.

10. Contractors

Section 122.21(j)(9) requires the applicant to identify all contractors responsible for any operation or maintenance aspects of the POTW and to specify such contractors' responsibilities. This information enables the permit writer to determine who has primary responsibility for the operation and maintenance of the POTW and thus determine whether a contractor should be included on the permit as a co-permittee.

The Agency received conflicting comments on this requirement. One commenter agreed, one disagreed on the basis that POTWs cannot contract out their liability in a permit, and one wanted more clarification. EPA believes that POTWs cannot contract away their liability for compliance with NPDES permit requirements rather, they can contract operational tasks. EPA believes it is important, however, for the permitting authorities to know all parties involved in the operation and maintenance of each POTW in order to determine the appropriate responsible party. This section remains as proposed.

11. Certification

Section 122.21(j)(10) requires the certification and signature of an authorized official in compliance with 40 CFR 122.22. The certification applies to all attachments identified on the application form, as well as any others included by the applicant. No comments were received on this section, and it is unchanged from the proposal.

G. Application Requirements for TWTDS (40 CFR 122.21(q))

Today EPA finalizes regulatory language at § 122.21(q) to update the information that treatment works treating domestic sewage (TWTDS) must submit with their permit applications. EPA also finalizes a new form, Form 2S, for collection of this information. Section (q) requires all TWTDS, except ''sludge-only'' facilities, to report information regarding sewage sludge generation, treatment, use, and disposal. The permitting authority may also require a ''sludge-only'' facility to submit a permit application containing this information. Today's requirements are intended to clarify the previous sewage sludge application requirements that are necessary to implement EPA's Part 503 standards for sewage sludge use or disposal. These requirements were originally provided at § 501.15(a)(2) and were moved to § 501.15(a)(4) with the modifications to Parts 123 and 501 published on August 24, 1998 (63 FR 45114). As of today's rule, these requirements are replaced by § 122.21(q). See section II.I of today's preamble for additional discussion.

As with the POTW application requirements, EPA does not wish to require redundant reporting by TWTDS. Thus, the amended regulations authorize EPA to waive submission of certain information required to be reported under § 122.21(q) in circumstances similar to that provided in § 122.21(j). The Director may waive any requirements in paragraph (q) if he or she has access to substantially identical information. EPA received numerous favorable comments on this approach. In addition, an applicant may reference previously submitted information that is still accurate if the applicant is certain that the permitting authority already has all the necessary information.

As with the § 122.21(j) waiver, applicants should be very specific when referencing information so the permitting authority has no difficulty in locating the previous submission. Permitting authorities should recognize the need to keep information available for future action and to ensure the availability of information submitted to various departments. All referenced information should also be incorporated into the administrative record for the permit application.

EPA also solicited comments on ways to allow the permit writer or permitting authority discretion in waiving submission of particular information where the permitting authority determines that such information is not necessary for the application. EPA received several comments that suggested allowing the permitting authority to waive any requirements it deemed unnecessary. In response, EPA has revised § 122.21(q) of today's rule similarly to § 122.21(j) to provide authorized NPDES States with the ability to waive any requirement of § 122.21(q) that the State believes is not of material concern for a specific permit, if approved by the Regional Administrator. See section II.F.for additional waiver discussion.

1. Facility Information

Section 122.21(q)(1) requires summary information on the identity, size, location, and status of the facility as a Federal, State, private, public, or other entity. Proposed paragraph (ii) of this section required that the facility location be described by latitude and longitude to the nearest second. EPA received one comment on this issue. The commenter stated that this requirement is not contained in POTW permit application requirements and should not be in TWTDS application requirements. Section 122.21(j) does require location by latitude and longitude, but only for location of outfalls. For sewage sludge, the location of land application sites is in significance equivalent to outfall locations for POTWs. Therefore, EPA agrees that it does not need the location of a facility described by latitude and longitude. In today's final rule, information on location by latitude and longitude pursuant to EPA's Locational Data Policy is only requested in §§ 122.21(q)(9)–(11) as part of the specific information for land application sites, surface disposal sites, and incinerators.

2. Applicant Information

Section 122.21(q)(2) requires information concerning the identity of the applicant. The only change from the proposal is that proposed § 122.21(q)(2)(iii) is moved to become § 122.21(q)(1)(vi). The proposed question asked whether the applicant was a Federal, private, public, or other entity. This question should be asked about the facility, not the applicant. Therefore, it has been moved from the applicant information section to the facility information section.

3. Permit Information

Section 122.21(q)(3) restates the § 501.15(a)(2)(v) requirement that the applicant list the facility's NPDES permit number and any other permit numbers or construction approvals received or applied for under various authorities. EPA received no comments on this section and it is unchanged from the proposal.

4. Indian Country

Section 122.21(q)(4) asks whether any generation, treatment, storage, land application, or disposal of sewage sludge occurs in Indian country. This section clarifies existing § 501.15(a)(2)(iv), which previously asked only ''whether the facility is located on Indian Lands.''

Note: Safe Drinking Water Act regulations for the administration of the Underground Injection Control program define ''Indian Lands'' to mean ''Indian country.'' See 40 CFR 144.3.

For further discussion of the substitution of the term ''Indian country,'' see the discussion earlier in today's preamble. A sewage sludge use or disposal permit, however, may cover activities occurring beyond the boundaries of the ''facility.''

5. Topographic Map

Proposed § 122.21(q)(5) required the applicant to submit the following information on a topographic map (or maps) depicting the area one mile beyond the property boundaries of the TWTDS: all sewage sludge management facilities, all water bodies, and all wells used for drinking water listed in public records or otherwise known to the applicant within ¼ mile of the property boundaries. This proposed requirement is different from the existing topographic map requirement at § 501.15(a)(2)(vi) in that the proposed requirement asked for information on use and disposal sites rather than just disposal sites.

EPA received 16 comments on this issue of topographic maps. The comments were quite diverse and ranged from support for requiring topographic maps from all use or disposal sites to requiring them only of the facility. EPA has decided that the topographic map requirement for TWTDS should be similar to the requirement for POTWs. Therefore, the final language of § 122.21(q)(5) requires a topographic map that shows on-site treatment, storage, and disposal sites. This does not include land application

sites as these are use sites, not disposal sites. This section of the rule also requires the same identification of wells and water bodies as required for POTWs. Section 122.21(j)(1)(viii) requires a topographic map of each POTW that extends one mile beyond the facility. Therefore, all TWTDS that must meet this requirement can use the same topographic map to meet the requirements of § 122.21(q)(5). ''Sludge-only'' TWTDS are only required to submit limited background information. Therefore, they do not need to prepare a topographic map unless the permitting authority requires a full permit application.

EPA believes that it is important to get information on land application sites but recognizes that many applicants cannot identify all their land application sites at the time of permit application. This is the purpose of the land application plan. EPA believes that topographic maps should be submitted for all sites known to the applicant at the time of permit application unless they receive only exceptional quality (EQ) sewage sludge. EPA is modifying the proposed language in § 122.21(q)(9)(iii) to add a requirement for a topographic map. Several commenters stated that topographic maps should not be required for sites that used only ''EQ'' sewage sludge. EPA agrees and has placed the map requirement in § 122.21(q)(9)(iii), thereby excluding sites that accept only ''EQ'' sewage sludge.

The land application plan asks for general information on sites that are not known at the time of permit application. The permitting authority will need to decide exactly what information it needs about these sites as they are put into use.

6. Sewage Sludge Handling

The December 6, 1995, proposal required a flow diagram, and/or a narrative description that identifies all sewage sludge management practices (including on-site storage) to be employed during the life of the permit. EPA believes that this information is necessary because the applicant may employ sewage sludge management practices not covered under the more specific questions proposed in today's rule. Three comments were received on this requirement. One commenter thought that this description would normally not be necessary; the other two thought that it was appropriate.

EPA also requested comments on whether more specific information about on-site and off-site storage of sewage sludge should be required of permit applicants. All five commenters on this issue thought that some information should be obtained about storage, but there were no suggestions of specific questions. Because storage is not regulated by Part 503, EPA believes that asking for information on storage as part of a flow diagram or narrative description is the best way to obtain this information. Therefore, EPA is today promulgating § 122.21(q)(6) as proposed.

7. Sewage Sludge Quality

In the December 6, 1995, notice, EPA proposed a two-tier approach for collection of pollutant specific data based on whether the treatment works had an industrial pretreatment program. As proposed, Class I sludge management facilities would be required to submit the results of at least one toxicity characteristic leaching procedure (TCLP) conducted during the last five years to determine whether the sewage sludge is a hazardous waste. They would also be required to submit sewage sludge data for all the priority pollutants except asbestos, for the Part 503 pollutants, and for total kjeldahl nitrogen (TKN), ammonia, nitrate, and total phosphorus. Other TWTDS would be required to submit data for the pollutants regulated in Part 503 and for TKN, ammonia, nitrate, and total phosphorus.

EPA requested comments on adding several other requirements. These included requiring Class I sludge management facilities to submit data on 20 pollutants from the tentative list for the Part 503 Round Two regulation; requiring all TWTDS that land apply or place sewage sludge in a surface disposal site to submit data on fecal coliform, *Salmonella* sp. bacteria, enteric viruses, and viable helminth ova; and requiring non-Class 1 TWTDS to submit results of a TCLP and data on dioxin/dibenzofurans and co-planar polychlorinated biphenyls (PCBs). EPA also solicited comments on whether an applicant should be required to submit data only for the pollutants regulated for the TWTDS' use or disposal practice.

EPA received numerous comments on all the above issues. The vast majority of the comments questioned the need for data other than the parameters regulated in Part 503. Several commenters mentioned the Part 503 risk assessment and felt that if a pollutant was not regulated in Part 503, there was no need for monitoring or basis for setting a limit.

After considering the comments, EPA has concluded that the permit application should only include monitoring data for pollutants that have Part 503 limits for the applicant's use or disposal method at the time of permit application. At the time of this final rule, for land application these are arsenic, cadmium, copper, lead, mercury, molybdenum, nickel, selenium, and zinc. For surface disposal they are arsenic, chromium, and nickel, and for incineration they are arsenic, cadmium, chromium, lead, and nickel. If an applicant thinks that it may change use or disposal practices during the permit period, it should submit data for all potentially regulated pollutants. Today's notice amends proposed § 122.21(q)(7) to require all applicants to submit data for pollutants for which Part 503 limits have been established for their use or disposal practices.

Two additional issues were raised in the comments received on this section. Three commenters suggested that data from the past three years should be allowed rather than two years for consistency with POTW permit applications. EPA agrees that consistency between the forms makes sense for this issue. The data period for POTW permit application requirements has been extended to four and one-half years in today's final rule. This allows applicants to submit data obtained at any time during the previous permit cycle. For consistency, EPA is making the same change for TWTDS application requirements in § 122.21(q)(7) (and on Form 2S).

The proposed rule asked for the analytical methods used but did not require use of specific methods, to allow for the submittal of existing data. Part 503 requires the use of test methods in SW–846 for monitoring pollutants. Three commenters suggested that SW–846 methods should be used for application data as well. Because all facilities have had to monitor according to Part 503 for several years, there is no longer any reason to accept data that is not analyzed according to SW–846 methods. Therefore, EPA is today modifying § 122.21(q)(7) to require application monitoring data to be analyzed according to methods in SW–846.

8. Requirements for a Person Who Prepares Sewage Sludge

In the December 6, 1995 proposal, § 122.21(q)(8) identified the permit application information that a person who prepares sewage sludge for use or disposal would be required to submit. A ''person who prepares,'' as defined at 40 CFR 503.9(r), is ''either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge.'' This section thus pertains to any POTW

or other treatment works that generates sewage sludge. It also includes facilities (such as composting operations) that receive sewage sludge from another facility and then produce a material derived from that sewage sludge.

Paragraphs (i) and (ii) requested information on the amount of sewage sludge generated (paragraph (i)) plus any other amount that is received from off-site (paragraph (ii)). Paragraph (ii) also solicited information on sewage sludge treatment practices at any off-site facility from which sewage sludge is received. Paragraph (iii) requested information on sewage sludge treatment processes at the applicant's facility, including pathogen or vector attraction reduction processes. Paragraph (iv) asked for the amount of ''EQ'' sewage sludge that is applied to the land. Paragraph (v) sought information on sewage sludge that is not ''EQ,'' but is nevertheless placed in a bag or other container for sale or give-away for application to the land. Paragraph (vi) sought information about any other ''person who prepares'' who receives sewage sludge from the applicant's facility.

EPA received eight comments on these proposed information requests. Most of the commenters believed that some or all of the information in § 122.21(q)(8)(vi) was unnecessary and duplicative because it would also be reported on the receiving TWTDS'' permit application. One commenter believed that the information in § 122.21(q)(8)(ii) was also unnecessary and duplicative because it would be reported on the sending TWTDS'' permit application. EPA anticipated these concerns and requested comments on ways to avoid this duplication, such as allowing the applicant to reference substantially similar information previously submitted to a permitting authority rather than resubmitting the information.

If all permit applications went to the same permitting authority at the same time, information on other TWTDS that handle sewage sludge from the applicant would not be necessary. Due to the tiered permitting scheme (58 FR 9404), however, the limited information requested from non-discharging TWTDS, and the possibility of inter-state transport, this is not always the case.

If the applicant is certain that the permitting authority has received an application from all other TWTDS that handle its sewage sludge, today's final rule allows it to reference the appropriate permit applications or include copies of the relevant sections. In addition, the Director's waiver authority could be used to eliminate duplication. A State that requires all TWTDS to submit full permit applications and believes it has access to all the necessary information could waive submittal of the requested information in §§ 122.21(q)(8)(ii) and (vi) for all its TWTDS once the State sewage sludge management program has been approved by EPA. EPA believes that the information requested in this section should be provided and the rule provides adequate ways of avoiding unnecessary duplication.

The previous requirement at § 501.15(a)(2)(viii) asks for the ''name of any distributors when the sludge will be disposed of through distribution and marketing.'' This requires the names of any facilities that sell or give away EQ sewage sludge. EPA believes that EQ sewage sludge should be treated similarly to other fertilizers. Thus, EPA proposed deleting the names of distributors in the December 1995 proposal. The five comments received on this issue all supported the proposal. For the reasons mentioned above, § 122.21(q)(8), as promulgated, is unchanged from the proposal.

9. Land Application of Bulk Sewage Sludge

Proposed § 122.21(q)(9) requested information on sewage sludge that is land applied in bulk form. This section applies only where the applicant's permit must contain all applicable Part 503 requirements for land application. This section does not apply if the applicant generates EQ sewage sludge subject to § 122.21(q)(8)(iv) or if the applicant places sewage sludge in a bag or other container for sale or give-away for application to the land subject to § 122.21(q)(8)(v). In neither of these cases is it necessary to control the ultimate land application through a permit. Thus the applicant does not need to provide the information requested in § 122.21(q)(9) as part of the application. The section also does not apply if the applicant provides sewage sludge to another ''person who prepares'' subject to § 122.21(q)(8)(vi). In this case, the ultimate land application would be controlled by the subsequent ''person who prepares.''

EPA received numerous comments on different aspects of § 122.21(q)(9). Most of the commenters suggested different ways to obtain the information requested in this section. Some commenters believe that this information should not be requested in a permit application but rather during the life of the permit as new sites are added. Other commenters stated that information on land application sites would be available through annual reports. This issue of how to obtain adequate information without duplication or overloading the permitting authority with unnecessary information was addressed during the original development of Part 501 and Part 503.

After reviewing the comments, EPA believes that its current approach is well grounded. If information is known about land application sites at the time of permit application, it should be submitted to the permitting authority. If information is not known, a land application plan must be submitted. Reports are only required from Class I sludge management facilities unless required on a case-by-case basis in a permit. Some States may have more extensive requirements, but this rule only provides the Federal requirements. As mentioned previously, if the required information is already available, the permitting authority may waive the requirement or the permit application may simply reference the information provided elsewhere. Several commenters thought that it would be more appropriate to require information from appliers. However, appliers who do not change the sewage sludge quality are not TWTDS and are therefore not required to apply for a permit. Generators should be aware of where and how their sewage sludge is land applied. EPA believes it is feasible for generators to obtain information from appliers and submit it with their permit application. As mentioned earlier, this section is not applicable if a TWTDS produces all EQ sewage sludge. The land application plan serves as the vehicle to allow TWTDS to add sites during the life of the permit without requiring a major permit modification. The following paragraphs describe the individual requirements in this section. The final rule is the same as the proposal unless otherwise mentioned.

Paragraph (i) of § 122.21(q)(9) clarifies the existing requirement at § 501.15(a)(2)(x) which tells the applicant to report annual sludge production volume. Paragraph (ii) asks how the applicant will satisfy the § 503.12(i) notification requirement for land application sites in a State other than the State where the sewage sludge is prepared.

Paragraphs (A)–(C) of § 122.21(q)(9)(iii) ask the applicant to identify the land application site. These questions request locational information which meets the specifications of EPA's Locational Data Policy and supports the Watershed Protection Approach by providing permit writers and other

Federal and State environmental managers with a means of geographically locating land application sites.

Paragraphs (D) and (E) of § 122.21(q)(9)(iii) ask the applicant to identify the land application site owner and applier, if different from the applicant. EPA believes that this information is necessary in order to ensure that the permit is issued to the correct party. These proposed paragraphs clarify and expand on existing requirements at § 501.15(a)(2)(viii).

One of the land application management practices in § 503.14 mandates that bulk sewage sludge shall not be applied to land at greater than the agronomic rate. Therefore, paragraphs (F) and (G) of § 122.21(q)(9)(iii) ask the applicant to identify the type of land application site, the type of vegetation grown on that site, if known at the time of permit application, and the vegetation's nitrogen requirement. This information enables the permit writer to calculate an appropriate permit management practice regarding agronomic rate. EPA recognizes that different crops may be grown on a site during the life of a permit. If the crop for a site is not known or likely to change, the applicant should submit whatever information is available.

Paragraph (H) of § 122.21(q)(9)(iii) requests information on vector attraction reduction measures undertaken at the land application site. Before sewage sludge is applied to the land, it must meet the requirements for vector attraction reduction in § 503.33. These measures may be undertaken either by the ''person who prepares'' sewage sludge or by the operator of the land application site.

Proposed paragraph (G) of § 122.21(q)(9)(iii) asked the applicant to submit any existing ground-water monitoring data for the land application site. This was intended to give the permitting authorities ground-water monitoring data for land application sites in order to ensure that sewage sludge application rates are appropriately protective of ground water. Five commenters responded to this requirement. Since ground-water monitoring at land application sites is not required by Part 503, some commenters thought that this requirement could cause facilities that voluntarily monitor to discontinue their monitoring program rather than submit all their data to the permitting authority. Another commenter mentioned that many sites have commercial fertilizers applied along with sewage sludge so that it is difficult to relate the results of ground-water testing to sewage sludge. After considering the comments, EPA agrees that available ground-water data should not be required on a permit application, and has not promulgated proposed § 122.21(q)(9)(iii)(G). If States require ground-water monitoring, they may request this information. EPA will only ask for data on ground-water monitoring if it is a specific permit condition.

Section 501.15(a)(2)(ix) asks for information necessary to determine if the site is appropriate for land application and a description of how the site will be managed. This requirement could be interpreted in different ways. Today's rule clearly specifies site management requirements in paragraphs (F)–(H) of § 122.21(q)(9)(iii) by asking for the type of site, the vegetation grown, the nitrogen requirements, and any on-site vector attraction reduction activities.

Permitting authorities need to be assured that sewage sludge is being used in accordance with Part 503. Detailed information on site management is often obtained through operating plans, annual reports, and inspections. In some situations, permitting authorities may choose to get this information before issuing a permit. Paragraph (I) has been added to § 122.21(q)(9)(iii) to emphasize that the permitting authority can request other site management information if it is needed to identify appropriate permit conditions.

Section 122.21(q)(9)(iv) requests information that the permitting authority needs in order to verify whether the § 503.12(e)(2)(i) requirement for appliers of bulk sewage sludge subject to cumulative pollutant loading rates (CPLRs) has been met. A cumulative pollutant loading rate, as defined in § 503.11(f) is ''the maximum amount of an inorganic pollutant that can be applied to an area of land.'' This information enables EPA to ensure that the CPLRs are not exceeded when more than one facility is sending sewage sludge subject to CPLRs to the same site.

Section 122.21(q)(9)(v) restates the requirement in existing § 501.15(a)(2)(ix) for information on land application sites not identified at the time of permit application. EPA received numerous comments on paragraph (E) of this section. Many commenters discussed the difficulties involved in providing notice to ''landowners and occupants adjacent to or abutting the proposed land application site.'' Numerous questions have been raised about exactly what this language means.

EPA agrees that States should provide public notice as required by State and local law, when such laws exist. However, some States and municipalities have no provisions for public notice of land application sites. Section 122.21(q)(9)(v)(E) of today's rule requires that land application plans include provisions for public notice of new land application sites. If State or local law includes public notice provisions, these must be followed. Where State or local law does not require advance public notice, the land application plan must include specific provisions stating how the general public will be apprized of new sites.

10. Surface Disposal

Section 122.21(q)(10) requests information on sewage sludge that is placed on a surface disposal site. By definition, a sewage sludge surface disposal site is a TWTDS. Many surface disposal site owner/operators, however, do not have to complete this section, but instead submit the limited background information required by § 122.21(c)(2)(iii). The applicant is required to provide the information requested by § 122.21(q)(10) only if the surface disposal site is already covered by an NPDES permit; if the owner/operator is requesting site-specific pollutant limits; or if the permitting authority is requiring a full application.

Paragraph (i) of § 122.21(q)(10) clarifies the existing requirement at § 501.15(a)(2)(x) which tells the applicant to report annual sludge production volume. Paragraph (ii) of § 122.21(q)(10) requires that the applicant provide the name or number, address, telephone number, and amount of sewage sludge placed on each surface disposal site that the applicant does not own or operate. This paragraph clarifies and expands on existing requirements at § 501.15(a)(2)(viii). EPA believes that this information is necessary in order to ensure that the permit is issued to the correct party.

Paragraph (iii) of § 122.21(q)(10) requests detailed information on each active sewage sludge unit at each surface disposal site that the applicant owns or operates. A ''sewage sludge unit'' is defined in § 503.21(n) as ''land on which only sewage sludge is placed for final disposal.'' A ''surface disposal site'' is ''an area of land that contains one or more sewage sludge units.'' Information on each active sewage sludge unit is necessary because Part 503 provides for different pollutant limits, monitoring requirements, and management practices for each unit. This information enables the permitting authority to establish proper permit conditions.

Paragraphs (A)–(C) of § 122.21(q)(10)(iii) ask the applicant to identify the surface disposal site by submitting the same information requested in § 122.21(q)(9)(iii). This information may have already been provided if the surface disposal site is located at a POTW. The information is requested in this section in order to adequately locate ''sludge-only'' surface disposal sites that have been asked to submit a full permit application.

Paragraph (K) of § 122.21(q)(10)(iii) requests information on sewage sludge sent to the active sewage sludge unit by any facility other than the applicant's. This information helps the permit writer to determine which requirements apply to the surface disposal site owner/operator and which apply to the facility which sends sewage sludge to the surface disposal site. As previously mentioned, the applicant may reference substantially similar information already submitted to the permitting authority.

Paragraph (L) of § 122.21(q)(10)(iii) requests information on vector attraction reduction measures undertaken at the active sewage sludge unit. Before sewage sludge is placed on an active sewage sludge unit, it must meet the requirements for vector attraction reduction in § 503.33. Since vector attraction reduction measures may be performed either by the facility preparing sewage sludge or by the surface disposal site owner/operator, EPA believes that both should be required to supply information on their practices.

Section 503.24(n)(2) requires surface disposal sites to demonstrate by way of a ground water monitoring program or certification that sludge placed on an active sewage sludge unit does not contaminate the underlying aquifer. In order to ensure that this requirement is implemented, paragraph (M) of § 122.21(q)(10)(iii) requests information on ground water monitoring programs or certifications. Because many communities rely on ground water as a source of drinking water, EPA believes that this information is necessary to protect public health and the environment.

After August 18, 1993, only surface disposal sites showing good cause may apply for site-specific pollutant limits. Paragraph (N) of § 122.21(q)(10)(iii) requests the information necessary for the permit writer to determine whether such site-specific limits are warranted. This information must include a demonstration that the values for site parameters at the applicant's site differ from those used to develop the surface disposal pollutant limits in Part 503.

11. Incineration

Section 122.21(q)(11) requests information on sewage sludge that is fired in a sewage sludge incinerator. According to § 503.41(k), a sewage sludge incinerator is ''an enclosed device in which only sewage sludge and auxiliary fuel are fired.'' A sewage sludge incinerator is a TWTDS and is required to submit a full permit application.

Paragraph (i) of § 122.21(q)(11) clarifies the existing requirement at § 501.15(a)(2)(x) which tells the applicant to report annual sludge production volume. Paragraph (ii) of § 122.21(q)(11) requires that the applicant provide the name or identifying number, address, telephone number, and amount of sewage sludge fired in each sewage sludge incinerator that the applicant does not own or operate. This paragraph clarifies existing requirements at § 501.15(a)(2)(viii). EPA believes that this information is necessary in order to ensure that the permit is issued to the correct party.

Paragraph (iii) of § 122.21(q)(11) requests detailed information on each sewage sludge incinerator that the applicant owns or operates. Paragraph (B) of § 122.21(q)(11)(iii) asks the applicant to identify the sewage sludge incinerator by latitude and longitude. There is no requirement to submit a topographic map because EPA believes all sewage sludge incinerators are located at treatment works that generate sewage sludge. Therefore, they are already required to submit a topographic map under the requirements of § 122.21(q)(5).

Paragraph (C) of paragraph (iii) requests the total amount of sewage sludge fired annually in each incinerator. This information is necessary because the monitoring requirements for sewage sludge incinerators are based on the total amount fired.

Paragraphs (D) and (E) of § 122.21(q)(11)(iii) request information on compliance with the beryllium and mercury National Emissions Standards for Hazardous Air Pollutants (NESHAPs). Section 503.43 paragraphs (a) and (b) require compliance with these standards through a cross-reference to 40 CFR Part 61 subparts C and E. If the incinerator is required to perform stack testing, these paragraphs would require the applicant to submit a report of that testing.

Under § 503.43, the pollutant limits applicable to each sewage sludge incinerator are calculated based on factors unique to each incinerator. Paragraphs (F), (G), and (H) of § 122.21(q)(11)(iii) require each applicant to submit these factors for their incinerator(s). Calculating pollutant limits on an individual basis allows the actual performance of each incinerator and actual site conditions, such as topography, to be taken into account. EPA believes that this is more appropriate than mandating national pollutant limitations for sewage sludge incinerators.

EPA received one comment on this issue. The commenter mistakenly believed that all incinerator applicants would have to resubmit information on their performance tests and air modeling. Incinerator applicants that have already submitted this information to the permitting authority do not have to resubmit. Permit applications have already been completed for most currently operating sewage sludge incinerators. This requirement applies to incinerators for which complete permit applications have not yet been submitted. At the next permit cycle an incinerator permittee can reference the previously submitted data unless the permitting authority requires new testing.

In the development of Part 503, EPA determined that it would be infeasible to establish individual limits for each hydrocarbon in sewage sludge incinerator exit gas. Instead, the Agency adopted a 100 ppm total hydrocarbon (THC) limit and required continuous THC monitoring to show compliance. Part 503 was amended on February 25, 1994 (59 FR 9095) to allow sewage sludge incinerators whose exit gas does not exceed 100 ppm carbon monoxide (CO) to show compliance with the THC operational standard by monitoring CO instead of THC. Paragraphs (H), (I), and (J) of proposed § 122.21(q)(11)(iii) requested information on the incinerator's exit gas concentration of THC or CO, oxygen, and moisture.

One commenter questioned the validity of this requirement. The commenter stated that since THC or CO data must be monitored continuously, a request for one data point on the permit application is meaningless. EPA agrees with this comment and has deleted these questions. In today's rule § 122.21(q)(11)(iii)(I) asks whether the applicant monitors THC or CO.

Many of the incinerator's site-specific factors that are used to calculate pollutant limits and compliance with the operational standard are highly dependent on the temperature at which the incinerator is operated and the rate at which sewage sludge is fed into the incinerator. For most incinerators, these parameters are determined during an

initial performance test. EPA asked for the information in paragraphs (K) through (O) of proposed § 122.21(q)(11)(iii) in order to ensure appropriate pollutant limits and that the incinerator would be operated within the parameters of the original performance test.

After reviewing these questions, EPA is making some changes in today's rule. The information in paragraphs (K), (N), and (O) of proposed § 122.21(q)(11)(iii) remain unchanged but the paragraphs are renumbered as (J), (M), and (N). One commenter thought that proposed paragraph (O) is unnecessary and unclear. Part 503 requires that a sewage sludge incinerator's air pollution control devices be operated in a manner that is not significantly different from how they were operated during the performance test. This paragraph requests the performance test operating parameters for the air pollution control devices so compliance with this requirement can be determined. Therefore it is being promulgated as proposed.

The information requested in proposed paragraphs (L) and (M) is from the performance test. Proposed paragraph (L) is finalized as paragraph (K). To be consistent with the amendments to Part 503, the term ''combustion temperature'' is changed to ''maximum performance test combustion temperature'', which is the arithmetic mean of the maximum combustion temperature for each of the runs in a performance test. Proposed paragraph (M) is finalized as paragraph (L) and is modified to clarify that the requested sewage sludge feed rate is that used during the performance test.

Proposed paragraphs (P) and (Q) of § 122.21(q)(11)(iii) are promulgated unchanged except for being renumbered as paragraphs (O) and (P). They request information on the monitoring equipment and air pollution control devices installed on the incinerator. Information on this equipment is necessary to ensure that the facility complies with the management practices at § 503.45.

12. Disposal in a Municipal Solid Waste Landfill

Section 122.21(q)(12) requests information on sewage sludge that is sent to a municipal solid waste landfill (MSWLF). Section 503.4 states that sewage sludge sent to a MSWLF that complies with the requirements in 40 CFR Part 258 constitutes compliance with sec. 405(d) of the CWA. The questions in § 122.21(q)(12) are necessary to ensure the availability of accurate information about a MSWLF and the sewage sludge that is sent there.

Paragraphs (i) and (ii) of § 122.21(q)(12) clarify existing requirements at § 501.15(a)(2)(v), (viii), and (x) that request information on other permits, the location of disposal sites, and the annual sludge production volume. Paragraph (iii) requests information on the sewage sludge quality to ensure that it is acceptable for a MSWLF. Paragraph (iv) requests available information on whether the MSWLF is in compliance with Part 258.

EPA received three comments on this section. All three commenters stated that permittees should not be asked about landfill compliance with Part 258 since they believe this is the responsibility of the landfill. EPA disagrees with the commenters and this section remains as proposed. Section 503.4 states that disposal in a MSWLF that complies with the requirements in 40 CFR part 258 constitutes compliance with section 405(d) of the CWA. Sewage sludge that is placed in a MSWLF does not have to meet any of the pollutant limits or pathogen and vector requirements that are contained in Part 503. Protection of public health and the environment is provided by the Part 258 requirements. If sewage sludge is disposed in a landfill that is not in compliance with part 258, there is no way to know if the landfill is designed and operated so as to protect the environment from any potential problems from the sewage sludge. The preamble to Part 503 (58 FR 9248) explains the relationship between Parts 258 and 503.

13. Contractors

Section 122.21(q)(13) requires the applicant to provide contractor information. The applicant is required to identify all contractors responsible for any sewage sludge related operation or maintenance aspects of the TWTDS, and specify their responsibilities. The permitting authority uses this information to determine who has primary responsibility for the operation and maintenance of the TWTDS.

EPA received four comments on this section. One commenter agreed with EPA's proposal to identify all contractors, one disagreed, one wanted information on the proposal but only on appliers, and one wanted more clarification about the scope of the requirement. EPA agrees that TWTDS cannot by contracting out sewage sludge use or disposal avoid their legal obligation to comply with Part 503 and any permit requirements. However, EPA believes it is helpful to the permitting authorities and the general public to know all parties involved in sewage sludge management at a facility. This requirement remains as proposed.

14. Other Information

Section 122.21(q)(14) requires the applicant to report any information necessary to determine the appropriate standards for permitting under 40 CFR Part 503, and any other information the permitting authority may request and reasonably require to assess the sewage sludge use and disposal practices, to determine whether to issue a permit, or to identify appropriate permit requirements. This paragraph restates the existing requirements in § 501.15(a)(2)(xi) and (xii). EPA received one comment on this section. The commenter agreed with the proposal, and it remains as proposed.

15. Signature

Section 122.21(q)(15) requires that an authorized official sign and certify the form in compliance with 40 CFR 122.22. This ensures that the person signing the form has the authority to speak for and legally bind the permittee. No comments were received on this section and it remains as proposed.

H. Permit Conditions for POTWs (40 CFR 122.44(j))

Under existing § 122.21(j)(4), any POTW with an approved pretreatment program must provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1). This provision requires that the local limits evaluation be done prior to permit issuance. States and municipalities have expressed concerns that such evaluation would be more appropriate after permit issuance, so as to avoid the need for a second technical evaluation if the POTW's permit limits are revised in the new permit.

In response to these concerns, the Agency proposed to change this from an application requirement to a POTW pretreatment program requirement at § 403.8(f)(4). EPA did not receive any comments on this change but instead codifies this requirement at § 122.44(j), which lists pretreatment program permit conditions that must be in a POTW's permit. As such the requirement to provide a written evaluation of the need to revise local limits will be included in permits. POTWs must evaluate their local limits during each permit cycle, rather than during the permit application process.

I. State Program Requirements (40 CFR Parts 123 & 501)

EPA intends to maintain consistency between the NPDES permit application

requirements of Part 122 and the State sewage sludge permitting requirements of Parts 123 and 501. This reflects EPA's belief that a TWTDS should submit the same application information regardless of whether the permitting authority regulates sludge management under an approved NPDES or under a non-NPDES program. In fact, EPA published changes to Parts 123 and 501 (63 FR 45114, August 24, 1998) that consolidate all State sewage sludge management requirements under Part 501. As part of this process, the December 6, 1995 proposal of today's rule included revisions to the language of §§ 123.25(a)(4) and 501.15(a)(2) to modify the sewage sludge information requirements. All four comments received by EPA supported having the same minimum requirements for EPA and authorized States.

Today's rule adds paragraph 122.21(q) to the list in § 123.25(a)(4) of provisions that States must implement to be granted NPDES authorization. The specific permit information requirements contained in § 122.21(q) of today's final rule are referenced in § 501.15(d)(1)(i)(B). The August 24, 1998 final rule states that § 501.15(d)(1)(i)(B) is not effective until today's rule becomes effective. This was necessary because § 122.21(q) was not yet final when the Part 501 and 123 revisions were published. Therefore, the August 24, 1998 final rule renumbered § 501.15(a)(2) as § 501.15(a)(4) and retained that section so that there would still be specific sludge permit information requirements in effect. The intent was that this new § 501.15(a)(4) would be deleted upon publication of today's rule. Today's final rule deletes § 501.15(a)(4) and makes § 501.15(d)(1)(i)(B) effective on December 2, 1999.

III. Regulatory Requirements

A. Executive Order 12866

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

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

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

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

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a ''significant regulatory action.'' As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and Tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

EPA has concluded that this rule will create a mandate on State, local, and Tribal governments and that the Federal government will not provide the funds necessary to pay the direct costs incurred by the State, local, and/or Tribal governments in complying with the mandate. In developing this rule, EPA consulted with State, local, and Tribal governments to enable them to provide meaningful and timely input in the development of this rule. EPA made efforts to consult with interested stakeholders during the development of the December 6, 1995, proposed rule. In late 1993 and early 1994, EPA sought feedback on draft forms and other elements of the proposal from States with approved NPDES programs, local governments, the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA), the Association of Metropolitan Sewerage Agencies (AMSA), the California Association of Sanitation Agencies (CASA), the Water Environment Federation (WEF), and several environmental groups. In response to this outreach effort, EPA received written comments from a dozen States, several municipalities, and from AMSA. EPA also met with State and municipal representatives and participated in a conference call with representatives from ten POTWs and two States.

EPA received 60 comments during the public comment period on the proposed rule and made numerous changes to the rule and the forms in response to the comments. Stakeholders raised a number of issues related to the possible impacts of the municipal application requirements on local governments. The most significant issue concerned the required sampling data. States were particularly concerned about the ability of small municipalities to provide the data. To address this concern, EPA modified the regulation to reduce the information required from small facilities under 0.1 mgd. Many municipalities and States were also concerned about redundant information. EPA resolved this issue by allowing States to waive requirements for information otherwise available to them and by allowing facilities to reference information they have already provided in annual reports, discharge monitoring reports (DMRs), or other reports. The final rule provides flexibility to the States and reduces the reporting burden for regulated facilities while ensuring that EPA and the States will obtain the information necessary to issue permits that protect the environment.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for 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, UMRA section 205 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 UMRA section 205 do not apply when they are inconsistent with applicable law. Moreover, UMRA 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 UMRA section 203 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 today's rule does not include a Federal mandate that may result in expenditures of $100 million or more to either State, local and tribal governments in the aggregate, or to the private sector in any year. To the extent enforceable duties arise as a result of today's rule on State, local and tribal governments and the private sector, such enforceable duties do not result in a significant regulatory action being imposed upon State, local and tribal governments and the private sector since the estimated aggregate cost of compliance for the regulated entities is not expected to exceed $4.8 million annually. Today's rule streamlines the permit application requirements for municipal and sludge application requirements to provide additional flexibility to the States in complying with current regulatory requirements and reduce the burden on affected governments. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and thus this rule is not subject to the requirements in section 203 of UMRA. The amendments will not significantly affect small governments because as explained above, this rulemaking streamlines current regulatory requirements and provides additional flexibility to meet regulatory requirements. The small governments affected by this rule are tribal and municipal governments and the rule minimizes the impact on these small government entities.

D. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2040–0086. A copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; or by calling (202) 260–2740.

The final rule consolidates application requirements from existing regulations into a ''modular'' permit application form, thereby streamlining and clarifying the process for permit applicants. EPA has developed forms 2A and 2S and the corresponding reporting requirements at § 122.21(j) and § 122.21(q) in order to consolidate the application requirements for POTWs and TWTDS. EPA has promulgated the Form 2A requirement under the statutory authority of section 402 of the CWA, as amended. Similarly, the Agency has promulgated the Form 2S requirement under section 405 of the CWA, as amended. Both operating statutes allow EPA to consider regulatory options to minimize the forms' economic impacts on small entities.

The annual reporting and recordkeeping costs and burden for this collection of information are described in the following paragraphs.

For Form 2A the total annual costs are $4,100,711. There are 731 major applicants, 1230 minor applicants between 0.1 and 1.0 mgd, and 1230 minor applicants <0.1 mgd. The cost per major (over 1.0 mgd) applicant is $4435, the cost per minor applicant between 0.1 and 1.0 mgd is $477, and the cost per minor applicant <0.1 mgd is $221. The average cost per applicant is $1285. Total annual burden is 30,593 hours. There are 731 major applicants, 1230 minor applicants between 0.1 and 1.0 mgd, and 1230 minor applicants <0.1 mgd. The burden per major applicant is 24 hours, the burden per minor applicant between 0.1 and 1.0 mgd is 6.2 hours, and the burden per minor applicant <0.1 mgd is 4.4 hours. The average burden per applicant is 9.6 hours.

For Form 2S the total annual costs are $714,823. There are 3911 NPDES POTW applicants, 221 NPDES privately owned treatment works applicants, 38 sludge-only POTW applicants, and 2 sludge-only privately owned treatment works applicants. The costs per applicant are: NPDES POTW $183, NPDES privately owned treatment works $551, sludge-only POTW $171, and sludge-only privately owned treatment works $242. The average cost per applicant is $207. Total annual burden is 32,628 hours. There are 3911 NPDES POTW applicants, 221 NPDES privately owned treatment works applicants, 38 sludge-only POTW applicants, and 2 sludge-only privately owned treatment works applicants. The burdens per applicants are: NPDES POTW 9.5 hours, NPDES privately owned treatment works 9.5 hours, sludge-only POTW 3.9 hours, and sludge-only privately owned treatment works 2.5 hours. The average burden per applicant is 9.4 hours.

Overall, for both Form 2A and Form 2S the total annual costs are $4,815,534 and the total annual burden is 63,221 hours. The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9 and 48 CFR Chapter 15. EPA is amending the table in 40 CFR Part 9 of currently approved ICR control numbers issued by OMB for various regulations to list the information requirements contained in this final rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires an administrative agency as part of any rulemaking to prepare a regulatory flexibility analysis to describe the impact of rules on small entities. Under 5 U.S.C. 605(b), no regulatory flexibility analysis is required, however, where the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Under RFA section 605(b), EPA

certifies that today's rule will not have a significant economic impact on a substantial number of small entities.

In developing these regulations, EPA considered their effects on small entities. Section 601(6) of the RFA defines small entities as small businesses, small governmental entities, and small, not-for-profit organizations. The small entities affected by this rule include small governmental jurisdictions and small businesses that own or operate wastewater treatment works and sludge facilities or sludge facilities only. About 16,080 small entities are regulated by the rule. Ninety-three percent of the small entities are small governmental jurisdictions, i.e., publicly owned treatment works (POTWs) and six percent are small businesses, i.e., privately owned treatment works. Almost all of the small governmental jurisdictions (99%) will be required to complete both the municipal and sewage sludge application forms; the rest will only have to complete the sewage sludge application form. The small businesses will only have to complete the sewage sludge application form.

Under the RFA, the term ''small governmental jurisdiction'' means, among other things, governments of cities, counties, towns or special districts with a population of fewer than 50,000. To evaluate the economic impact on small governmental jurisdictions subject to today's rule, EPA looked at the effect on 5 million gallons per day (mgd) or smaller POTWs, that is, those serving 50,000 or less. EPA cannot calculate from available data how many small governmental jurisdictions own and operate POTWs that are subject to the rule. EPA collects data on individual POTW operations and these data are not aggregated by the supplying public entities. EPA has data on POTWs by size, expressed in terms of mgd. With this information, EPA can determine with a fair degree of certainty what size community any given POTW serves. Thus, for example, a 1 mgd POTW will be needed to serve a community of around 10,000. However, EPA cannot determine the number of small governmental jurisdictions operating POTWs by simply totaling the number of POTWs serving populations up to 50,000 (as measured by mgd). This would overstate the number of small governmental jurisdictions owning POTWs. The number of POTWs operated by public entities will obviously vary. A municipality (or sewerage district) may operate one or more POTWs or even none at all, if it chooses to rely on the services of a POTW in a neighboring jurisdiction. Consequently, the number of POTWs serving communities of 50,000 or fewer does not correspond to the number of small governmental jurisdictions with a population of 50,000 or fewer.

While, as explained above, EPA could not determine how many POTWs a public entity owned and operated (and thus could not calculate the number of small governmental jurisdictions affected by the rule), EPA did calculate the economic impact on POTWs serving communities in a number of size ranges in order to evaluate the economic impact on small governmental jurisdictions as defined in the RFA. The result of this analysis showed that in no event would the impact to the community owning the POTW be significant as measured by the POTW's (and consequently, the public entity's) operating revenues. EPA concluded that the economic impact of the rule on small governmental jurisdictions as defined in the RFA would not be substantial in any circumstances.

For purposes of evaluating the economic impact, EPA assumed that water supply revenues of a municipality with a population of 50,000 were equivalent to those of a 5 mgd POTW. Of the data that is available in the 1991–1992 census of governments, the water supply revenue information is most likely to reflect revenues of POTWs, since customer billings generally cover water and sewer charges. To evaluate the economic impact on small businesses, EPA looked at private sewerage systems with annual revenues of 6 million or less, the Small Business Administration's definition of a small business for the sewerage industry.

EPA considered a range of regulatory options for the proposed forms. In today's final rule, EPA adopted the modular permit application approach for both POTWs and privately owned treatment works. In the final rule, EPA imposes fewer, more focused requirements for facilities discharging less than 1.0 mgd, which are less likely to pollute and which have a lower capacity to absorb large monitoring costs. The smallest facilities, less than 0.1 mgd, complete only eight basic questions and provide information on only four pollutants. The more focused requirements result from adjustments that are appropriate to these less ''complex'' facilities.

For purposes of evaluating the economic impact of this rule on small governmental jurisdictions, EPA compared costs with average annual water supply revenues for small governmental jurisdictions obtained from the 1991–1992 census of governments. Because annual revenues for small privately owned treatment works were not available, in evaluating the economic impact on small businesses, EPA used the average water supply revenue figure for small governmental jurisdictions as a proxy for small privately owned treatment works. For both small POTWs and small privately owned treatment works, EPA used the costs for compliance estimated in the ICR.

EPA's assessment shows that the costs of complying with today's rule are not significant, even for very small POTWs and privately-owned treatment works. The total cost of complying with today's rule for all POTWs and privately-owned treatment works is $4,815,534 and consists entirely of paperwork and testing costs associated with collecting the required information and completing the forms.

The five-year compliance cost estimates for small POTWs that are subject to both sets of application requirements are: $404 for POTWs less than 0.1 mgd; $660 for POTWs between 0.1 and 1.0 mgd; and $4,618 for POTWs between 1.0 and 5.0 mgd. The five-year compliance cost estimate for small POTWs that are subject only to the sludge application requirements are $172. The five-year compliance cost estimate for the vast majority of small privately owned treatment works, that are subject only to the sludge application requirements, is $551. The five-year compliance cost for a few small privately owned treatment works that don't have wastewater discharges is only $242.

The annual cost for a small POTW ranges from 0.02 to 0.09 percent of the average annual water supply revenues of these small governmental jurisdictions, depending on their size and whether or not they have to complete one or both application forms. The annual cost for most small privately owned treatment works will be about 0.08 percent of the average annual water supply revenue of these small businesses. The annual cost for a few small privately owned treatment works without wastewater discharges is even smaller (0.03 percent). Thus, impacts on small treatment facilities will not be significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Agency certifies that today's rule will not have a significant economic impact on a substantial number of small entities.

F. National Technology Transfer and Advancement Act

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

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

G. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. section 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on December 2, 1999.

H. Executive Order 13045

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866 and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant action as defined by E.O. 12866 and it does not establish an environmental standard intended to mitigate health or safety risks. This rule is a procedural rule that streamlines existing regulations and application forms for municipal dischargers and treatment works who use or dispose of sludge.

I. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian Tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian Tribal governments nor does it impose substantial direct compliance costs on them. This rule streamlines current regulatory requirements and provides additional flexibility to meet regulatory requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 122

Administrative practice and procedure, Confidential business information, Environmental protection, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control.

40 CFR Part 123

Confidential business information, Hazardous materials, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal, Water pollution control, Penalties.

40 CFR Part 124

Administrative practice and procedure, Air pollution control, Hazardous waste, Indian lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 501

Confidential business information, Environmental protection, Publicly owned treatment works, Reporting and recordkeeping requirements, Sewage disposal, Waste treatment and disposal.

Dated: July 15, 1999.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 9—OMB APPROVALS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding entries in numerical order under the indicated headings, removing the entry for ''122.21(j)(4)'', and revising the entry for ''123.25'' to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
* * * * *	
EPA Administered Permit Programs: The National Pollutant Discharge Elimination System	
* * * * *	
122.21(j), (q)	2040–0086

40 CFR citation	OMB control No.
* * * * *	
122.44(j)	2040–0150
* * * * *	
State Permit Requirements	
* * * * *	
123.25	2040–0004 2040–0110 2040–0170 2040–0180 2040–0086
* * * * *	

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

3. The authority citation for Part 122 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

4. Section 122.2 is amended by adding a definition for ''Indian country'' and ''TWTDS'' in alphabetical order to read as follows:

§ 122.2 Definitions.

* * * * *

Indian country means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

(2) All dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

* * * * *

TWTDS means ''treatment works treating domestic sewage.''

* * * * *

5. Section 122.21 is amended by revising paragraphs (a), (c)(2), the introductory text of paragraph (f), and paragraph (j); removing and reserving paragraph (d)(3); revising paragraph (e); and by adding paragraph (q) before the notes to read as follows:

§ 122.21 Application for a permit (applicable to State programs, see § 123.25).

(a) *Duty to apply.* (1) Any person who discharges or proposes to discharge pollutants or who owns or operates a ''sludge-only facility'' whose sewage sludge use or disposal practice is regulated by part 503 of this chapter, and who does not have an effective permit, except persons covered by general permits under § 122.28, excluded under § 122.3, or a user of a privately owned treatment works unless the Director requires otherwise under § 122.44(m), must submit a complete application to the Director in accordance with this section and part 124 of this chapter.

(2) *Application Forms:* (i) All applicants for EPA-issued permits must submit applications on EPA permit application forms. More than one application form may be required from a facility depending on the number and types of discharges or outfalls found there. Application forms may be obtained by contacting the EPA water resource center at (202) 260–7786 or Water Resource Center, U.S. EPA, Mail Code 4100, 401 M Street, S.W., Washington, DC 20460 or at the EPA Internet site www.epa.gov/owm/npdes.htm. Applications for EPA-issued permits must be submitted as follows:

(A) All applicants, other than POTWs and TWTDS, must submit Form 1.

(B) Applicants for new and existing POTWs must submit the information contained in paragraph (j) of this section using Form 2A or other form provided by the director.

(C) Applicants for concentrated animal feeding operations or aquatic animal production facilities must submit Form 2B.

(D) Applicants for existing industrial facilities (including manufacturing facilities, commercial facilities, mining activities, and silvicultural activities), must submit Form 2C.

(E) Applicants for new industrial facilities that discharge process wastewater must submit Form 2D.

(F) Applicants for new and existing industrial facilities that discharge only nonprocess wastewater must submit Form 2E.

(G) Applicants for new and existing facilities whose discharge is composed entirely of storm water associated with industrial activity must submit Form 2F, unless exempted by § 122.26(c)(1)(ii). If the discharge is composed of storm water and non-storm water, the applicant must also submit, Forms 2C, 2D, and/or 2E, as appropriate (in addition to Form 2F).

(H) Applicants for new and existing TWTDS, subject to paragraph (c)(2)(i) of this section must submit the application information required by paragraph (q) of this section, using Form 2S or other form provided by the director.

(ii) The application information required by paragraph (a)(2)(i) of this section may be electronically submitted if such method of submittal is approved by EPA or the Director.

(iii) Applicants can obtain copies of these forms by contacting the Water Management Divisions (or equivalent division which contains the NPDES permitting function) of the EPA Regional Offices. The Regional Offices' addresses can be found at § 1.7 of this chapter.

(iv) Applicants for State-issued permits must use State forms which must require at a minimum the information listed in the appropriate paragraphs of this section.

* * * * *

(c) * * *

(2) *Permits under section 405(f) of CWA.* All TWTDS whose sewage sludge use or disposal practices are regulated by part 503 of this chapter must submit permit applications according to the applicable schedule in paragraphs (c)(2)(i) or (ii) of this section.

(i) A TWTDS with a currently effective NPDES permit must submit a permit application at the time of its next NPDES permit renewal application. Such information must be submitted in accordance with paragraph (d) of this section.

(ii) Any other TWTDS not addressed under paragraphs (c)(2)(i) of this section must submit the information listed in paragraphs (c)(2)(ii)(A) through (E) of this section to the Director within 1 year after publication of a standard applicable to its sewage sludge use or disposal practice(s), using Form 2S or another form provided by the Director. The Director will determine when such TWTDS must submit a full permit application.

(A) The TWTDS's name, mailing address, location, and status as federal, State, private, public or other entity;

(B) The applicant's name, address, telephone number, and ownership status;

(C) A description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of paragraph (q)(8)(iv) of this section, the description must include the name and address of any facility where sewage sludge is sent for treatment or disposal, and the location of any land application sites;

(D) Annual amount of sewage sludge generated, treated, used or disposed (estimated dry weight basis); and

(E) The most recent data the TWTDS may have on the quality of the sewage sludge.

(iii) Notwithstanding paragraphs (c)(2)(i) or (ii) of this section, the

Director may require permit applications from any TWTDS at any time if the Director determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge.

(iv) Any TWTDS that commences operations after promulgation of an applicable ''standard for sewage sludge use or disposal'' must submit an application to the Director at least 180 days prior to the date proposed for commencing operations.

(d) * * *

(3) [Reserved]

(e) *Completeness.* (1) The Director shall not issue a permit before receiving a complete application for a permit except for NPDES general permits. An application for a permit is complete when the Director receives an application form and any supplemental information which are completed to his or her satisfaction. The completeness of any application for a permit shall be judged independently of the status of any other permit application or permit for the same facility or activity. For EPA administered NPDES programs, an application which is reviewed under § 124.3 of this chapter is complete when the Director receives either a complete application or the information listed in a notice of deficiency.

(2) A permit application shall not be considered complete if a permitting authority has waived application requirements under paragraphs (j) or (q) of this section and EPA has disapproved the waiver application. If a waiver request has been submitted to EPA more than 210 days prior to permit expiration and EPA has not disapproved the waiver application 181 days prior to permit expiration, the permit application lacking the information subject to the waiver application shall be considered complete.

(f) *Information requirements.* All applicants for NPDES permits, other than POTWs and other TWTDS, must provide the following information to the Director, using the application form provided by the Director. Additional information required of applicants is set forth in paragraphs (g) through (k) of this section.

* * * * *

(j) *Application requirements for new and existing POTWs.* Unless otherwise indicated, all POTWs and other dischargers designated by the Director must provide, at a minimum, the information in this paragraph to the Director, using Form 2A or another application form provided by the Director. Permit applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Director. The Director may waive any requirement of this paragraph if he or she has access to substantially identical information. The Director may also waive any requirement of this paragraph that is not of material concern for a specific permit, if approved by the Regional Administrator. The waiver request to the Regional Administrator must include the State's justification for the waiver. A Regional Administrator's disapproval of a State's proposed waiver does not constitute final Agency action, but does provide notice to the State and permit applicant(s) that EPA may object to any State-issued permit issued in the absence of the required information.

(1) *Basic application information.* All applicants must provide the following information:

(i) *Facility information.* Name, mailing address, and location of the facility for which the application is submitted;

(ii) *Applicant information.* Name, mailing address, and telephone number of the applicant, and indication as to whether the applicant is the facility's owner, operator, or both;

(iii) *Existing environmental permits.* Identification of all environmental permits or construction approvals received or applied for (including dates) under any of the following programs:

(A) Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA), Subpart C;

(B) Underground Injection Control program under the Safe Drinking Water Act (SDWA);

(C) NPDES program under Clean Water Act (CWA);

(D) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

(E) Nonattainment program under the Clean Air Act;

(F) National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(G) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;

(H) Dredge or fill permits under section 404 of the CWA; and

(I) Other relevant environmental permits, including State permits;

(iv) *Population.* The name and population of each municipal entity served by the facility, including unincorporated connector districts. Indicate whether each municipal entity owns or maintains the collection system and whether the collection system is separate sanitary or combined storm and sanitary, if known;

(v) *Indian country.* Information concerning whether the facility is located in Indian country and whether the facility discharges to a receiving stream that flows through Indian country;

(vi) *Flow rate.* The facility's design flow rate (the wastewater flow rate the plant was built to handle), annual average daily flow rate, and maximum daily flow rate for each of the previous 3 years;

(vii) *Collection system.* Identification of type(s) of collection system(s) used by the treatment works (i.e., separate sanitary sewers or combined storm and sanitary sewers) and an estimate of the percent of sewer line that each type comprises; and

(viii) *Outfalls and other discharge or disposal methods.* The following information for outfalls to waters of the United States and other discharge or disposal methods:

(A) For effluent discharges to waters of the United States, the total number and types of outfalls (e.g, treated effluent, combined sewer overflows, bypasses, constructed emergency overflows);

(B) For wastewater discharged to surface impoundments:

(1) The location of each surface impoundment;

(2) The average daily volume discharged to each surface impoundment; and

(3) Whether the discharge is continuous or intermittent;

(C) For wastewater applied to the land:

(1) The location of each land application site;

(2) The size of each land application site, in acres;

(3) The average daily volume applied to each land application site, in gallons per day; and

(4) Whether land application is continuous or intermittent;

(D) For effluent sent to another facility for treatment prior to discharge:

(1) The means by which the effluent is transported;

(2) The name, mailing address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant;

(3) The name, mailing address, contact person, phone number, and NPDES permit number (if any) of the receiving facility; and

(4) The average daily flow rate from this facility into the receiving facility, in millions of gallons per day; and

(E) For wastewater disposed of in a manner not included in paragraphs (j)(1)(viii)(A) through (D) of this section (e.g., underground percolation, underground injection):

(1) A description of the disposal method, including the location and size of each disposal site, if applicable;

(2) The annual average daily volume disposed of by this method, in gallons per day; and

(3) Whether disposal through this method is continuous or intermittent;

(2) *Additional Information.* All applicants with a design flow greater than or equal to 0.1 mgd must provide the following information:

(i) *Inflow and infiltration.* The current average daily volume of inflow and infiltration, in gallons per day, and steps the facility is taking to minimize inflow and infiltration;

(ii) *Topographic map.* A topographic map (or other map if a topographic map is unavailable) extending at least one mile beyond property boundaries of the treatment plant, including all unit processes, and showing:

(A) Treatment plant area and unit processes;

(B) The major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable;

(C) Each well where fluids from the treatment plant are injected underground;

(D) Wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within ¼ mile of the treatment works' property boundaries;

(E) Sewage sludge management facilities (including on-site treatment, storage, and disposal sites); and

(F) Location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe;

(iii) *Process flow diagram or schematic.*

(A) A diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. This includes a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points, and approximate daily flow rates between treatment units; and

(B) A narrative description of the diagram; and

(iv) *Scheduled improvements, schedules of implementation.* The following information regarding scheduled improvements:

(A) The outfall number of each outfall affected;

(B) A narrative description of each required improvement;

(C) Scheduled or actual dates of completion for the following:

(1) Commencement of construction;

(2) Completion of construction;

(3) Commencement of discharge; and

(4) Attainment of operational level;

(D) A description of permits and clearances concerning other Federal and/or State requirements;

(3) *Information on effluent discharges.* Each applicant must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable:

(i) *Description of outfall.* The following information about each outfall:

(A) Outfall number;

(B) State, county, and city or town in which outfall is located;

(C) Latitude and longitude, to the nearest second;

(D) Distance from shore and depth below surface;

(E) Average daily flow rate, in million gallons per day;

(F) The following information for each outfall with a seasonal or periodic discharge:

(1) Number of times per year the discharge occurs;

(2) Duration of each discharge;

(3) Flow of each discharge; and

(4) Months in which discharge occurs; and

(G) Whether the outfall is equipped with a diffuser and the type (e.g., high-rate) of diffuser used;

(ii) *Description of receiving waters.* The following information (if known) for each outfall through which effluent is discharged to waters of the United States:

(A) Name of receiving water;

(B) Name of watershed/river/stream system and United States Soil Conservation Service 14-digit watershed code;

(C) Name of State Management/River Basin and United States Geological Survey 8-digit hydrologic cataloging unit code; and

(D) Critical flow of receiving stream and total hardness of receiving stream at critical low flow (if applicable);

(iii) *Description of treatment.* The following information describing the treatment provided for discharges from each outfall to waters of the United States:

(A) The highest level of treatment (e.g., primary, equivalent to secondary, secondary, advanced, other) that is provided for the discharge for each outfall and:

(1) Design biochemical oxygen demand (BOD_5 or $CBOD_5$) removal (percent);

(2) Design suspended solids (SS) removal (percent); and, where applicable,

(3) Design phosphorus (P) removal (percent);

(4) Design nitrogen (N) removal (percent); and

(5) Any other removals that an advanced treatment system is designed to achieve.

(B) A description of the type of disinfection used, and whether the treatment plant dechlorinates (if disinfection is accomplished through chlorination);

(4) *Effluent monitoring for specific parameters.*

(i) As provided in paragraphs (j)(4)(ii) through (x) of this section, all applicants must submit to the Director effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the United States, except for CSOs. The Director may allow applicants to submit sampling data for only one outfall on a case-by-case basis, where the applicant has two or more outfalls with substantially identical effluent. The Director may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone;

(ii) All applicants must sample and analyze for the pollutants listed in Appendix J, Table 1A of this part;

(iii) All applicants with a design flow greater than or equal to 0.1 mgd must sample and analyze for the pollutants listed in Appendix J, Table 1 of this part. Facilities that do not use chlorine for disinfection, do not use chlorine elsewhere in the treatment process, and have no reasonable potential to discharge chlorine in their effluent may delete chlorine from Table 1;

(iv) The following applicants must sample and analyze for the pollutants listed in Appendix J, Table 2 of this part, and for any other pollutants for which the State or EPA have established water quality standards applicable to the receiving waters:

(A) All POTWs with a design flow rate equal to or greater than one million gallons per day;

(B) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;

(C) Other POTWs, as required by the Director;

(v) The Director should require sampling for additional pollutants, as appropriate, on a case-by-case basis;

(vi) Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the seasonal variation in the discharge from each outfall. Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application. The Director should require additional samples, as appropriate, on a case-by-case basis.

(vii) All existing data for pollutants specified in paragraphs (j)(4)(ii) through (v) of this section that is collected within four and one-half years of the application must be included in the pollutant data summary submitted by the applicant. If, however, the applicant samples for a specific pollutant on a monthly or more frequent basis, it is only necessary, for such pollutant, to summarize all data collected within one year of the application.

(viii) Applicants must collect samples of effluent and analyze such samples for pollutants in accordance with analytical methods approved under 40 CFR part 136 unless an alternative is specified in the existing NPDES permit. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, 24-hour composite samples must be used. For a composite sample, only one analysis of the composite of aliquots is required.

(ix) The effluent monitoring data provided must include at least the following information for each parameter:

(A) Maximum daily discharge, expressed as concentration or mass, based upon actual sample values;

(B) Average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value;

(C) The analytical method used; and

(D) The threshold level (i.e., method detection limit, minimum level, or other designated method endpoints) for the analytical method used.

(x) Unless otherwise required by the Director, metals must be reported as total recoverable.

(5) *Effluent monitoring for whole effluent toxicity.*

(i) All applicants must provide an identification of any whole effluent toxicity tests conducted during the four and one-half years prior to the date of the application on any of the applicant's discharges or on any receiving water near the discharge.

(ii) As provided in paragraphs (j)(5)(iii)–(ix) of this section, the following applicants must submit to the Director the results of valid whole effluent toxicity tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows:

(A) All POTWs with design flow rates greater than or equal to one million gallons per day;

(B) All POTWs with approved pretreatment programs or POTWs required to develop a pretreatment program;

(C) Other POTWs, as required by the Director, based on consideration of the following factors:

(1) The variability of the pollutants or pollutant parameters in the POTW effluent (based on chemical-specific information, the type of treatment plant, and types of industrial contributors);

(2) The ratio of effluent flow to receiving stream flow;

(3) Existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW;

(4) Receiving stream characteristics, including possible or known water quality impairment, and whether the POTW discharges to a coastal water, one of the Great Lakes, or a water designated as an outstanding natural resource water; or

(5) Other considerations (including, but not limited to, the history of toxic impacts and compliance problems at the POTW) that the Director determines could cause or contribute to adverse water quality impacts.

(iii) Where the POTW has two or more outfalls with substantially identical effluent discharging to the same receiving stream segment, the Director may allow applicants to submit whole effluent toxicity data for only one outfall on a case-by-case basis. The Director may also allow applicants to composite samples from one or more outfalls that discharge into the same mixing zone.

(iv) Each applicant required to perform whole effluent toxicity testing pursuant to paragraph (j)(5)(ii) of this section must provide:

(A) Results of a minimum of four quarterly tests for a year, from the year preceding the permit application; or

(B) Results from four tests performed at least annually in the four and one half year period prior to the application, provided the results show no appreciable toxicity using a safety factor determined by the permitting authority.

(v) Applicants must conduct tests with multiple species (no less than two species; e.g., fish, invertebrate, plant), and test for acute or chronic toxicity, depending on the range of receiving water dilution. EPA recommends that applicants conduct acute or chronic testing based on the following dilutions:

(A) Acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone;

(B) Acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1); and

(C) Chronic testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

(vi) Each applicant required to perform whole effluent toxicity testing pursuant to paragraph (j)(5)(ii) of this section must provide the number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance.

(vii) Applicants must provide the results using the form provided by the Director, or test summaries if available and comprehensive, for each whole effluent toxicity test conducted pursuant to paragraph (j)(5)(ii) of this section for which such information has not been reported previously to the Director.

(viii) Whole effluent toxicity testing conducted pursuant to paragraph (j)(5)(ii) of this section must be conducted using methods approved under 40 CFR part 136. West coast facilities in Washington, Oregon, California, Alaska, Hawaii, and the Pacific Territories are exempted from 40 CFR part 136 chronic methods and must use alternative guidance as directed by the permitting authority.

(ix) For whole effluent toxicity data submitted to the Director within four and one-half years prior to the date of the application, applicants must provide the dates on which the data were submitted and a summary of the results.

(x) Each POTW required to perform whole effluent toxicity testing pursuant to paragraph (j)(5)(ii) of this section must provide any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any whole effluent toxicity test conducted within the past four and one-half years revealed toxicity.

(6) *Industrial discharges.* Applicants must submit the following information about industrial discharges to the POTW:

(i) Number of significant industrial users (SIUs) and categorical industrial users (CIUs) discharging to the POTW; and

(ii) POTWs with one or more SIUs shall provide the following information for each SIU, as defined at 40 CFR 403.3(t), that discharges to the POTW:

(A) Name and mailing address;

(B) Description of all industrial processes that affect or contribute to the SIU's discharge;

(C) Principal products and raw materials of the SIU that affect or contribute to the SIU's discharge;

(D) Average daily volume of wastewater discharged, indicating the amount attributable to process flow and non-process flow;

(E) Whether the SIU is subject to local limits;

(F) Whether the SIU is subject to categorical standards, and if so, under which category(ies) and subcategory(ies); and

(G) Whether any problems at the POTW (e.g., upsets, pass through, interference) have been attributed to the SIU in the past four and one-half years.

(iii) The information required in paragraphs (j)(6)(i) and (ii) of this section may be waived by the Director for POTWs with pretreatment programs if the applicant has submitted either of the following that contain information substantially identical to that required in paragraphs (j)(6)(i) and (ii) of this section.

(A) An annual report submitted within one year of the application; or

(B) A pretreatment program;

(7) *Discharges from hazardous waste generators and from waste cleanup or remediation sites.* POTWs receiving Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or RCRA Corrective Action wastes or wastes generated at another type of cleanup or remediation site must provide the following information:

(i) If the POTW receives, or has been notified that it will receive, by truck, rail, or dedicated pipe any wastes that are regulated as RCRA hazardous wastes pursuant to 40 CFR part 261, the applicant must report the following:

(A) The method by which the waste is received (i.e., whether by truck, rail, or dedicated pipe); and

(B) The hazardous waste number and amount received annually of each hazardous waste;

(ii) If the POTW receives, or has been notified that it will receive, wastewaters that originate from remedial activities, including those undertaken pursuant to CERCLA and sections 3004(u) or 3008(h) of RCRA, the applicant must report the following:

(A) The identity and description of the site(s) or facility(ies) at which the wastewater originates;

(B) The identities of the wastewater's hazardous constituents, as listed in Appendix VIII of part 261 of this chapter; if known; and

(C) The extent of treatment, if any, the wastewater receives or will receive before entering the POTW;

(iii) Applicants are exempt from the requirements of paragraph (j)(7)(ii) of this section if they receive no more than fifteen kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e).

(8) *Combined sewer overflows.* Each applicant with combined sewer systems must provide the following information:

(i) *Combined sewer system information.* The following information regarding the combined sewer system:

(A) *System map.* A map indicating the location of the following:

(1) All CSO discharge points;

(2) Sensitive use areas potentially affected by CSOs (e.g., beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding national resource waters); and

(3) Waters supporting threatened and endangered species potentially affected by CSOs; and

(B) *System diagram.* A diagram of the combined sewer collection system that includes the following information:

(1) The location of major sewer trunk lines, both combined and separate sanitary;

(2) The locations of points where separate sanitary sewers feed into the combined sewer system;

(3) In-line and off-line storage structures;

(4) The locations of flow-regulating devices; and

(5) The locations of pump stations;

(ii) *Information on CSO outfalls.* The following information for each CSO discharge point covered by the permit application:

(A) *Description of outfall.* The following information on each outfall:

(1) Outfall number;

(2) State, county, and city or town in which outfall is located;

(3) Latitude and longitude, to the nearest second; and

(4) Distance from shore and depth below surface;

(5) Whether the applicant monitored any of the following in the past year for this CSO:

(i) Rainfall;

(ii) CSO flow volume;

(iii) CSO pollutant concentrations;

(iv) Receiving water quality;

(v) CSO frequency; and

(6) The number of storm events monitored in the past year;

(B) *CSO events.* The following information about CSO overflows from each outfall:

(1) The number of events in the past year;

(2) The average duration per event, if available;

(3) The average volume per CSO event, if available; and

(4) The minimum rainfall that caused a CSO event, if available, in the last year;

(C) *Description of receiving waters.* The following information about receiving waters:

(1) Name of receiving water;

(2) Name of watershed/stream system and the United States Soil Conservation Service watershed (14-digit) code (if known); and

(3) Name of State Management/River Basin and the United States Geological Survey hydrologic cataloging unit (8-digit) code (if known); and

(D) *CSO operations.* A description of any known water quality impacts on the receiving water caused by the CSO (e.g., permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or exceedance of any applicable State water quality standard);

(9) Contractors. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility; and

(10) *Signature.* All applications must be signed by a certifying official in compliance with § 122.22.

* * * * *

(q) *Sewage sludge management.* All TWTDS subject to paragraph (c)(2)(i) of this section must provide the information in this paragraph to the Director, using Form 2S or another application form approved by the Director. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Director. The Director may waive any requirement of this paragraph if he or she has access to substantially identical information. The Director may also waive any requirement of this paragraph that is not of material concern for a specific permit, if approved by the Regional Administrator. The waiver request to the Regional Administrator must include the State's justification for the waiver. A Regional Administrator's disapproval of a State's proposed waiver does not constitute final Agency action, but does provide notice to the State and

permit applicant(s) that EPA may object to any State-issued permit issued in the absence of the required information.

(1) *Facility information.* All applicants must submit the following information:

(i) The name, mailing address, and location of the TWTDS for which the application is submitted;

(ii) Whether the facility is a Class I Sludge Management Facility;

(iii) The design flow rate (in million gallons per day);

(iv) The total population served; and

(v) The TWTDS's status as Federal, State, private, public, or other entity;

(2) *Applicant information.* All applicants must submit the following information:

(i) The name, mailing address, and telephone number of the applicant; and

(ii) Indication whether the applicant is the owner, operator, or both;

(3) *Permit information.* All applicants must submit the facility's NPDES permit number, if applicable, and a listing of all other Federal, State, and local permits or construction approvals received or applied for under any of the following programs:

(i) Hazardous Waste Management program under the Resource Conservation and Recovery Act (RCRA);

(ii) UIC program under the Safe Drinking Water Act (SDWA);

(iii) NPDES program under the Clean Water Act (CWA);

(iv) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;

(v) Nonattainment program under the Clean Air Act;

(vi) National Emission Standards for Hazardous Air Pollutants (NESHAPS) preconstruction approval under the Clean Air Act;

(vii) Dredge or fill permits under section 404 of CWA;

(viii) Other relevant environmental permits, including State or local permits;

(4) *Indian country.* All applicants must identify any generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country;

(5) *Topographic map.* All applicants must submit a topographic map (or other map if a topographic map is unavailable) extending one mile beyond property boundaries of the facility and showing the following information:

(i) All sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and

(ii) Wells, springs, and other surface water bodies that are within ¼ mile of the property boundaries and listed in public records or otherwise known to the applicant;

(6) *Sewage sludge handling.* All applicants must submit a line drawing and/or a narrative description that identifies all sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each such unit, and all processes used for pathogen reduction and vector attraction reduction;

(7) *Sewage sludge quality.* The applicant must submit sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 40 CFR part 503 for the applicant's use or disposal practices on the date of permit application.

(i) The Director may require sampling for additional pollutants, as appropriate, on a case-by-case basis;

(ii) Applicants must provide data from a minimum of three samples taken within four and one-half years prior to the date of the permit application. Samples must be representative of the sewage sludge and should be taken at least one month apart. Existing data may be used in lieu of sampling done solely for the purpose of this application;

(iii) Applicants must collect and analyze samples in accordance with analytical methods approved under SW–846 unless an alternative has been specified in an existing sewage sludge permit;

(iv) The monitoring data provided must include at least the following information for each parameter:

(A) Average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values;

(B) The analytical method used; and

(C) The method detection level.

(8) *Preparation of sewage sludge.* If the applicant is a ''person who prepares'' sewage sludge, as defined at 40 CFR 503.9(r), the applicant must provide the following information:

(i) If the applicant's facility generates sewage sludge, the total dry metric tons per 365-day period generated at the facility;

(ii) If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received:

(A) The name, mailing address, and location of the other facility;

(B) The total dry metric tons per 365-day period received from the other facility; and

(C) A description of any treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics;

(iii) If the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information:

(A) Whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of any treatment processes used to reduce pathogens in sewage sludge;

(B) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(1) through (b)(8) are met, and a description of any treatment processes used to reduce vector attraction properties in sewage sludge; and

(C) A description of any other blending, treatment, or other activities that change the quality of sewage sludge;

(iv) If sewage sludge from the applicant's facility meets the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in § 503.13(b)(3), the Class A pathogen requirements in § 503.32(a), and one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8), and if the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is applied to the land;

(v) If sewage sludge from the applicant's facility is sold or given away in a bag or other container for application to the land, and the sewage sludge is not subject to paragraph (q)(8)(iv) of this section, the applicant must provide the following information:

(A) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is sold or given away in a bag or other container for application to the land; and

(B) A copy of all labels or notices that accompany the sewage sludge being sold or given away;

(vi) If sewage sludge from the applicant's facility is provided to another ''person who prepares,'' as defined at 40 CFR 503.9(r), and the sewage sludge is not subject to paragraph (q)(8)(iv) of this section, the applicant must provide the following information for each facility receiving the sewage sludge:

(A) The name and mailing address of the receiving facility;

(B) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that the applicant provides to the receiving facility;

(C) A description of any treatment processes occurring at the receiving facility, including blending activities

and treatment to reduce pathogens or vector attraction characteristic;

(D) A copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and

(E) If the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge;

(9) *Land application of bulk sewage sludge.* If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to paragraphs (q)(8)(iv), (v), or (vi) of this section, the applicant must provide the following information:

(i) The total dry metric tons per 365-day period of sewage sludge subject to this paragraph that is applied to the land;

(ii) If any land application sites are located in States other than the State where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the State(s) where the land application sites are located;

(iii) The following information for each land application site that has been identified at the time of permit application:

(A) The name (if any), and location for the land application site;

(B) The site's latitude and longitude to the nearest second, and method of determination;

(C) A topographic map (or other map if a topographic map is unavailable) that shows the site's location;

(D) The name, mailing address, and telephone number of the site owner, if different from the applicant;

(E) The name, mailing address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant;

(F) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as such site types are defined under 40 CFR 503.11;

(G) The type of vegetation grown on the site, if known, and the nitrogen requirement for this vegetation;

(H) Whether either of the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) is met at the site, and a description of any procedures employed at the time of use to reduce vector attraction properties in sewage sludge; and

(I) Other information that describes how the site will be managed, as specified by the permitting authority.

(iv) The following information for each land application site that has been identified at the time of permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site:

(A) Whether the applicant has contacted the permitting authority in the State where the bulk sewage sludge subject to § 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to § 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name and phone number of a contact person at the permitting authority;

(B) Identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in § 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in paragraph (q)(iv)(A), bulk sewage sludge subject to cumulative pollutant loading rates in § 503.13(b)(2) has been applied to the site since July 20, 1993;

(v) If not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum:

(A) Describes the geographical area covered by the plan;

(B) Identifies the site selection criteria;

(C) Describes how the site(s) will be managed;

(D) Provides for advance notice to the permit authority of specific land application sites and reasonable time for the permit authority to object prior to land application of the sewage sludge; and

(E) Provides for advance public notice of land application sites in the manner prescribed by State and local law. When State or local law does not require advance public notice, it must be provided in a manner reasonably calculated to apprize the general public of the planned land application.

(10) *Surface disposal.* If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide the following information:

(i) The total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per 365-day period;

(ii) The following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does *not* own or operate:

(A) The site name or number, contact person, mailing address, and telephone number for the surface disposal site; and

(B) The total dry metric tons from the applicant's facility per 365-day period placed on the surface disposal site;

(iii) The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates:

(A) The name or number and the location of the active sewage sludge unit;

(B) The unit's latitude and longitude to the nearest second, and method of determination;

(C) If not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location;

(D) The total dry metric tons placed on the active sewage sludge unit per 365-day period;

(E) The total dry metric tons placed on the active sewage sludge unit over the life of the unit;

(F) A description of any liner for the active sewage sludge unit, including whether it has a maximum permeability of 1×10^{-7} cm/sec;

(G) A description of any leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and any Federal, State, and local permit number(s) for leachate disposal;

(H) If the active sewage sludge unit is less than 150 meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line;

(I) The remaining capacity (dry metric tons) for the active sewage sludge unit;

(J) The date on which the active sewage sludge unit is expected to close, if such a date has been identified;

(K) The following information for any other facility that sends sewage sludge to the active sewage sludge unit:

(1) The name, contact person, and mailing address of the facility; and

(2) Available information regarding the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics;

(L) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(9) through (b)(11) is met at the active sewage sludge unit, and a description of any procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge;

(M) The following information, as applicable to any ground-water monitoring occurring at the active sewage sludge unit:

(1) A description of any ground-water monitoring occurring at the active sewage sludge unit;

(2) Any available ground-water monitoring data, with a description of

the well locations and approximate depth to ground water;

(3) A copy of any ground-water monitoring plan that has been prepared for the active sewage sludge unit;

(4) A copy of any certification that has been obtained from a qualified ground-water scientist that the aquifer has not been contaminated; and

(N) If site-specific pollutant limits are being sought for the sewage sludge placed on this active sewage sludge unit, information to support such a request;

(11) *Incineration.* If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide the following information:

(i) The total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per 365-day period;

(ii) The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does *not* own or operate:

(A) The name and/or number, contact person, mailing address, and telephone number of the sewage sludge incinerator; and

(B) The total dry metric tons from the applicant's facility per 365-day period fired in the sewage sludge incinerator;

(iii) The following information for each sewage sludge incinerator that the applicant owns or operates:

(A) The name and/or number and the location of the sewage sludge incinerator;

(B) The incinerator's latitude and longitude to the nearest second, and method of determination;

(C) The total dry metric tons per 365-day period fired in the sewage sludge incinerator;

(D) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Beryllium in 40 CFR part 61 will be achieved;

(E) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Mercury in 40 CFR part 61 will be achieved;

(F) The dispersion factor for the sewage sludge incinerator, as well as modeling results and supporting documentation;

(G) The control efficiency for parameters regulated in 40 CFR 503.43, as well as performance test results and supporting documentation;

(H) Information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value;

(I) Whether the applicant monitors total hydrocarbons (THC) or Carbon Monoxide (CO) in the exit gas for the sewage sludge incinerator;

(J) The type of sewage sludge incinerator;

(K) The maximum performance test combustion temperature, as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

(L) The following information on the sewage sludge feed rate used during the performance test:

(1) Sewage sludge feed rate in dry metric tons per day;

(2) Identification of whether the feed rate submitted is average use or maximum design; and

(3) A description of how the feed rate was calculated;

(M) The incinerator stack height in meters for each stack, including identification of whether actual or creditable stack height was used;

(N) The operating parameters for the sewage sludge incinerator air pollution control device(s), as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies;

(O) Identification of the monitoring equipment in place, including (but not limited to) equipment to monitor the following:

(1) Total hydrocarbons or Carbon Monoxide;

(2) Percent oxygen;

(3) Percent moisture; and

(4) Combustion temperature; and

(P) A list of all air pollution control equipment used with this sewage sludge incinerator;

(12) *Disposal in a municipal solid waste landfill.* If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF to which sewage sludge is sent:

(i) The name, contact person, mailing address, location, and all applicable permit numbers of the MSWLF;

(ii) The total dry metric tons per 365-day period sent from this facility to the MSWLF;

(iii) A determination of whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a MSWLF, including the results of the paint filter liquids test and any additional requirements that apply on a site-specific basis; and

(iv) Information, if known, indicating whether the MSWLF complies with criteria set forth in 40 CFR part 258;

(13) *Contractors.* All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal;

(14) *Other information.* At the request of the permitting authority, the applicant must provide any other information necessary to determine the appropriate standards for permitting under 40 CFR part 503, and must provide any other information necessary to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements; and

(15) *Signature.* All applications must be signed by a certifying official in compliance with § 122.22.

* * * * *

6. Section 122.44 is amended by revising paragraph (j)(2) to read as follows:

§ 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).

* * * * *

(j) * * *

(2)(i) Submit a local program when required by and in accordance with 40 CFR part 403 to assure compliance with pretreatment standards to the extent applicable under section 307(b). The local program shall be incorporated into the permit as described in 40 CFR part 403. The program must require all indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR part 403.

(ii) Provide a written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1), following permit issuance or reissuance.

* * * * *

7. Part 122 is amended by adding Appendix J to read as follows:

Appendix J to Part 122—NPDES Permit Testing Requirements for Publicly Owned Treatment Works (§ 122.21(j))

Table 1A—Effluent Parameters for All POTWS

Biochemical oxygen demand (BOD–5 or CBOD–5)
Fecal coliform
Design Flow Rate
pH
Temperature
Total suspended solids

Table 1—Effluent Parameters for All POTWS With a Flow Equal to or Greater Than 0.1 MGD

Ammonia (as N)
Chlorine (total residual, TRC)
Dissolved oxygen

Nitrate/Nitrite
Kjeldahl nitrogen
Oil and grease
Phosphorus
Total dissolved solids

Table 2—Effluent Parameters for Selected POTWS

Hardness
Metals (total recoverable), cyanide and total phenols
Antimony
Arsenic
Beryllium
Cadmium
Chromium
Copper
Lead
Mercury
Nickel
Selenium
Silver
Thallium
Zinc
Cyanide
Total phenolic compounds
Volatile organic compounds
Acrolein
Acrylonitrile
Benzene
Bromoform
Carbon tetrachloride
Chlorobenzene
Chlorodibromomethane
Chloroethane
2-chloroethylvinyl ether
Chloroform
Dichlorobromomethane
1,1-dichloroethane
1,2-dichloroethane
Trans-1,2-dichloroethylene
1,1-dichloroethylene
1,2-dichloropropane
1,3-dichloropropylene
Ethylbenzene
Methyl bromide
Methyl chloride
Methylene chloride
1,1,2,2-tetrachloroethane
Tetrachloroethylene
Toluene
1,1,1-trichloroethane
1,1,2-trichloroethane
Trichloroethylene
Vinyl chloride
Acid-extractable compounds
P-chloro-m-creso
2-chlorophenol
2,4-dichlorophenol
2,4-dimethylphenol
4,6-dinitro-o-cresol
2,4-dinitrophenol
2-nitrophenol
4-nitrophenol
Pentachlorophenol
Phenol
2,4,6-trichlorophenol
Base-neutral compounds
Acenaphthene
Acenaphthylene
Anthracene
Benzidine
Benzo(a)anthracene
Benzo(a)pyrene
3,4 benzofluoranthene
Benzo(ghi)perylene
Benzo(k)fluoranthene
Bis (2-chloroethoxy) methane
Bis (2-chloroethyl) ether
Bis (2-chloroisopropyl) ether
Bis (2-ethylhexyl) phthalate
4-bromophenyl phenyl ether
Butyl benzyl phthalate
2-chloronaphthalene
4-chlorophenyl phenyl ether
Chrysene
Di-n-butyl phthalate
Di-n-octyl phthalate
Dibenzo(a,h)anthracene
1,2-dichlorobenzene
1,3-dichlorobenzene
1,4-dichlorobenzene
3,3′-dichlorobenzidine
Diethyl phthalate
Dimethyl phthalate
2,4-dinitrotoluene
2,6-dinitrotoluene
1,2-diphenylhydrazine
Fluoranthene
Fluorene
Hexachlorobenzene
Hexachlorobutadiene
Hexachlorocyclo-pentadiene
Hexachloroethane
Indeno(1,2,3-cd)pyrene
Isophorone
Naphthalene
Nitrobenzene
N-nitrosodi-n-propylamine
N-nitrosodimethylamine
N-nitrosodiphenylamine
Phenanthrene
Pyrene
1,2,4,-trichlorobenzene

PART 123—STATE PROGRAM REQUIREMENTS

8. The authority citation for part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

9. Section 123.25 is amended by revising paragraph (a)(4) to read as follows:

§ 123.25 Requirements for Permitting.

(a) * * *

(4) Sections 122.21(a), (b), (c)(2), (e) through (k), and (m) through (p), and (q)—(Application for a permit)

* * * * *

10. Section 123.43 is amended by adding paragraph (b) to read as follows:

§ 123.43 Transmission of information to EPA.

* * * * *

(b) If the State intends to waive any of the permit application requirements of § 122.21(j) or (q) of this chapter for a specific applicant, the Director must submit a written request to the Regional Administrator no less than 210 days prior to permit expiration. This request must include the State's justification for granting the waiver.

* * * * *

PART 124—PROCEDURES FOR DECISIONMAKING

11. The authority citation for part 124 continues to read as follows:

Authority: Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.;* Clean Water Act, 33 U.S.C. 1251 *et seq.;* Clean Air Act, 42 U.S.C. 7401 *et seq.*

12. Section 124.8 is amended by adding paragraph (b)(9) as follows:

§ 124.8 Fact sheet.

* * * * *

(b) * * *

(9) Justification for waiver of any application requirements under § 122.21(j) or (q) of this chapter.

PART 501—STATE SLUDGE MANAGEMENT PROGRAM REGULATIONS

13. The authority citation for part 501 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

14. Section 501.15 is amended by removing paragraph (a)(4).

Note: The following forms and instructions will not appear in the Code of Federal Regulations.

BILLING CODE 6560–50–P

FACILITY NAME AND PERMIT NUMBER:

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FORM 2A NPDES

NPDES FORM 2A APPLICATION OVERVIEW

APPLICATION OVERVIEW

Form 2A has been developed in a modular format and consists of a "Basic Application Information" packet and a "Supplemental Application Information" packet. The Basic Application Information packet is divided into two parts. All applicants must complete Parts A and C. Applicants with a design flow greater than or equal to 0.1 mgd must also complete Part B. Some applicants must also complete the Supplemental Application Information packet. The following items explain which parts of Form 2A you must complete.

BASIC APPLICATION INFORMATION:

A. **Basic Application Information for all Applicants.** All applicants must complete questions A.1 through A.8. A treatment works that discharges effluent to surface waters of the United States must also answer questions A.9 through A.12.

B. **Additional Application Information for Applicants with a Design Flow ≥ 0.1 mgd.** All treatment works that have design flows greater than or equal to 0.1 million gallons per day must complete questions B.1 through B.6.

C. **Certification.** All applicants must complete Part C (Certification).

SUPPLEMENTAL APPLICATION INFORMATION:

D. **Expanded Effluent Testing Data.** A treatment works that discharges effluent to surface waters of the United States and meets one or more of the following criteria must complete Part D (Expanded Effluent Testing Data):

1. Has a design flow rate greater than or equal to 1 mgd,
2. Is required to have a pretreatment program (or has one in place), or
3. Is otherwise required by the permitting authority to provide the information.

E. **Toxicity Testing Data.** A treatment works that meets one or more of the following criteria must complete Part E (Toxicity Testing Data):

1. Has a design flow rate greater than or equal to 1 mgd,
2. Is required to have a pretreatment program (or has one in place), or
3. Is otherwise required by the permitting authority to submit results of toxicity testing.

F. **Industrial User Discharges and RCRA/CERCLA Wastes.** A treatment works that accepts process wastewater from any significant industrial users (SIUs) or receives RCRA or CERCLA wastes must complete Part F (Industrial User Discharges and RCRA/CERCLA Wastes). SIUs are defined as:

1. All industrial users subject to Categorical Pretreatment Standards under 40 Code of Federal Regulations (CFR) 403.6 and 40 CFR Chapter I, Subchapter N (see instructions); and
2. Any other industrial user that:
   a. Discharges an average of 25,000 gallons per day or more of process wastewater to the treatment works (with certain exclusions); or
   b. Contributes a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
   c. Is designated as an SIU by the control authority.

G. **Combined Sewer Systems.** A treatment works that has a combined sewer system must complete Part G (Combined Sewer Systems).

ALL APPLICANTS MUST COMPLETE PART C (CERTIFICATION)

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BASIC APPLICATION INFORMATION

PART A. BASIC APPLICATION INFORMATION FOR ALL APPLICANTS:

All treatment works must complete questions A.1 through A.8 of this Basic Application Information packet.

A.1. Facility Information.

Facility name _____

Mailing Address _____

_____

Contact person _____

Title _____

Telephone number _____

Facility Address _____
(not P.O. Box) _____

A.2. Applicant Information. If the applicant is different from the above, provide the following:

Applicant name _____

Mailing Address _____

_____

Contact person _____

Title _____

Telephone number _____

Is the applicant the owner or operator (or both) of the treatment works?

_____ owner _____ operator

Indicate whether correspondence regarding this permit should be directed to the facility or the applicant.

_____ facility _____ applicant

A.3. Existing Environmental Permits. Provide the permit number of any existing environmental permits that have been issued to the treatment works (include state-issued permits).

NPDES _____ PSD _____

UIC _____ Other _____

RCRA _____ Other _____

A.4. Collection System Information. Provide information on municipalities and areas served by the facility. Provide the name and population of each entity and, if known, provide information on the type of collection system (combined vs. separate) and its ownership (municipal, private, etc.).

Name	Population Served	Type of Collection System	Ownership

Total population served _____

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A.5. Indian Country.

a. Is the treatment works located in Indian Country?

_____ Yes _____ No

b. Does the treatment works discharge to a receiving water that is either in Indian Country or that is upstream from (and eventually flows through) Indian Country?

_____ Yes _____ No

A.6. Flow. Indicate the design flow rate of the treatment plant (i.e., the wastewater flow rate that the plant was built to handle). Also provide the average daily flow rate and maximum daily flow rate for each of the last three years. Each year's data must be based on a 12-month time period with the 12th month of "this year" occurring no more than three months prior to this application submittal.

a. Design flow rate _____ mgd

	Two Years Ago	Last Year	This Year	
b. Annual average daily flow rate	_____	_____	_____	mgd
c. Maximum daily flow rate	_____	_____	_____	mgd

A.7. Collection System. Indicate the type(s) of collection system(s) used by the treatment plant. Check all that apply. Also estimate the percent contribution (by miles) of each.

_____ Separate sanitary sewer _____ %

_____ Combined storm and sanitary sewer _____ %

A.8. Discharges and Other Disposal Methods.

a. Does the treatment works discharge effluent to waters of the U.S.? _____ Yes _____ No

If yes, list how many of each of the following types of discharge points the treatment works uses:

i. Discharges of treated effluent _____

ii. Discharges of untreated or partially treated effluent _____

iii. Combined sewer overflow points _____

iv. Constructed emergency overflows (prior to the headworks) _____

v. Other _____ _____

b. Does the treatment works discharge effluent to basins, ponds, or other surface impoundments that do not have outlets for discharge to waters of the U.S.? _____ Yes _____ No

If yes, provide the following for each surface impoundment:

Location: _____

Annual average daily volume discharged to surface impoundment(s) _____ mgd

Is discharge _____ continuous or _____ intermittent?

c. Does the treatment works land-apply treated wastewater? _____ Yes _____ No

If yes, provide the following for each land application site:

Location: _____

Number of acres: _____

Annual average daily volume applied to site: _____ Mgd

Is land application _____ continuous or _____ intermittent?

d. Does the treatment works discharge or transport treated or untreated wastewater to another treatment works? _____ Yes _____ No

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If yes, describe the mean(s) by which the wastewater from the treatment works is discharged or transported to the other treatment works (e.g., tank truck, pipe).

_____

If transport is by a party other than the applicant, provide:

Transporter name: _____

Mailing Address: _____

_____

Contact person: _____

Title: _____

Telephone number: _____

For each treatment works that receives this discharge, provide the following:

Name: _____

Mailing Address: _____

_____

Contact person: _____

Title: _____

Telephone number: _____

If known, provide the NPDES permit number of the treatment works that receives this discharge. _____

Provide the average daily flow rate from the treatment works into the receiving facility. _____ mgd

e. Does the treatment works discharge or dispose of its wastewater in a manner not included in A.8.a through A.8.d above (e.g., underground percolation, well injection)? _____ Yes _____ No

If yes, provide the following for each disposal method:

Description of method (including location and size of site(s) if applicable):

_____

Annual daily volume disposed of by this method: _____

Is disposal through this method _____ continuous or _____ intermittent?

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WASTEWATER DISCHARGES:

If you answered "yes" to question A.8.a, complete questions A.9 through A.12 **once for each outfall** (including bypass points) through which effluent is discharged. Do not include information on combined sewer overflows in this section. **If you answered "no" to question A.8.a**, go to Part B, "Additional Application Information for Applicants with a Design Flow Greater than or Equal to 0.1 mgd."

A.9. Description of Outfall.

a. Outfall number _____

b. Location _____
(City or town, if applicable) (Zip Code)
_____
(County) (State)
_____
(Latitude) (Longitude)

c. Distance from shore (if applicable) _____ ft.

d. Depth below surface (if applicable) _____ ft.

e. Average daily flow rate _____ mgd

f. Does this outfall have either an intermittent or a periodic discharge? _____ Yes _____ No (go to A.9.g.)

If yes, provide the following information:

Number of times per year discharge occurs: _____

Average duration of each discharge: _____

Average flow per discharge: _____ mgd

Months in which discharge occurs: _____

g. Is outfall equipped with a diffuser? _____ Yes _____ No

A.10. Description of Receiving Waters.

a. Name of receiving water _____

b. Name of watershed (if known) _____

United States Soil Conservation Service 14-digit watershed code (if known): _____

c. Name of State Management/River Basin (if known): _____

United States Geological Survey 8-digit hydrologic cataloging unit code (if known): _____

d. Critical low flow of receiving stream (if applicable):
acute _____ cfs chronic _____ cfs

e. Total hardness of receiving stream at critical low flow (if applicable): _____ mg/l of $CaCO_3$

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A.11. Description of Treatment.

a. What levels of treatment are provided? Check all that apply.

_____ Primary _____ Secondary

_____ Advanced _____ Other. Describe: _____

b. Indicate the following removal rates (as applicable):

Design BOD_5 removal or Design $CBOD_5$ removal _____ %

Design SS removal _____ %

Design P removal _____ %

Design N removal _____ %

Other _____ _____ %

c. What type of disinfection is used for the effluent from this outfall? If disinfection varies by season, please describe.

_____

If disinfection is by chlorination, is dechlorination used for this outfall? _____ Yes _____ No

d. Does the treatment plant have post aeration? _____ Yes _____ No

A.12. Effluent Testing Information. All Applicants that discharge to waters of the US must provide effluent testing data for the following parameters. Provide the indicated effluent testing required by the permitting authority for each outfall through which effluent is discharged. Do not include information on combined sewer overflows in this section. All information reported must be based on data collected through analysis conducted using 40 CFR Part 136 methods. In addition, this data must comply with QA/QC requirements of 40 CFR Part 136 and other appropriate QA/QC requirements for standard methods for analytes not addressed by 40 CFR Part 136. At a minimum, effluent testing data must be based on at least three samples and must be no more than four and one-half years apart.

Outfall number: _____

PARAMETER	MAXIMUM DAILY VALUE		AVERAGE DAILY VALUE		
	Value	Units	Value	Units	Number of Samples
pH (Minimum)		s.u.			
pH (Maximum)		s.u.			
Flow Rate					
Temperature (Winter)					
Temperature (Summer)					

* For pH please report a minimum and a maximum daily value

POLLUTANT		MAXIMUM DAILY DISCHARGE		AVERAGE DAILY DISCHARGE			ANALYTICAL METHOD	ML / MDL
		Conc.	Units	Conc.	Units	Number of Samples		
CONVENTIONAL AND NONCONVENTIONAL COMPOUNDS.								
BIOCHEMICAL OXYGEN	BOD-5							
DEMAND (Report one)	CBOD-5							
FECAL COLIFORM								
TOTAL SUSPENDED SOLIDS (TSS)								

END OF PART A.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE

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BASIC APPLICATION INFORMATION

PART B. ADDITIONAL APPLICATION INFORMATION FOR APPLICANTS WITH A DESIGN FLOW GREATER THAN OR EQUAL TO 0.1 MGD (100,000 gallons per day).

All applicants with a design flow rate ≥ 0.1 mgd must answer questions B.1 through B.6. All others go to Part C (Certification).

B.1. Inflow and Infiltration. Estimate the average number of gallons per day that flow into the treatment works from inflow and/or infiltration.

_____gpd

Briefly explain any steps underway or planned to minimize inflow and infiltration.

_____

_____

B.2. Topographic Map. Attach to this application a topographic map of the area extending at least one mile beyond facility property boundaries. This map must show the outline of the facility and the following information. (You may submit more than one map if one map does not show the entire area.)

a. The area surrounding the treatment plant, including all unit processes.

b. The major pipes or other structures through which wastewater enters the treatment works and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable.

c. Each well where wastewater from the treatment plant is injected underground.

d. Wells, springs, other surface water bodies, and drinking water wells that are: 1) within 1/4 mile of the property boundaries of the treatment works, and 2) listed in public record or otherwise known to the applicant.

e. Any areas where the sewage sludge produced by the treatment works is stored, treated, or disposed.

f. If the treatment works receives waste that is classified as hazardous under the Resource Conservation and Recovery Act (RCRA) by truck, rail, or special pipe, show on the map where that hazardous waste enters the treatment works and where it is treated, stored, and/or disposed.

B.3. Process Flow Diagram or Schematic. Provide a diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. Also provide a water balance showing all treatment units, including disinfection (e.g, chlorination and dechlorination). The water balance must show daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units. Include a brief narrative description of the diagram.

B.4. Operation/Maintenance Performed by Contractor(s).

Are any operational or maintenance aspects (related to wastewater treatment and effluent quality) of the treatment works the responsibility of a contractor? ____Yes ____No

If yes, list the name, address, telephone number, and status of each contractor and describe the contractor's responsibilities (attach additional pages if necessary).

Name: _____

Mailing Address: _____

_____

Telephone Number: _____

Responsibilities of Contractor: _____

B.5. Scheduled Improvements and Schedules of Implementation. Provide information on any uncompleted implementation schedule or uncompleted plans for improvements that will affect the wastewater treatment, effluent quality, or design capacity of the treatment works. If the treatment works has several different implementation schedules or is planning several improvements, submit separate responses to question B.5 for each. (If none, go to question B.6.)

a. List the outfall number (assigned in question A.9) for each outfall that is covered by this implementation schedule.

_____

b. Indicate whether the planned improvements or implementation schedule are required by local, State, or Federal agencies.

____Yes ____No

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c If the answer to B.5.b is "Yes," briefly describe, including new maximum daily inflow rate (if applicable).

_____

d. Provide dates imposed by any compliance schedule or any actual dates of completion for the implementation steps listed below, as applicable. For improvements planned independently of local, State, or Federal agencies, indicate planned or actual completion dates, as applicable. Indicate dates as accurately as possible.

Implementation Stage	Schedule MM / DD / YYYY	Actual Completion MM / DD / YYYY
– Begin construction	___/ ___/ _____	___/ ___/ _____
– End construction	___/ ___/ _____	___/ ___/ _____
– Begin discharge	___/ ___/ _____	___/ ___/ _____
– Attain operational level	___/ ___/ _____	___/ ___/ _____

e. Have appropriate permits/clearances concerning other Federal/State requirements been obtained? ____Yes ____No

Describe briefly: _____

_____

B.6. EFFLUENT TESTING DATA (GREATER THAN O.1 MGD ONLY).

Applicants that discharge to waters of the US must provide effluent testing data for the following parameters. Provide the indicated effluent testing required by the permitting authority for each outfall through which effluent is discharged. Do not include information on combined sewer overflows in this section. All information reported must be based on data collected through analysis conducted using 40 CFR Part 136 methods. In addition, this data must comply with QA/QC requirements of 40 CFR Part 136 and other appropriate QA/QC requirements for standard methods for analytes not addressed by 40 CFR Part 136. At a minimum, effluent testing data must be based on at least three pollutant scans and must be no more than four and one-half years old.

Outfall Number:_____

POLLUTANT	MAXIMUM DAILY DISCHARGE		AVERAGE DAILY DISCHARGE			ANALYTICAL METHOD	ML / MDL
	Conc.	Units	Conc.	Units	Number of Samples		
CONVENTIONAL AND NONCONVENTIONAL COMPOUNDS.							
AMMONIA (as N)							
CHLORINE (TOTAL RESIDUAL, TRC)							
DISSOLVED OXYGEN							
TOTAL KJELDAHL NITROGEN (TKN)							
NITRATE PLUS NITRITE NITROGEN							
OIL and GREASE							
PHOSPHORUS (Total)							
TOTAL DISSOLVED SOLIDS (TDS)							
OTHER							

END OF PART B.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE

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BASIC APPLICATION INFORMATION

PART C. CERTIFICATION

All applicants must complete the Certification Section. Refer to instructions to determine who is an officer for the purposes of this certification. All applicants must complete all applicable sections of Form 2A, as explained in the Application Overview. Indicate below which parts of Form 2A you have completed and are submitting. By signing this certification statement, applicants confirm that they have reviewed Form 2A and have completed all sections that apply to the facility for which this application is submitted.

Indicate which parts of Form 2A you have completed and are submitting:

_____ Basic Application Information packet

Supplemental Application Information packet:

_____ Part D (Expanded Effluent Testing Data)

_____ Part E (Toxicity Testing: Biomonitoring Data)

_____ Part F (Industrial User Discharges and RCRA/CERCLA Wastes)

_____ Part G (Combined Sewer Systems)

ALL APPLICANTS MUST COMPLETE THE FOLLOWING CERTIFICATION.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name and official title _____

Signature _____

Telephone number _____

Date signed _____

Upon request of the permitting authority, you must submit any other information necessary to assess wastewater treatment practices at the treatment works or identify appropriate permitting requirements.

SEND COMPLETED FORMS TO:

FACILITY NAME AND PERMIT NUMBER:

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SUPPLEMENTAL APPLICATION INFORMATION

PART D. EXPANDED EFFLUENT TESTING DATA

Refer to the directions on the cover page to determine whether this section applies to the treatment works.

Effluent Testing: 1.0 mgd and Pretreatment Treatment Works. If the treatment works has a design flow greater than or equal to 1.0 mgd or it has (or is required to have) a pretreatment program, or is otherwise required by the permitting authority to provide the data, then provide effluent testing data for the following pollutants. Provide the indicated effluent testing information and any other information required by the permitting authority for each outfall through which effluent is discharged. Do not include information on combined sewer overflows in this section. All information reported must be based on data collected through analyses conducted using 40 CFR Part 136 methods. In addition, these data must comply with QA/QC requirements of 40 CFR Part 136 and other appropriate QA/QC requirements for standard methods for analytes not addressed by 40 CFR Part 136. Indicate in the blank rows provided below any data you may have on pollutants not specifically listed in this form. At a minimum, effluent testing data must be based on at least three pollutant scans and must be no more than four and one-half years old.

Outfall number: _____ (Complete once for each outfall discharging effluent to waters of the United States.)

POLLUTANT	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML/ MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
METALS (TOTAL RECOVERABLE), CYANIDE, PHENOLS, AND HARDNESS.											
ANTIMONY											
ARSENIC											
BERYLLIUM											
CADMIUM											
CHROMIUM											
COPPER											
LEAD											
MERCURY											
NICKEL											
SELENIUM											
SILVER											
THALLIUM											
ZINC											
CYANIDE											
TOTAL PHENOLIC COMPOUNDS											
HARDNESS (AS $CaCO_3$)											
Use this space (or a separate sheet) to provide information on other metals requested by the permit writer.											

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Outfall number: _____ (Complete once for each outfall discharging effluent to waters of the United States.)

POLLUTANT	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML/ MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
VOLATILE ORGANIC COMPOUNDS.											
ACROLEIN											
ACRYLONITRILE											
BENZENE											
BROMOFORM											
CARBON TETRACHLORIDE											
CLOROBENZENE											
CHLORODIBROMO-METHANE											
CHLOROETHANE											
2-CHLORO-ETHYLVINYL ETHER											
CHLOROFORM											
DICHLOROBROMO-METHANE											
1,1-DICHLOROETHANE											
1,2-DICHLOROETHANE											
TRANS-1,2-DICHLORO-ETHYLENE											
1,1-DICHLOROETHYLENE											
1,2-DICHLOROPROPANE											
1,3-DICHLORO-PROPYLENE											
ETHYLBENZENE											
METHYL BROMIDE											
METHYL CHLORIDE											
METHYLENE CHLORIDE											
1,1,2,2-TETRACHLORO-ETHANE											
TETRACHLORO-ETHYLENE											
TOLUENE											

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Outfall number: _____ (Complete once for each outfall discharging effluent to waters of the United States.)

POLLUTANT	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML/ MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
1,1,1-TRICHLOROETHANE											
1,1,2-TRICHLOROETHANE											
TRICHLORETHYLENE											
VINYL CHLORIDE											
Use this space (or a separate sheet) to provide information on other volatile organic compounds requested by the permit writer.											
ACID-EXTRACTABLE COMPOUNDS											
P-CHLORO-M-CRESOL											
2-CHLOROPHENOL											
2,4-DICHLOROPHENOL											
2,4-DIMETHYLPHENOL											
4,6-DINITRO-O-CRESOL											
2,4-DINITROPHENOL											
2-NITROPHENOL											
4-NITROPHENOL											
PENTACHLOROPHENOL											
PHENOL											
2,4,6-TRICHLOROPHENOL											
Use this space (or a separate sheet) to provide information on other acid-extractable compounds requested by the permit writer.											
BASE-NEUTRAL COMPOUNDS.											
ACENAPHTHENE											
ACENAPHTHYLENE											
ANTHRACENE											
BENZIDINE											
BENZO(A)ANTHRACENE											
BENZO(A)PYRENE											

FACILITY NAME AND PERMIT NUMBER:

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Outfall number: _____ (Complete once for each outfall discharging effluent to waters of the United States.)

POLLUTANT	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML/ MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
3,4 BENZO-FLUORANTHENE											
BENZO(GHI)PERYLENE											
BENZO(K)FLUORANTHENE											
BIS (2-CHLOROETHOXY) METHANE											
BIS (2-CHLOROETHYL)-ETHER											
BIS (2-CHLOROISO-PROPYL) ETHER											
BIS (2-ETHYLHEXYL) PHTHALATE											
4-BROMOPHENYL PHENYL ETHER											
BUTYL BENZYL PHTHALATE											
2-CHLORONAPHTHALENE											
4-CHLORPHENYL PHENYL ETHER											
CHRYSENE											
DI-N-BUTYL PHTHALATE											
DI-N-OCTYL PHTHALATE											
DIBENZO(A,H) ANTHRACENE											
1,2-DICHLOROBENZENE											
1,3-DICHLOROBENZENE											
1,4-DICHLOROBENZENE											
3,3-DICHLOROBENZIDINE											
DIETHYL PHTHALATE											
DIMETHYL PHTHALATE											
2,4-DINITROTOLUENE											
2,6-DINITROTOLUENE											
1,2-DIPHENYLHYDRAZINE											

FACILITY NAME AND PERMIT NUMBER:

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Outfall number: _____ (Complete once for each outfall discharging effluent to waters of the United States.)

POLLUTANT	MAXIMUM DAILY DISCHARGE				AVERAGE DAILY DISCHARGE					ANALYTICAL METHOD	ML/ MDL
	Conc.	Units	Mass	Units	Conc.	Units	Mass	Units	Number of Samples		
FLUORANTHENE											
FLUORENE											
HEXACHLOROBENZENE											
HEXACHLOROBUTADIENE											
HEXACHLOROCYCLO-PENTADIENE											
HEXACHLOROETHANE											
INDENO(1,2,3-CD)PYRENE											
ISOPHORONE											
NAPHTHALENE											
NITROBENZENE											
N-NITROSODI-N-PROPYLAMINE											
N-NITROSODI- METHYLAMINE											
N-NITROSODI-PHENYLAMINE											
PHENANTHRENE											
PYRENE											
1,2,4-TRICHLOROBENZENE											
Use this space (or a separate sheet) to provide information on other base-neutral compounds requested by the permit writer.											
Use this space (or a separate sheet) to provide information on other pollutants (e.g., pesticides) requested by the permit writer.											

END OF PART D.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE

FACILITY NAME AND PERMIT NUMBER:

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SUPPLEMENTAL APPLICATION INFORMATION

PART E. TOXICITY TESTING DATA

POTWs meeting one or more of the following criteria must provide the results of whole effluent toxicity tests for acute or chronic toxicity for each of the facility's discharge points: 1) POTWs with a design flow rate greater than or equal to 1.0 mgd; 2) POTWs with a pretreatment program (or those that are required to have one under 40 CFR Part 403); or 3) POTWs required by the permitting authority to submit data for these parameters.

- At a minimum, these results must include quarterly testing for a 12-month period within the past 1 year using multiple species (minimum of two species), or the results from four tests performed at least annually in the four and one-half years prior to the application, provided the results show no appreciable toxicity, and testing for acute and/or chronic toxicity, depending on the range of receiving water dilution. Do not include information on combined sewer overflows in this section. All information reported must be based on data collected through analysis conducted using 40 CFR Part 136 methods. In addition, this data must comply with QA/QC requirements of 40 CFR Part 136 and other appropriate QA/QC requirements for standard methods for analytes not addressed by 40 CFR Part 136.
- In addition, submit the results of any other whole effluent toxicity tests from the past four and one-half years. If a whole effluent toxicity test conducted during the past four and one-half years revealed toxicity, provide any information on the cause of the toxicity or any results of a toxicity reduction evaluation, if one was conducted.
- If you have already submitted any of the information requested in Part E, you need not submit it again. Rather, provide the information requested in question E.4 for previously submitted information. If EPA methods were not used, report the reasons for using alternate methods. If test summaries are available that contain all of the information requested below, they may be submitted in place of Part E.

If no biomonitoring data is required, do not complete Part E. Refer to the Application Overview for directions on which other sections of the form to complete.

E.1. Required Tests.

Indicate the number of whole effluent toxicity tests conducted in the past four and one-half years.

____chronic ____acute

E.2. Individual Test Data. Complete the following chart for each whole effluent toxicity test conducted in the last four and one-half years. Allow one column per test (where each species constitutes a test). Copy this page if more than three tests are being reported.

	Test number:_____	Test number:_____	Test number:_____
a. Test information.			
Test species & test method number			
Age at initiation of test			
Outfall number			
Dates sample collected			
Date test started			
Duration			
b. Give toxicity test methods followed.			
Manual title			
Edition number and year of publication			
Page number(s)			
c. Give the sample collection method(s) used. For multiple grab samples, indicate the number of grab samples used.			
24-Hour composite			
Grab			
d. Indicate where the sample was taken in relation to disinfection. (Check all that apply for each)			
Before disinfection			
After disinfection			
After dechlorination			

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	Test number:_____	Test number:_____	Test number:_____
e. Describe the point in the treatment process at which the sample was collected.			
Sample was collected:			
f. For each test, include whether the test was intended to assess chronic toxicity, acute toxicity, or both.			
Chronic toxicity			
Acute toxicity			
g. Provide the type of test performed.			
Static			
Static-renewal			
Flow-through			
h. Source of dilution water. If laboratory water, specify type; if receiving water, specify source.			
Laboratory water			
Receiving water			
i. Type of dilution water. It salt water, specify "natural" or type of artificial sea salts or brine used.			
Fresh water			
Salt water			
j. Give the percentage effluent used for all concentrations in the test series.			
k. Parameters measured during the test. (State whether parameter meets test method specifications)			
pH			
Salinity			
Temperature			
Ammonia			
Dissolved oxygen			
l. Test Results.			
Acute:			
Percent survival in 100% effluent	%	%	%
LC_{50}			
95% C.I.	%	%	%
Control percent survival	%	%	%
Other (describe)			

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Chronic:			
NOEC	%	%	%
IC_{25}	%	%	%
Control percent survival	%	%	%
Other (describe)			
m. Quality Control/Quality Assurance.			
Is reference toxicant data available?			
Was reference toxicant test within acceptable bounds?			
What date was reference toxicant test run (MM/DD/YYYY)?			
Other (describe)			

E.3. Toxicity Reduction Evaluation. Is the treatment works involved in a Toxicity Reduction Evaluation?

____Yes____No If yes, describe: _____

_____

_____

E.4. Summary of Submitted Biomonitoring Test Information. If you have submitted biomonitoring test information, or information regarding the cause of toxicity, within the past four and one-half years, provide the dates the information was submitted to the permitting authority and a summary of the results.

Date submitted: _____ (MM/DD/YYYY)

Summary of results: (see instructions)

_____

_____

END OF PART E.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE.

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SUPPLEMENTAL APPLICATION INFORMATION

PART F. INDUSTRIAL USER DISCHARGES AND RCRA/CERCLA WASTES

All treatment works receiving discharges from significant industrial users or which receive RCRA, CERCLA, or other remedial wastes must complete Part F.

GENERAL INFORMATION:

F.1. **Pretreatment Program.** Does the treatment works have, or is it subject to, an approved pretreatment program?

____Yes____No

F.2. **Number of Significant Industrial Users (SIUs) and Categorical Industrial Users (CIUs).** Provide the number of each of the following types of industrial users that discharge to the treatment works.

a. Number of non-categorical SIUs. _____

b. Number of CIUs. _____

SIGNIFICANT INDUSTRIAL USER INFORMATION:

Supply the following information for each SIU. If more than one SIU discharges to the treatment works, copy questions F.3 through F.8 and provide the information requested for each SIU.

F.3. **Significant Industrial User Information.** Provide the name and address of each SIU discharging to the treatment works. Submit additional pages as necessary.

Name: _____

Mailing Address: _____

_____

F.4. **Industrial Processes.** Describe all of the industrial processes that affect or contribute to the SIU's discharge.

_____

F.5. **Principal Product(s) and Raw Material(s).** Describe all of the principal processes and raw materials that affect or contribute to the SIU's discharge.

Principal product(s): _____

Raw material(s): _____

F.6. **Flow Rate.**

a. Process wastewater flow rate. Indicate the average daily volume of process wastewater discharged into the collection system in gallons per day (gpd) and whether the discharge is continuous or intermittent.

_____ gpd (_____continuous or _____intermittent)

b. Non-process wastewater flow rate. Indicate the average daily volume of non-process wastewater flow discharged into the collection system in gallons per day (gpd) and whether the discharge is continuous or intermittent.

_____ gpd (_____continuous or _____intermittent)

F.7. **Pretreatment Standards.** Indicate whether the SIU is subject to the following:

a. Local limits ____Yes ____No

b. Categorical pretreatment standards ____Yes ____No

If subject to categorical pretreatment standards, which category and subcategory?

_____

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F.8. Problems at the Treatment Works Attributed to Waste Discharged by the SIU. Has the SIU caused or contributed to any problems (e.g., upsets, interference) at the treatment works in the past three years?

____Yes____No If yes, describe each episode.

_____

_____

RCRA HAZARDOUS WASTE RECEIVED BY TRUCK, RAIL, OR DEDICATED PIPELINE:

F.9. RCRA Waste. Does the treatment works receive or has it in the past three years received RCRA hazardous waste by truck, rail, or dedicated pipe? ____Yes ___No (go to F.12.)

F.10. Waste Transport. Method by which RCRA waste is received (check all that apply):

_____Truck _____Rail _____Dedicated Pipe

F.11. Waste Description. Give EPA hazardous waste number and amount (volume or mass, specify units).

EPA Hazardous Waste Number	Amount	Units

CERCLA (SUPERFUND) WASTEWATER, RCRA REMEDIATION/CORRECTIVE ACTION WASTEWATER, AND OTHER REMEDIAL ACTIVITY WASTEWATER:

F.12. Remediation Waste. Does the treatment works currently (or has it been notified that it will) receive waste from remedial activities?

____Yes (complete F.13 through F.15.) ____No

Provide a list of sites and the requested information (F.13 - F.15.) for each current and future site.

F.13. Waste Origin. Describe the site and type of facility at which the CERCLA/RCRA/or other remedial waste originates (or is expected to originate in the next five years).

_____

_____

_____

F.14. Pollutants. List the hazardous constituents that are received (or are expected to be received). Include data on volume and concentration, if known. (Attach additional sheets if necessary).

_____

_____

F.15. Waste Treatment.

a. Is this waste treated (or will it be treated) prior to entering the treatment works?

____Yes ____No

If yes, describe the treatment (provide information about the removal efficiency):

_____

_____

b. Is the discharge (or will the discharge be) continuous or intermittent?

____Continuous ____Intermittent If intermittent, describe discharge schedule.

END OF PART F.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE

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SUPPLEMENTAL APPLICATION INFORMATION

PART G. COMBINED SEWER SYSTEMS

If the treatment works has a combined sewer system, complete Part G.

G.1. System Map. Provide a map indicating the following: (may be included with Basic Application Information)

a. All CSO discharge points.

b. Sensitive use areas potentially affected by CSOs (e.g., beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding natural resource waters).

c. Waters that support threatened and endangered species potentially affected by CSOs.

G.2. System Diagram. Provide a diagram, either in the map provided in G.1. or on a separate drawing, of the combined sewer collection system that includes the following information:

a. Locations of major sewer trunk lines, both combined and separate sanitary.

b. Locations of points where separate sanitary sewers feed into the combined sewer system.

c. Locations of in-line and off-line storage structures.

d. Locations of flow-regulating devices.

e. Locations of pump stations.

CSO OUTFALLS:

Complete questions G.3 through G.6 once for each CSO discharge point.

G.3. Description of Outfall.

a. Outfall number _____

b. Location _____
(City or town, if applicable) (Zip Code)

_____
(County) (State)

_____
(Latitude) (Longitude)

c. Distance from shore (if applicable) _____ft.

d. Depth below surface (if applicable) _____ft.

e. Which of the following were monitored during the last year for this CSO?

____Rainfall ____CSO pollutant concentrations ____CSO frequency

____CSO flow volume ____Receiving water quality

f. How many storm events were monitored during the last year? _____

G.4. CSO Events.

a. Give the number of CSO events in the last year.

_____ events (___ actual or ___ approx.)

b. Give the average duration per CSO event.

_____ hours (____ actual or ____ approx.)

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c. Give the average volume per CSO event.

_____ million gallons (_____ actual or _____ approx.)

d. Give the minimum rainfall that caused a CSO event in the last year.

_____ inches of rainfall

G.5. Description of Receiving Waters.

a. Name of receiving water: _____

b. Name of watershed/river/stream system: _____

United States Soil Conservation Service 14-digit watershed code (if known): _____

c. Name of State Management/River Basin: _____

United States Geological Survey 8-digit hydrologic cataloging unit code (if known): _____

G.6. CSO Operations.

Describe any known water quality impacts on the receiving water caused by this CSO (e.g., permanent or intermittent beach closings, permanent or intermittent shell fish bed closings, fish kills, fish advisories, other recreational loss, or violation of any applicable State water quality standard).

_____

_____

END OF PART G.
REFER TO THE APPLICATION OVERVIEW TO DETERMINE WHICH OTHER PARTS OF FORM 2A YOU MUST COMPLETE.

BILLING CODE: 6560–50–C

Instructions for Completing Form 2A—Application for an NPDES Permit

Paperwork Reduction Act Notice: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9.6 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. 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.

Send comments regarding the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., S.W., Washington, DC 20460. Include the OMB control number in any correspondence. Do not send the completed Form 2A to this address.

Background Information

Each wastewater treatment works that discharges treated effluent to waters of the United States must apply for a permit for its discharges. This permitting requirement is part of the National Pollutant Discharge Elimination System (NPDES) program, which is implemented by the U.S. Environmental Protection Agency (EPA). You can obtain a permit for your treatment works by filling out and sending in the appropriate form(s) to your permitting authority. If the State in which your treatment works is located operates its own NPDES program, then the State is your permitting authority and you should ask your State for permit application forms. On the other hand, if EPA operates the NPDES program in your State, then EPA is the permitting authority, and you must fill out and send in Form 2A.

These instructions explain how to fill out each question in Form 2A. However, not every applicant will have to fill out every section of Form 2A. You may determine which parts of Form 2A apply the your treatment works by reading the Application Overview section on page 1 of Form 2A before filling out the form.

Commonly Asked Questions

What If I Need More Space for My Answer?

If you need more room for your answer than is provided on the form, attach a separate sheet called ''Additional Information.'' At the top of the separate sheet, put the name of your plant, your plant's NPDES permit number, and the number of the outfall that you are writing about, if applicable. Also, next to your answer, put the question number (from Form 2A). Provide this information on any drawings or other papers that you attach to your application as well.

Will the Public Be Able To See the Information I Submit?

Any information you submit on Form 2A will be available to the public. If you send in more information than is requested on Form 2A that is considered company-privileged information, you may ask EPA to keep that extra information confidential. Note that you cannot ask EPA to keep effluent data confidential. If you want any of the extra information to be kept confidential, inform EPA of this when you submit your application. Otherwise, EPA may make the information public without letting you know in advance. For more information on claims of confidentiality, see EPA's business confidentiality regulations at Title 40, Part 2 of the Code of Federal Regulations (CFR).

How Do I Complete the Forms?

Answer every question on Form 2A that applies to your treatment works. If your answer to a question requires more room than there is on the form, please attach additional sheets as described above. If a particular question does not apply to your treatment works, write ''N/A'' (meaning ''not applicable'') as your answer to that question. If you need additional guidance on filling out these forms, contact your EPA Regional Office or your State office.

Which Parts of the Form Apply?

Form 2A is presented in a modular format, consisting of two packets: the Basic Application Information packet and the Supplemental Application Information packet. The Basic Application Information Packet is divided into three parts. All applicants must complete Part A (Basic Application Information For All Applicants) and Part C (Certification). Applicants with a design flow greater than or equal to 0.1 mgd must also complete Part B (Additional Application Information For Applicants With A Design Flow Greater Than Or Equal To 0.1 MGD). Some applicants must also complete the Supplemental Application Information packet. Refer to the Application Overview on page 1 of Form 2A to determine which parts of the Supplemental Application Information you must complete.

Step-by-Step Instructions

The following section provides clarification and additional information for the questions on Form 2A. Most of the terms used in Form 2A are defined in the NPDES regulations at 40 CFR 122.2.

Basic Application Information

Part A (Basic Application Information for All Applicants)

A.1. Facility Information

Provide your plant's official or legal name. Do not use a nickname or short name. Also provide your plant's mailing address, a contact person at the plant, his/her title, and that person's work telephone number. The contact person should be someone who has a thorough understanding of the operation of the treatment works. The permitting authority may call this person if there are any questions about the application. Also provide the actual facility address (if different than the mailing address). The facility location should be a street address (not a Post Office box number) or other description of the actual location of the facility. Be sure to provide the city or county and state in which the facility is located.

A.2. Applicant Information

If someone other than the facility contact person is actually submitting this application (e.g., a consultant), provide the name and mailing address of that person's organization. Also provide the name of a contact person, his/her title, and his/her work telephone number. The permitting authority may call this person if there are any questions about the application.

A.3. Existing Environmental Permits

Provide the permit number of each currently effective permit issued to the treatment works for NPDES, UIC, RCRA,

PSD, and any other environmental programs. If you have previously filed an application but have not yet received a permit, give the number of the application, if any. If you have more than one currently effective permit under a particular permit program, list each such permit number. List any other relevant environmental permits under ''Other.''

A.4. Collection System Information

Provide the names of all the cities, towns, and unincorporated areas served by your plant and enter the number of people served by your plant at the time you complete this form. Indicate whether each portion of the collection system is separate or combined storm and sanitary, if known, and note the ownership status of each portion of the system (municipal, private, etc.).

A.5. Indian Country

Indian Country means all land within the limits of any Indian reservation under the jurisdiction of the United States Government notwithstanding the issuance of any patent, and including rights-of-way running through the reservation. Indicate whether your plant is located in (i.e., within the limits of) Indian Country and whether the water body into which your plant discharges flows through Indian Country after it receives your plant discharge.

A.6. Flow

a. Provide your plant's current design flow rate. Treatment works with a design flow less than 5 mgd must provide the design influent flow rate to two decimal places. Treatment works that are greater than or equal to 5 mgd must report this to 1 decimal place. This is because fluctuations of 0.01 mgd to 0.09 mgd in smaller treatment works represent a significant percentage of daily flow.

b. Enter the annual average daily flow rate, in million gallons per day, that your plant actually treated this year and each of the past two years for days that your plant actually discharges. Each year's data must be based on a 12-month time period, with the 12th month of ''this year'' occurring no more than three months prior to this application submittal.

c. Enter the maximum daily flow rate, in million gallons per day (mgd), that your plant received this year and each of the past two years. Each year's data must be based on a 12-month time period, with the 12th month of ''this year'' occurring no more than three months prior to this application submittal.

A.7. Collection System

Indicate what type of collection system brings wastewater to your plant. If you check both of the collection systems indicated on the form, you must also provide an estimate of what percentage (in terms of miles of pipe) of your entire collection system each type represents. For example, 80 percent separate sanitary sewers would mean that 80 percent of the actual miles of pipes are separate sanitary sewers (and 20 percent are combined sewers).

A.8. Discharges and Other Disposal Methods

a. Note whether the treatment works discharges effluent to waters of the U.S. If yes, note the number of treated effluent discharge points, untreated or partially treated effluent discharge points, combined sewer overflow points, constructed emergency overflows prior to the headworks, and any other discharge points. Dischargers of effluent to waters of the U.S. with flow rates greater than or equal to 0.1 mgd must also complete questions B.1 through B.6 and, in some cases, Part D (Expanded Effluent Testing Data) of Form 2A. See the Application Overview on page 1 of Form 2A for more information.

b. A surface impoundment with no point source discharge (to waters of the U.S.) is a holding pond or basin that is large enough to contain all wastewaters discharged into it. It has no places where water overflows from it. It is used for evaporation of water and very little water seeps into the ground. Your plant must report the location of each surface impoundment, the annual average volume discharged to each impoundment, and the frequency of discharge into the surface impoundment (i.e., is the discharge continuous or intermittent). If your plant discharges to more than one surface impoundment, use an additional sheet (or sheets) to give this information for each impoundment. Attach the additional sheet(s) to the application form. The information on the location of the surface impoundment(s) may be referenced on the topographic map prepared under question B.2, if applicable.

c. Land application is the spraying or spreading of treated wastewater over an area of land. If your plant applies wastewater to land, you must list the site location, the size of the site (in acres), the annual average daily volume applied to the site, and the frequency of application (i.e., is the application continuous or intermittent). If your plant applies wastewater to more than one site, provide the information for each site on a separate sheet (or sheets). Attach the additional sheet(s) to your application form. The information on the location of the land application site may be referenced on the topographic map prepared under question B.2, if applicable.

d. If your plant discharges treated or untreated wastewater to another treatment works (including a municipal waste transport or collection system), provide the information requested in question A.8.d. If your plant sends wastewater to more than one treatment works, provide this information for each treatment works on an additional sheet (or sheets). Attach the additional sheet(s) to your application form. Describe how the wastewater is transported to the other treatment works. Also provide the name and mailing address of the company that transports your plant's wastewater to this treatment works as well as the name, phone number, and title of the contact person at the transportation company. Also provide the name and mailing address of each treatment works that receives wastewater from your plant as well as the name, phone number, and title of the contact person at the treatment works that receives your plant's wastewater and the NPDES permit number for the treatment works, if known. Indicate the average daily flow, in million gallons per day, that is sent from your plant to the other treatment works.

e. If your plant disposes of its wastewater in some way that was not described by A.8.a through A.8.d above, briefly describe how your plant discharges or disposes of its wastewater. Also give the annual daily volumes disposed of this way and indicate whether the discharge is continuous or intermittent. Other ways to discharge or dispose include underground percolation and well injection.

Wastewater Discharges. If this treatment works does not discharge treated wastewater to waters of the United States, do not complete questions A.9 through A.11. Instead, go to Part C (Certification). Note that you may also be required to complete portions of the Supplemental Application Information packet.

Answer questions A.9 through A.12 once for *each* outfall (including bypass points) through which your treatment works discharges effluent to surface waters of the United States. Do not include information about combined sewer overflow discharge points. Surface water means creeks, streams, rivers, lakes, estuaries, and oceans. If your treatment works has more than one

outfall, copy and complete questions A.9 through A.12 once for each outfall.

A.9. Description of Outfall

a–e. Give the outfall number and its location. For location, provide the city or town (if applicable), zip code, county, state, and latitude and longitude to the nearest second. If this outfall is a subsurface discharge (e.g., into an estuary, lake, or ocean), indicate how far the outfall is from shore and how far below the water's surface it is. Give these distances in feet at the lowest point of low tide. Also provide the average daily flow rate in million gallons per day.

f. Mark whether this outfall is a periodic or intermittent discharge. A ''periodic discharge'' is one that happens regularly (for example, monthly or seasonally), but is not continuous all year. An ''intermittent discharge'' is one that happens sometimes, but not regularly. Discharges from holding ponds, lagoons, etc., may be included as periodic or intermittent. Give the number of times per year a discharge occurs from this outfall. Also tell how long each discharge lasts and how much water is discharged, in million gallons per day. List each month when discharge happens. If you do not have records of exact months in which such discharges occurred, provide an estimate based on the best available information.

g. Indicate whether the outfall is equipped with a diffuser.

A.10. Description of Receiving Waters

a. Give the name of the surface water to which this outfall discharges and the waterbodies to which the discharge will ultimately flow. For example, ''Control Ditch A, then into Stream B, then into River C, and finally into River D in River Basin E.''

b. If known, provide the name of the watershed in which the receiving water (identified in question A.10.a) is located. If known, also provide the 14-digit watershed code assigned to this watershed by the U.S. Soil Conservation Service.

c. If known, provide the name of the State Management/River Basin into which this outfall discharges. If known, also provide the 8-digit hydrologic cataloging unit code assigned by the U.S. Geological Survey.

d. If known and if the water body is a river or stream, provide the acute and chronic critical low flow in cubic feet per second (cfs). If you are unsure of these numbers, the U.S. Geological Survey may be able to give them to you or you may be able to get these numbers from prior studies.

e. Give the total hardness of the receiving stream at critical low flow, in milligrams per liter of $CaCO_3$, if applicable.

A.11. Description of Treatment

a. Indicate the levels of treatment that your plant provides for the discharge from this outfall.

b. Give the design removal rates, in percent, for biochemical oxygen demand (BOD_5) or carbonaceous biochemical oxygen demand ($CBOD_5$), suspended solids (SS), phosphorus (P), nitrogen (N), and any other parameter requested by the permitting authority.

c. Describe the type of disinfection your plant uses (for example, chlorination, ozonation, ultraviolet, etc.) and any seasonal variation in disinfection technique that may occur. If your plant uses chlorination, indicate whether it also dechlorinates.

d. Note whether the facility has post aeration.

A.12. Effluent Testing Information

All applicants that discharge effluent to waters of the United States must provide effluent testing data for each outfall. Refer to the following table to determine which effluent testing information questions you must complete and to determine the number of pollutant scans on which to base your data. See the Application Overview on page 1 of Form 2A for more information.

Treatment works characteristics	Form 2A requirements	Minimum number of scans (see Appendix A)
Design flow rate less than 1 mgd, *and* Not required to have (or does not have) a pretreatment program	Question A.12	3
Design flow rate greater than or equal to 1 mgd, *or* Required to have a pretreatment program (or has one in place), *or* Otherwise required by the permitting authority to provide the data	Question A.12 *and* Part D of Supplemental Application Information Packet	3

Complete question A.12 *once for each outfall* through which effluent is discharged to waters of the United States. Indicate on each page the outfall number (as assigned in question A.9) for which the data are provided. Do not include information about combined sewer overflow discharge points in question A.12. For specific instructions on completing the pollutant tables in question A.12, refer to Appendix A of these instructions.

Part B (Additional Application Information for Applicants With a Design Flow Greater Than Equal to 0.1 MGD)

All applicants with a design flow rate greater than or equal to 0.1 mgd must answer questions B.1 through B.6.

B.1. Inflow and Infiltration

Estimate the average daily flow rate of inflow and infiltration in gallons per day and steps the facility is taking to minimize inflow and infiltration.

B.2. Topographic Map

Provide a topographic map (or other map if a topographic map is unavailable) extending at least one mile beyond property boundaries of the treatment plant, including all unit processes. In addition, the map must show the following:

a. Treatment plant area and unit processes;

b. Major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant. Include outfalls from bypass piping, if applicable;

c. Each well where fluids from the treatment plant is injected underground;

d. Wells, springs, and other surface waterbodies listed in public records or otherwise known to the applicant within one-quarter mile of the treatment works' property boundary;

e. Sewage sludge management facilities (including on-site treatment, storage, and disposal sites); and

f. Location at which waste classified as hazardous under RCRA enters the treatment plant by truck, rail, or dedicated pipe.

B.3. Process Flow Diagram or Schematic

Provide a diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system. Include a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points, and approximate daily flow rates between treatment units. Include a brief narrative description of the diagram.

B.4. Operation/Maintenance Performed by Contractor(s)

If a contractor carries out any operational or maintenance aspects associated with wastewater treatment or effluent quality at this facility, provide the name, mailing address, and telephone number of each such contractor. Also provide a description of the responsibilities of the contractor. Attach additional pages if necessary.

B.5. Scheduled Improvements and Schedules of Implementation

Provide information on any improvements to your treatment works that you are currently planning. Include only those improvements that will affect the wastewater treatment, effluent quality, or design capacity of your treatment works (such improvements may include regionalization of treatment works). Also list the schedule for when these improvements will be started and finished. If your treatment works has more than one improvement planned, use a separate sheet of paper to provide information for each one.

a. List each outfall number that is covered by the implementation schedule. The outfall numbers you use must be the same as the ones provided under question A.9.

b. Indicate whether the planned improvements or implementation schedules are required by local, State, or Federal agencies.

c. Provide a brief description of the improvements to be made for the outfalls listed in question B.5.a, including new maximum daily inflow rate, if applicable.

d. Provide the information requested for each planned improvement. Supply dates for the following stages of any compliance schedule. For improvements that are planned independently of local, State, or Federal agencies, indicate planned or actual completion dates, as applicable. If a step has already been finished, give the date when that step was completed.

- ''Begin Construction'' means the date you plan to start construction.
- ''End Construction'' means the date you expect to finish construction.
- ''Begin Discharge'' means the date that you expect a discharge will start.
- ''Attain Operational Level'' means the date that you expect the effluent level will meet your plant's implementation schedule conditions.

e. Note whether your treatment works has received appropriate permits or clearances that are required by other Federal or State requirements. If you have received such permits, describe them.

Part C (Certification)

Before completing the Certification statement, review the Application Overview section on the cover page of Form 2A to make sure that you have completed all applicable sections of Form 2A, including any parts of the Supplemental Application Information packet.

All permit applications must be signed and certified. Also indicate in the boxes provided which sections of Form 2A you are submitting with this application.

An application submitted by a *municipality, State, Federal, or other public agency* must be signed by either a principal executive officer or ranking elected official. A principal executive officer of a Federal agency includes: (1) The chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

An application submitted by a *corporation* must be signed by a responsible corporate officer. A responsible corporate officer means: (1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or (2) the manager of manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

An application submitted by a *partnership or sole proprietorship* must be signed by a general partner or the proprietor, respectively.

Supplemental Application Information Packet

EPA has developed Form 2A in a modular format, consisting of two packets: the Basic Application Information packet and the Supplemental Application Information packet. As directed by the Application Overview section on page 1 of Form 2A, certain applicants will need to complete one or more parts of the Supplemental Application Information packet in addition to some or all of the Basic Application Information packet. Refer to the Application Overview section to determine which part(s) of Form 2A you must complete.

The Supplemental Application Information packet is divided into the following parts:

- Part D Expanded Effluent Testing Data
- Part E Toxicity Testing Data
- Part F Industrial User Discharges and RCRA/CERCLA Wastes
- Part G Combined Sewer Systems

Part D (Expanded Effluent Testing Data)

A treatment works that discharges effluent to surface waters of the United States and meets one or more of the following criteria must complete Part D (Expanded Effluent Testing Data):

- Has a design flow rate greater than or equal to 1 mgd;
- Is required to have a pretreatment program (or has one in place); or
- Is otherwise required by the permitting authority to provide the information

Refer to the following table to determine which effluent testing information questions you must complete and to determine the number of pollutant scans on which to base your data.

Treatment works characteristics	Form 2A requirements	Minimum number of scans (see Appendix A)
Design flow rate less than 1 mgd but greater than 0.1 mgd, *and* Not required to have (or does not have) a pretreatment program	Question B.6	3
Design flow rate greater than or equal to 1 mgd, *or* Required to have a pretreatment program (or has one in place), *or* Otherwise required by the permitting authority to provide the data	Question B.6 *and* Part D of Supplemental Application Information Packet	3

Complete Part D *once for each outfall* through which effluent is discharged to waters of the United States. Indicate on each page the outfall number (as assigned in question A.9 of the Basic Application Information packet) for which the data are provided. Using the blank rows provided on the form, submit any data the facility may have for pollutants not specifically listed in Part D. Note that the permitting authority may require additional testing on a case-by-case basis.

For specific instructions on completing the pollutant tables in Part D, refer to Appendix A of these instructions.

Part E (Toxicity Testing Data)

Treatment works meeting one or more of the following criteria must complete Part E (Toxicity Testing Data):

- Treatment works with a design flow rate greater than or equal to one mgd; *or*
- Treatment works with an approved pretreatment program (as well as those required to have one under 40 CFR Part 403); *or*
- Treatment works otherwise required by the permitting authority to submit the results of whole effluent toxicity testing.

Applicants completing Part E must submit the results from any whole effluent toxicity test conducted during the past four and one-half years that have not been reported or submitted to the permitting authority for each outfall discharging effluent to the waters of the United States. Do not include information on combined sewer overflows in this section. If the applicant conducted a whole effluent toxicity test during the past four and one-half years that revealed toxicity, then provide any information available on the cause of the toxicity or any results of a toxicity reduction evaluation, if one was conducted.

Test results provided in Part E must be based on multiple species being tested quarterly for a minimum of one year. For multiple species, EPA requires a minimum of two species (e.g., vertebrates and invertebrates). The permitting authority may require the applicant to include other species (e.g., plants) as well. Applicants must provide these tests for either acute or chronic toxicity depending on the range of the receiving water dilution. EPA recommends that applicants conduct acute or chronic toxicity testing based on the following dilutions:

- Acute toxicity testing if the dilution of the effluent is greater than 1000:1 at the edge of the mixing zone.
- Acute or chronic toxicity testing if the dilution of the effluent is between 100:1 and 1000:1 at the edge of the mixing zone. Acute testing may be more appropriate at the higher end of this range (1000:1), and chronic testing may be more appropriate at the lower end of this range (100:1).
- Chronic toxicity testing if the dilution of the effluent is less than 100:1 at the edge of the mixing zone.

All data provided in Part E must be based on tests performed within four and one-half years prior to completing this application. The tests must have been conducted since the last NPDES permit issuance or permit modification under 40 CFR 122.62(a). In addition, applicants only need to submit data that have not previously been submitted to the permitting authority. Thus, if test data have already been submitted (within the last four and one-half years) in accordance with an issued NPDES permit, the treatment works may note the dates the tests were submitted and need not fill out the information requested in question E.2 for that test.

Additional copies of Part E may be used in submitting the required information. A permittee having no significant toxicity in the effluent over the past year and who has submitted all toxicity test results through the end of the calendar quarter preceding the time of permit application would need to supply no additional toxicity testing data as part of this application. Instead, the applicant should complete question E.4, which requests a summary of bioassay test information already submitted. (See below for more detailed instructions on completing question E.4)

Where test data are requested to be reported, the treatment works has the option of reporting the requested data on Form 2A or on reports supplied by the laboratories conducting the testing, provided the data requested are complete and presented in a logical fashion. The permitting authority reserves the right to request that the data be reported on Form 2A.

E.1. Required Tests

Provide the total number of chronic and acute whole effluent toxicity tests conducted in the past four and one-half years. A ''chronic'' toxicity test continues for a relatively long period of time, often one-tenth the life span of the organism or more. An ''acute'' toxicity test is one in which the effect is observed in 96 hours or less.

E.2. Individual Test Data

Complete E.2 for each test conducted in the last four and one-half years for which data has not been submitted. Use the columns provided on the form for each test and specify the test number at the top of each column. Use additional copies of question E.2 if more than three tests are being reported. The parameters listed on the form are based on EPA-recommended test methods. Permittees may be required by the permitting authority to submit additional test parameter data for the purposes of quality assurance.

If the treatment works is conducting whole effluent toxicity tests and reporting its results in accordance with a NPDES permit requirement, then the treatment works may note the dates the tests were submitted and need not fill out the information requested in question E.2. for those tests (unless otherwise required by the permitting authority).

a. Provide the information requested on the form for each test reported. Under ''Test species & test method number,'' provide the scientific name of the organism used in the test and the test method number. The ''Outfall number'' reported must correlate to the outfall numbers listed in question A.9 of the Basic Application Information packet.

b. Provide the source of the toxicity test methods followed. In conducting the tests, the treatment works must use methods approved in accordance with 40 CFR Part 136.

Note: Approved methods are currently under development.

c. Indicate whether 24-hour composite or grab samples were used for each test. For multiple grab samples, provide the number of grab samples used. Refer to Appendix A of the instructions for a definition of composite and grab samples.

d. Indicate whether the sample was taken before or after disinfection and/or after dechlorination.

e. Provide a description of the point in the treatment process at which the sample was collected.

f. Indicate whether the test was intended to assess chronic or acute toxicity.

g. Indicate which type of test was performed. A ''static'' test is a test performed with a single constant volume of water. In a ''static-renewal'' test, the volume of water is renewed at discrete intervals. In a ''flow-through'' test, the volume of water is renewed continuously.

h. Indicate whether laboratory water or the receiving water of the tested outfall was used as the source of dilution water. If laboratory water was used, provide the type of water used.

i. Indicate whether fresh or salt water was used as the dilution water. For salt water, specify whether the salt water was natural or artificial (specify the type of artificial water used).

j. For each concentration in the test series, provide the percentage of effluent used.

k. Provide the minimum and maximum parameters measured during the test for pH, salinity, temperature, ammonia, and dissolved oxygen.

l. Provide the results of each test performed. For acute toxicity tests, provide the percent survival of the test species in 100 percent effluent. Also provide the LC_{50} (Lethal Concentration to 50 percent) of the test. ''LC_{50}'' is the effluent (or toxicant) concentration estimated to be lethal to 50 percent of the test organisms during a specific period. Provide the 95% confidence interval, control percent survival, and any other test results requested by the permitting authority in the space provided. For chronic toxicity tests, provide data at the most sensitive endpoint. While this is generally expressed as a ''NOEC'' (No Observed Effect Concentration), it may be expressed as an ''Inhibition Concentration'' (e.g., ''IC_{25}''—Inhibition Concentration to 25 percent). The NOEC is the highest measured concentration of an effluent (or a toxicant) at which no significant adverse effects are observed on the test organisms at a specific time of observation. The IC_{25} is the effluent (or toxicant) concentration estimated to cause a 25 percent reduction in reproduction, fecundity, growth, or other non-quantal biological measurements. Provide the control percent survival. Indicate any other test results in the space provided.

m. Note whether reference toxicant data is available and indicate whether the reference toxicant test was within acceptable bounds. Provide the date on which the reference toxicant test was run. Also provide any other quality control/quality assurance information that may be requested by the permitting authority.

E.3. Toxicity Reduction Evaluation

A Toxicity Reduction Evaluation (TRE) is a site-specific study conducted in a stepwise process designed to identify the causative agents of effluent toxicity, evaluate the effectiveness of toxicity control options, and then confirm the reduction in effluent toxicity. If the treatment works is conducting a TRE as part of a NPDES permit requirement or enforcement order, then you only need to provide the date of the last progress report concerning the TRE in the area reserved for details of the TRE.

E.4. Summary of Submitted Biomonitoring Test Information

As stated above, applicants that have already submitted the results of biomonitoring test information over the past four and one-half years do not need to resubmit this data with Form 2A. Instead, indicate in question E.4 the date you submitted each report and provide a summary of the test results for each report. Include in this summary the following information: the outfall number and collection dates of the samples tested, dates of testing, toxicity testing method(s) used, and a summary of the results from the test (e.g, 100% survival in 40% effluent).

Part F (Industrial User Discharges and RCRA/CERCLA Wastes)

All treatment works receiving discharges from significant industrial users (SIUs) or facilities that receive RCRA, CERCLA, or other remedial wastes must complete Part F.

A ''categorical industrial user'' is an industrial user that is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, which are technology-based standards developed by EPA setting industry-specific effluent limits. (A list of Industrial Categories subject to Categorical Pretreatment Standards is included in Appendix B.)

A ''significant industrial user'' is defined in 40 CFR 403.3(t) as an industrial user that:

- Is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
- Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the treatment works (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream that makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment works; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the treatment works operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

An ''industrial user'' means any industrial or commercial entity that discharges wastewater that is not domestic wastewater. Domestic wastewater includes wastewater from connections to houses, hotels, non-industrial office buildings, institutions, or sanitary waste from industrial facilities. The number of ''industrial users'' is the total number of industrial and commercial users that discharge to the treatment works.

For the purposes of completing the application form, please provide information on non-categorical SIUs and categorical industrial users separately.

F.1. Pretreatment Program

Indicate whether the treatment works has an approved pretreatment program. An ''approved pretreatment program'' is a program administered by a treatment works that meets the criteria established in 40 CFR 403.8 and 403.9 and that has been approved by a Regional Administer or State Director.

Note that if this treatment works has or is required to have a pretreatment program, you must also complete Parts D and E of the Supplemental Application Information packet.

F.2. Number of Significant Industrial Users (SIUs) and Categorical Industrial Users (CIUs)

Provide the number of SIUs and the number of CIUs that discharge to the treatment works.

Significant Industrial User (SIU) Information. All treatment works that receive discharges from SIUs must complete questions F.3 through F.8. If your treatment works receives wastewater from more than one SIU,

complete questions F.3 through F.8 *once for each SIU.*

F.3. Significant Industrial User Information

Provide the name and mailing address of each SIU. Submit additional pages as necessary.

F.4. Industrial Processes

Describe the actual process(es) (rather than simply listing them) at the SIU that affect or contribute to the SIU's discharge. For example, in describing a metal finishing operation, include such information as how the product is cleaned prior to finishing, what type of plating baths are in operation (e.g., nickel, chromium), how paint is applied, and how the product is polished. Attach additional sheets if necessary.

F.5. Principal Product(s) and Raw Material(s)

List principal products that the SIU generates and the raw materials used to manufacture the products.

F.6. Flow Rate

''Process wastewater'' means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Indicate the average daily volume, in gallons per day, of process wastewater and non-process wastewater that the SIU discharges into the collection system. Specify whether the discharges are continuous or intermittent.

F.7. Pretreatment Standards

Indicate whether the SIU is subject to local limits and categorical pretreatment standards. ''Local limits'' are enforceable local requirements developed by treatment works to address Federal standards as well as state and local regulations. ''Categorical pretreatment standards'' are national technology-based standards developed by EPA, setting industry-specific effluent limits. These standards are implemented by 40 CFR 403.6. If the treatment works is subject to categorical pretreatment standards, indicate the category and subcategory.

F.8. Problems at the Treatment Works Attributed to Waste Discharged by the SIU

Provide information concerning any problems the treatment works has experienced that are attributable to discharges from the SIUs. Problems may include upsets or interference at the plant, corrosion in the collection system, or other similar events in the past three years.

RCRA Hazardous Waste Received by Truck, Rail or Dedicated Pipeline. As defined in Section 1004(5) of the Resource Conservation and Recovery Act (RCRA), ''Hazardous waste'' means ''a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or
- Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.''

Those solid wastes that are considered hazardous are listed under 40 CFR Part 261. Treatment works that accept hazardous wastes by truck, rail, or dedicated pipeline (a pipeline that is used to carry hazardous waste directly to a treatment works without prior mixing with domestic sewage) within the property boundary of the treatment works are considered to be hazardous waste treatment, storage, and disposal facilities (TSDFs) and, as such, are subject to regulations under RCRA. Under RCRA, mixtures of domestic sewage and other wastes that commingle in the treatment works collection system prior to reaching the property boundary, including those wastes that otherwise would be considered hazardous, are excluded from regulation under the domestic sewage exclusion. Hazardous wastes that are delivered directly to the treatment works by truck, rail, or dedicated pipeline do not fall within the exclusion. Hazardous wastes received by these routes may only be accepted by treatment works if the treatment works complies with applicable RCRA requirements for TSDFs.

Applicants completing questions F.9 through F.11 should have indicated all points at which RCRA hazardous waste enters the treatment works by truck, rail, or dedicated pipe in the map provided in question B.2 of the Basic Application Information packet, if applicable.

F.9. RCRA Waste

Indicate whether the treatment works currently receives or has received RCRA waste by truck, rail, or dedicated pipe in the past three years.

F.10. Waste Transport

Indicate the method by which RCRA waste is received at the treatment works.

F.11. Waste Description

Provide the EPA hazardous waste numbers, which are located in 40 CFR Part 261, Subparts C & D, and the amount (in volume or mass) received.

CERCLA (Superfund) Wastewater and RCRA Remediation/ Corrective Action Wastewater. Substances that are regulated under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) are described and listed in 40 CFR Part 302. Questions F.12 through F.15 apply to the type, origin, and treatment of CERCLA wastes currently (or expected to be) discharged to the treatment works.

F.12. CERCLA Waste

Indicate whether this treatment works currently receives waste from a CERCLA (Superfund) site or plans to accept waste from a CERCLA site in the next five years. If it does, provide the information requested in F.13 through F.15 *once for each site.*

F.13. Waste Origin

Provide information about the CERCLA site that is discharging waste to the treatment works. Information must include a description of the type of facility and an EPA identification number if one exists.

F.14. Pollutants

Provide a list of the pollutants that are or will be discharged by the CERCLA site and the volume and concentration of such pollutants.

F.15. Waste Treatment

Provide information concerning the treatment used (if any) by the CERCLA site to treat the waste prior to discharging it to the treatment works. The information should include a description of the treatment technology, information on the frequency of the discharge (continuous or intermittent) and any data concerning removal efficiency.

Part G. (Combined Sewer Systems)

A combined sewer system collects a mixture of both sanitary wastewater and storm water runoff.

G.1. System Map

Indicate on a system map all CSO discharge points. For each such point, indicate any sensitive use areas and any waters supporting threatened or endangered species that are potentially affected by CSOs. Sensitive use areas include beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems, and outstanding natural resource waters.

Applicants may provide the information requested in question G.1 on the map submitted in response to question B.2 in the Basic Application Information packet, if applicable.

All maps should be either on paper or other material appropriate for reproduction. If possible, all sheets should be approximately letter size with margins suitable for filing and binding. As few sheets should be used as necessary to show clearly what is involved. All discharge points should be identified by outfall number. Each sheet should be labeled with the applicant's name, NPDES permit number, location (city, county, or town), date of drawing, and designation of the number of sheets of each diagram as ''page ____ of ____.''

G.2. System Diagram

Diagram the location of combined and separate sanitary major sewer trunk lines and indicate any connections where separate sanitary sewers feed into the combined sewer system. Clearly indicate the location of all in-line and off-line storage structures, flow regulating devices, and pump stations.

The drawing should be either on paper or other material appropriate for reproduction. If possible, all sheets should be approximately letter size with margins suitable for filing and binding. As few sheets should be used as necessary to show clearly what is involved. All discharge points should be identified by outfall number. Each sheet should be labeled with the applicant's name, NPDES permit number, location (city, county, or town), date of drawing, and designation of the number of sheets of each diagram as ''page ____ of ____''.

CSO Outfalls. Fill out a copy of questions G.3 through G.6 *once for each CSO discharge point.* Attach additional pages as necessary.

G.3. Description of Outfall

a–f. Provide the outfall number and location (including city or town if applicable, state, county, and latitude and longitude to the nearest second). For subsurface discharges (e.g., discharges to lakes, estuaries, and oceans), provide the distance (in feet) of the discharge point from the shore and the depth (in feet) of the discharge point below the surface of the discharge point. Provide these distances at the lowest point of low tide. Indicate whether rainfall, CSO flow volume, CSO pollutant concentrations, receiving water quality, or CSO frequency were monitored during the past 12 months. In addition, provide the number of storm events monitored during the past 12 months.

G.4. CSO Events

a. Provide the number of CSO events that have occurred in the past 12 months. Indicate whether this is an actual or approximate number.

b. Provide the average duration (in hours) per CSO event. Indicate whether this is an actual or approximate value.

c. Provide the average volume (in million gallons) of discharge per CSO incidents over the past 12 months. Indicate whether this is an actual or approximate number.

d. Provide the minimum amount of rainfall that caused a CSO incident in the past 12 months.

G.5. Description of Receiving Waters

a. List the name(s) of immediate receiving waters starting at the CSO discharge point and moving downstream. For example, ''Control Ditch A, thence to Stream B, thence to River C, and thence to River D in the River Basin E.''

b. Provide the name of the watershed/river/stream system in which the receiving water (identified in question A.10.a) is located. If known, also provide the 14-digit watershed code assigned to this watershed by the U.S. Soil Conservation Service.

c. Provide the name of the State Management/River Basin into which this outfall discharges. If known, also provide the 8-digit hydrologic cataloging unit code assigned by the U.S. Geological Survey.

G.6. CSO Operations

Provide a description of any known water quality impacts on the receiving water caused by CSOs from this discharge point. Water quality impacts include, but are not limited to, permanent or intermittent beach closings, permanent or intermittent shell fish bed closings, fish kills, fish advisories, other recreational loss, or violation of any applicable State water quality standard.

Appendix A—Guidance for Completing the Effluent Testing Information; All Treatment Works

All applicants must provide data for each of the pollutants in question A.12 of the Basic Application Information packet. Some applicants must also provide data for the pollutants in question B.6 of the Basic Application Information packet and Part D of the Supplemental Application Information packet. All applicants submitting effluent testing data must base this data on a minimum of three pollutant scans. All samples analyzed must be representative of the discharge from the sampled outfall.

If you have existing data that fulfills the requirements described below, you may use that data in lieu of conducting additional sampling. If you measure more than the required number of daily values for a pollutant and those values are representative of your wastestream, you must include them in the data you report. In addition, use the blank rows provided on the form to provide any existing sampling data that your facility may have for pollutants not listed in the appropriate sections. All data provided in the application must be based on samples taken within three years prior to the time of this permit application.

Sampling data must be representative of the treatment works' discharge and take into consideration seasonal variations. At least two of the samples used to complete the effluent testing information questions must have been taken no fewer than 4 months and no more than 8 months apart. For example, one sample may be taken in April and another in October to meet this requirement. Applicants unable to meet this time requirement due to periodic, discontinuous, or seasonal discharges can obtain alternative guidance on this requirement from their permitting authority.

The collection of samples for the reported analyses should be supervised by a person experienced in performing wastewater sampling. Specific requirements contained in the applicable analytical methods should be followed for sample containers, sample preservation, holding times, and collection of duplicate samples. Samples should be taken at a time representative of normal operation. To the extent feasible, all processes that contribute to wastewater should be in operation and the treatment system should be operating properly with no system upsets. Samples should be collected from the center of the flow channel (where turbulence is at a maximum), at a location specified in the current NPDES permit, or at any location adequate for the collection of a representative sample.

A minimum of four grab samples must be collected for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, *E. coli,* and enterococci (applicants need only provide data on *either* fecal coliform or *E. coli* and enterococci). For all other pollutants, 24-hour composite samples must be collected. However, a minimum of one grab sample, instead of a 24-hour composite, may be taken for effluent from holding ponds or other impoundments that have a retention period greater than 24 hours.

Grab and composite samples are defined as follows:

- Grab sample: an individual sample of at least 100 milliliters collected randomly for a period not exceeding 15 minutes.
- Composite sample: a sample derived from two or more discrete samples collected at equal time intervals or collected proportional to the flow rate over the compositing period. The composite collection method may vary depending on pollutant characteristics or discharge flow characteristics.

The permitting authority may allow or establish appropriate site-specific sampling procedures or requirements, including sampling locations, the season in which sampling takes place, the duration between

sampling events, and protocols for collecting samples under 40 CFR Part 136. Contact EPA or the State permitting authority for detailed guidance on sampling techniques and for answers to specific questions. The following instructions explain how to complete each of the columns in the pollutant tables in the effluent testing information sections of Form 2A.

Maximum Daily Discharge. For composite samples, the daily discharge is the average pollutant concentration and total mass found in a composite sample taken over a 24-hour period. For grab samples, the daily discharge is the arithmetic or flow-weighted total mass or average pollutant concentration found in a series of at least four grab samples taken during the operating hours of the treatment works during a 24-hour period.

To determine the *maximum* daily discharge values, compare the daily discharge values from each of the sample events. Report the highest total mass and highest concentration level from these samples.

- ''Concentration'' is the amount of pollutant that is present in a sample with respect to the size of the sample. The daily discharge concentration is the average concentration of the pollutant throughout the 24-hour period.
- ''Mass'' is calculated as the total mass of the pollutant discharged over the 24-hour period.
- All data must be reported as both concentration and mass (where appropriate). Use the following abbreviations in the columns headed ''Units.''

ppm—parts per million
gpd—gallons per day
mgd—million gallons per day
su—standard units
mg/l—milligrams per liter
ppb—parts per billion
ug/l—micrograms per liter
lbs—pounds
ton—tons (English tons)
mg—milligrams
g—grams
kg—kilograms
T—tonnes (metric tons)

Average Daily Discharge. The average daily discharge is determined by calculating the arithmetic mean daily pollutant concentration and the arithmetic mean daily total mass of the pollutant from each of the sample events within the three years prior to this permit application. Report the concentration, mass, and units used under the Average Daily Discharge column, along with the number of samples on which the average is based. Use the unit abbreviations shown above in ''Maximum Daily Discharge.''

If data requested in Form 2A have been reported on the treatment works' Discharge Monitoring Reports (DMRs), you may compile such data and report it under the maximum daily discharge and the average daily discharge columns of the form.

Analytical Method. All information reported must be based on data collected through analyses conducted using 40 CFR Part 136 methods. Applicants should use methods that enable pollutants to be detected at levels adequate to meet water quality-based standards. Where no approved method can detect a pollutant at the water quality-based standards level, the most sensitive approved method should be used. If the applicant believes that an alternative method should be used (e.g., due to matrix interference), the applicant should obtain prior approval from the permitting authority. If an alternative method is specified in the existing permit, the applicant should use that method unless otherwise directed by the permitting authority. Where no approved analytical method exists, an applicant may use a suitable method but must provide a description of the method. For the purposes of the application, ''suitable method'' means a method that is sufficiently sensitive to measure as close to the water quality-based standard as possible.

Indicate the method used for each pollutant in the ''Analytical Method'' column of the pollutant tables. If a method has not been approved for a pollutant for which you are providing data, you may use a suitable method to measure the concentration of the pollutant in the discharge, and provide a detailed description of the method used or a reference to the published method. The description must include the sample holding time, preservation techniques, and the quality control measures used. In such cases, indicate the method used and attach to the application a narrative description of the method used.

Reporting Levels. The applicant should provide the method detection limit (MDL), minimum level (ML), or other designated method endpoint reflecting the precision of the analytical method used.

All analytical results must be reported using the actual numeric values determined by the analysis. In other words, even where analytical results are below the detection or quantitation level of the method used, the actual data should be reported, rather than reporting ''non-detect'' (''ND'') or ''zero'' (''0''). Because the endpoint of the method has also been reported along with the test results, the permitting authority will be able to determine if the data are in the ''non-detect'' or ''below quantitation'' range.

For any dilutions made and any problems encountered in the analysis, the applicant should attach an explanation and any supporting documentation with the application. For GC/MS, report all results found to be present by spectral confirmation (i.e., quantitation limits or detection limits should not be used as a reporting threshold for GC/MS).

Total Recoverable Metals. Total recoverable metals are measured from unfiltered samples using EPA methods specified in 40 CFR Part 136.3. A digestion procedure is used to solubilize suspended materials and destroy possible organic metal complexes. The method measures dissolved metals plus those metals recovered from suspended particles by the method digestion.

Appendix B—Industrial Categories Subject to National Categorical Pretreatment Standards

Industrial Categories with Pretreatment Standards in Effect

Aluminum Forming
Asbestos Manufacturing
Battery Manufacturing
Builder's Paper and Board Mills
Carbon Black Manufacturing
Coil Coating
Copper Forming
Electrical and Electronic Components
Electroplating
Feedlots
Ferroalloy Manufacturing
Fertilizer Manufacturing
Glass Manufacturing
Grain Mills Manufacturing
Ink Formulating
Inorganic Chemicals
Iron and Steel Manufacturing
Leather Tanning and Finishing
Metal Finishing
Metal Molding and Casting
Nonferrous Metals Forming and Metal Powders
Nonferrous Metals Manufacturing
Organic Chemicals, Plastics and Synthetic Fibers
Paint Formulating
Paving and Roofing
Pesticide Manufacturing
Petroleum Refining
Pharmaceutical Manufacturing
Porcelain Enameling
Pulp, Paper and Paperboard
Rubber Manufacturing
Soap and Detergents Manufacturing
Steam Electric Power Generating
Sugar Processing
Timber Products Manufacturing

Industrial Categories with Effluent Guidelines Currently Under Development

Pulp, Paper, and Paperboard
Pesticide Formulating, Packaging, and Repackaging
Centralized Waste Treatment
Pharmaceutical Manufacturing
Metal Products and Machinery, Phase I
Industrial Laundries
Transportation Equipment Cleaning
Landfills and Incinerators
Metal Products and Machinery, Phase II

BILLING CODE 6560–50–P

FACILITY NAME AND PERMIT NUMBER:

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FORM 2S NPDES

NPDES FORM 2S APPLICATION OVERVIEW

PRELIMINARY INFORMATION

This page is designed to indicate whether the applicant is to complete Part 1 or Part 2. Review each category, and then complete Part 1 or Part 2, as indicated. For purposes of this form, the term "you" refers to the applicant. "This facility" and "your facility" refer to the facility for which application information is submitted.

FACILITIES INCLUDED IN ANY OF THE FOLLOWING CATEGORIES MUST COMPLETE PART 2 (PERMIT APPLICATION INFORMATION).

1. Facilities with a currently effective NPDES permit.

2. Facilities which have been directed by the permitting authority to submit a full permit application at this time.

ALL OTHER FACILITIES MUST COMPLETE PART 1 (LIMITED BACKGROUND INFORMATION).

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PART 1: LIMITED BACKGROUND INFORMATION

This part should be completed only by "sludge-only" facilities - that is, facilities that do not currently have, and are not applying for, an NPDES permit for a direct discharge to a surface body of water.

For purposes of this form, the term "you" refers to the applicant. "This facility" and "your facility" refer to the facility for which application information is submitted.

1. **Facility Information.**

   a. Facility name _____

   b. Mailing Address _____

   _____

   c. Contact person _____

   Title _____

   Telephone number _____

   d. Facility Address (not P.O. B ox) _____

   _____

   e. Indicate the type of facility

   _____ Publicly owned treatment works (POTW) _____ Privately owned treatment works

   _____ Federally owned treatment works _____ Blending or treatment operation

   _____ Surface disposal site _____ Sewage sludge incinerator

   _____ Other (describe) _____

2. **Applicant Information.**

   a. Applicant name _____

   b. Mailing Address _____

   _____

   c. Contact person _____

   Title _____

   Telephone number _____

   d. Is the applicant the owner or operator (or both) of this facility?

   _____ owner _____ operator

   e. Should correspondence regarding this permit be directed to the facility or the applicant?

   _____ facility _____ applicant

FACILITY NAME AND PERMIT NUMBER:

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3. **Sewage Sludge Amount.** Provide the total dry metric tons per latest 365 day period of sewage sludge handled under the following practices:

a. Amount generated at the facility _____ dry metric tons
b. Amount received from off site _____ dry metric tons
c. Amount treated or blended on site _____ dry metric tons
d. Amount sold or given away in a bag or other container for application to the land _____ dry metric tons
e. Amount of bulk sewage sludge shipped off site for treatment or blending _____ dry metric tons
f. Amount applied to the land in bulk form _____ dry metric tons
g. Amount placed on a surface disposal site _____ dry metric tons
h. Amount fired in a sewage sludge incinerator _____ dry metric tons
i. Amount sent to a municipal solid waste landfill _____ dry metric tons
j. Amount used or disposed by another practice _____ dry metric tons
Describe _____

4. **Pollutant Concentrations.** Using the table below or a separate attachment, provide existing sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 40 CFR part 503 for this facility's expected use or disposal practices. If available, base data on three or more samples taken at least one month apart and no more than four and one-half years old.

POLLUTANT	CONCENTRATION (mg/kg dry weight)	ANALYTICAL METHOD	DETECTION LEVEL FOR ANALYSIS
ARSENIC			
CADMIUM			
CHROMIUM			
COPPER			
LEAD			
MERCURY			
MOLYBDENUM			
NICKEL			
SELENIUM			
ZINC			

5. **Treatment Provided At Your Facility.**

a. Which class of pathogen reduction does the sewage sludge meet at your facility?

_____ Class A _____ Class B _____ Neither or unknown

b. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce pathogens in sewage sludge:

_____
_____
_____
_____
_____

FACILITY NAME AND PERMIT NUMBER:

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c. Which vector attraction reduction option is met for the sewage sludge at your facility?

_____ Option 1 (Minimum 38 percent reduction in volatile solids)
_____ Option 2 (Anaerobic process, with bench-scale demonstration)
_____ Option 3 (Aerobic process, with bench-scale demonstration)
_____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
_____ Option 5 (Aerobic processes plus raised temperature)
_____ Option 6 (Raise pH to 12 and retain at 11.5)
_____ Option 7 (75 percent solids with no unstabilized solids)
_____ Option 8 (90 percent solids with unstabilized solids)
_____ Option 9 (Injection below land surface)
_____ Option 10 (Incorporation into soil within 6 hours)
_____ Option 11 (Covering active sewage sludge unit daily)
_____ None or unknown

d. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce vector attraction properties of sewage sludge:

_____

_____

6. **Sewage Sludge Sent to Other Facilities.** Does the sewage sludge from your facility meet the Table 1 ceiling concentrations, the Table 3 pollutant concentrations, Class A pathogen requirements, and one of the vector attraction options 1-8?
_____ Yes _____ No

If yes, go to question 8 (Certification).

If no, is sewage sludge from your facility provided to another facility for treatment, distribution, use, or disposal?
_____ Yes _____ No

If no, go to question 7 (Use and Disposal Sites).

If yes, provide the following information for the facility receiving the sewage sludge:

a. Facility name _____

b. Mailing address _____

_____

c. Contact person _____

Title _____

Telephone number _____

d. Which activities does the receiving facility provide? (Check all that apply)

_____ Treatment or blending _____ Sale or give-away in bag or other container
_____ Land application _____ Surface disposal
_____ Incineration _____ Other (describe):

_____

_____

FACILITY NAME AND PERMIT NUMBER:

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7. **Use and Disposal Sites.** Provide the following information for each site on which sewage sludge from this facility is used or disposed:

   a. Site name or number _____

   b. Contact person _____

      Title _____

      Telephone _____

   c. Site location (Complete 1 or 2)

      1. Street or Route # _____

         County _____

         City or Town _____ State _____ Zip _____

      2. Latitude _____ Longitude _____

   d. Site type (Check all that apply)

      ____ Agricultural ____ Lawn or home garden ____ Forest
      ____ Surface disposal ____ Public Contact ____ Incineration
      ____ Reclamation ____ Municipal Solid Waste Landfill ____ Other (describe): _____

8. **Certification.** Sign the certification statement below. (Refer to instructions to determine who is an officer for purposes of this certification.)

   I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

   Name and official title _____

   Signature _____

   Telephone number _____

   Date signed _____

SEND COMPLETED FORMS TO:

FACILITY NAME AND PERMIT NUMBER:

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PART 2: PERMIT APPLICATION INFORMATION

Complete this part if you have an effective NPDES permit or have been directed by the permitting authority to submit a full permit application at this time. In other words, complete this part if your facility has, or is applying for, an NPDES permit.

For purposes of this form, the term "you" refers to the applicant. "This facility" and "your facility" refer to the facility for which application information is submitted.

APPLICATION OVERVIEW — SEWAGE SLUDGE USE OR DISPOSAL INFORMATION

Part 2 is divided into five sections (A-E). Section A pertains to all applicants. The applicability of Sections B, C, D, and E depends on your facility's sewage sludge use or disposal practices. The information provided on this page indicates which sections of Part 2 to fill out.

1. **SECTION A: GENERAL INFORMATION.**

   Section A must be completed by all applicants

2. **SECTION B: GENERATION OF SEWAGE SLUDGE OR PREPARATION OF A MATERIAL DERIVED FROM SEWAGE SLUDGE.**

   Section B must be completed by applicants who either:

   1) Generate sewage sludge, or

   2) Derive a material from sewage sludge.

3. **SECTION C: LAND APPLICATION OF BULK SEWAGE SLUDGE.**

   Section C must be completed by applicants who either:

   1) Apply sewage to the land, or

   2) Generate sewage sludge which is applied to the land by others.

   NOTE: Applicants who meet either or both of the two above criteria are exempted from this requirement if <u>all</u> sewage sludge from their facility falls into one of the following three categories:

   1) The sewage sludge from this facility meets the ceiling and pollutant concentrations, Class A pathogen reduction requirements, and one of vector attraction reduction options 1-8, as identified in the instructions, or
   2) The sewage sludge from this facility is placed in a bag or other container for sale or give-away for application to the land, or
   3) The sewage sludge from this facility is sent to another facility for treatment or blending.

4. **SECTION D: SURFACE DISPOSAL**

   Section D must be completed by applicants who own or operate a surface disposal site.

5. **SECTION E: INCINERATION**

   Section E must be completed by applicants who own or operate a sewage sludge incinerator.

FACILITY NAME AND PERMIT NUMBER:

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A. GENERAL INFORMATION

All applicants must complete this section.

A.1. Facility Information.

a. Facility name _____

b. Mailing Address _____

_____

c. Contact person _____

Title _____

Telephone number _____

d. Facility Address (not P.O. Box) _____

_____

e. Is this facility a Class I sludge management facility? _____ Yes _____ No

f. Facility design flow rate: _____ mgd

g. Total population served: _____

h. Indicate the type of facility:

_____ Publicly owned treatment works (POTW) _____ Privately owned treatment works
_____ Federally owned treatment works _____ Blending or treatment operation
_____ Surface disposal site _____ Sewage sludge incinerator
_____ Other (describe) _____

A.2. Applicant Information. If the applicant is different from the above, provide the following:

a. Applicant name _____

b. Mailing Address _____

_____

c. Contact person _____

Title _____

Telephone number _____

d. Is the applicant the owner or operator (or both) of this facility?

_____ owner _____ operator

e. Should correspondence regarding this permit should be directed to the facility or the applicant.

_____ facility _____ applicant

FACILITY NAME AND PERMIT NUMBER:

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A.3. Permit Information.

a. Facility's NPDES permit number (if applicable): _____

b. List, on this form or an attachment, all other Federal, State, and local permits or construction approvals received or applied for that regulate this facility's sewage sludge management practices:

Permit Number	Type of Permit
_____	_____
_____	_____
_____	_____

A.4. Indian Country. Does any generation, treatment, storage, application to land, or disposal of sewage sludge from this facility occur in Indian Country?

_____Yes _____No If yes, describe: _____

_____

A.5. Topographic Map. Provide a topographic map or maps (or other appropriate map(s) if a topographic map is unavailable) that show the following information. Map(s) should include the area one mile beyond all property boundaries of the facility:

a. Location of all sewage sludge management facilities, including locations where sewage sludge is stored, treated, or disposed.

b. Location of all wells, springs, and other surface water bodies, listed in public records or otherwise known to the applicant within 1/4 mile of the facility property boundaries.

A.6. Line Drawing. Provide a line drawing and/or a narrative description that identifies all sewage sludge processes that will be employed during the term of the permit, including all processes used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each unit, and all methods used for pathogen reduction and vector attraction reduction.

A.7. Contractor Information.

Are any operational or maintenance aspects of this facility related to sewage sludge generation, treatment, use or disposal the responsibility of a contractor? _____Yes _____No

If yes, provide the following for each contractor (attach additional pages if necessary):

a. Name _____

b. Mailing Address _____

_____

c. Telephone Number _____

d. Responsibilities of contractor _____

_____

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A.8. Pollution Concentrations: Using the table below or a separate attachment, provide sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 40 CFR Part 503 for this facility's expected use or disposal practices. All data must be based on three or more samples taken at least one month apart and must be no more than four and one-half years old.

POLLUTANT	CONCENTRATION (mg/kg dry weight)	ANALYTICAL METHOD	DETECTION LEVEL FOR ANALYSIS
ARSENIC			
CADMIUM			
CHROMIUM			
COPPER			
LEAD			
MERCURY			
MOLYBDENUM			
NICKEL			
SELENIUM			
ZINC			

A.9. Certification. Read and submit the following certification statement with this application. Refer to the instructions to determine who is an officer for purposes of this certification. Indicate which parts of Form 2S you have completed and are submitting:

_____ Part 1 Limited Background Information packet

Part 2 Permit Application Information packet:

_____ Section A (General Information)

_____ Section B (Generation of Sewage Sludge or Preparation of a Material Derived from Sewage Sludge)

_____ Section C (Land Application of Bulk Sewage Sludge)

_____ Section D (Surface Disposal)

_____ Section E (Incineration)

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with the system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name and official title _____

Signature _____ Date signed _____

Telephone number _____

Upon request of the permitting authority, you must submit any other information necessary to assess sewage sludge use or disposal practices at your facility or identify appropriate permitting requirements.

SEND COMPLETED FORMS TO:

FACILITY NAME AND PERMIT NUMBER:

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B. GENERATION OF SEWAGE SLUDGE OR PREPARATION OF A MATERIAL DERIVED FROM SEWAGE SLUDGE

Complete this section if your facility generates sewage sludge or derives a material from sewage sludge.

B.1. Amount Generated On Site.

Total dry metric tons per 365-day period generated at your facility: _____ dry metric tons

B.2. Amount Received from Off Site. If your facility receives sewage sludge from another facility for treatment, use, or disposal, provide the following information for each facility from which sewage sludge is received. If you receive sewage sludge from more than one facility, attach additional pages as necessary.

a. Facility name _____

b. Mailing Address _____

_____

c. Contact person _____

Title _____

Telephone number _____

d. Facility Address (not P.O. Box) _____

_____

e. Total dry metric tons per 365-day period received from this facility: _____ dry metric tons

f. Describe, on this form or on another sheet of paper, any treatment processes known to occur at the off-site facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics.

_____

_____

B.3. Treatment Provided At Your Facility.

a. Which class of pathogen reduction is achieved for the sewage sludge at your facility?

_____ Class A _____ Class B _____ Neither or unknown

b. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce pathogens in sewage sludge:

_____

_____

c. Which vector attraction reduction option is met for the sewage sludge at your facility?

_____ Option 1 (Minimum 38 percent reduction in volatile solids)
_____ Option 2 (Anaerobic process, with bench-scale demonstration)
_____ Option 3 (Aerobic process, with bench-scale demonstration)
_____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
_____ Option 5 (Aerobic processes plus raised temperature)
_____ Option 6 (Raise pH to 12 and retain at 11.5)
_____ Option 7 (75 percent solids with no unstabilized solids)
_____ Option 8 (90 percent solids with unstabilized solids)
_____ None or unknown

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B.3. Treatment Provided At Your Facility. (con't)

d. Describe, on this form or another sheet of paper, any treatment processes used at your facility to reduce vector attraction properties of sewage sludge:

_____

_____

e. Describe, on this form or another sheet of paper, any other sewage sludge treatment or blending activities not identified in (a) - (d) above:

_____

_____

Complete Section B.4 if sewage sludge from your facility meets the ceiling concentrations in Table 1 of 40 CFR 503.13, the pollutant concentrations in Table 3 of §503.13, the Class A pathogen reduction requirements in §503.32(a), and one of the vector attraction reduction requirements in § 503.33(b)(1)-(8) and is land applied. Skip this section if sewage sludge from your facility does not meet all of these criteria.

B.4. Preparation of Sewage Sludge Meeting Ceiling and Pollutant Concentrations, Class A Pathogen Requirements, and One of Vector Attraction Reduction Options 1-8.

a. Total dry metric tons per 365-day period of sewage sludge subject to this section that is applied to the land: _____ dry metric tons

b. Is sewage sludge subject to this section placed in bags or other containers for sale or give-away for application to the land?

_____Yes _____No

Complete Section B.5. if you place sewage sludge in a bag or other container for sale or give-away for land application. Skip this section if the sewage sludge is covered in Section B.4.

B.5. Sale or Give-Away in a Bag or Other Container for Application to the Land.

a. Total dry metric tons per 365-day period of sewage sludge placed in a bag or other container at your facility for sale or give-away for application to the land: _____ dry metric tons

b. Attach, with this application, a copy of all labels or notices that accompany the sewage sludge being sold or given away in a bag or other container for application to the land.

Complete Section B.6 if sewage sludge from your facility is provided to another facility that provides treatment or blending. This section does not apply to sewage sludge sent directly to a land application or surface disposal site. Skip this section if the sewage sludge is covered in Sections B.4 or B.5. If you provide sewage sludge to more than one facility, attach additional pages as necessary.

B.6. Shipment Off Site for Treatment or Blending.

a. Receiving facility name _____

b. Mailing address _____

_____

c. Contact person _____

Title _____

Telephone number _____

d. Total dry metric tons per 365-day period of sewage sludge provided to receiving facility: _____

FACILITY NAME AND PERMIT NUMBER:

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B.6. Shipment Off Site for Treatment or Blending. (con't)

e. Does the receiving facility provide additional treatment to reduce pathogens in sewage sludge from your facility? ____ Yes ____ No

Which class of pathogen reduction is achieved for the sewage sludge at the receiving facility?

_____ Class A _____ Class B _____ Neither or unknown

Describe, on this form or another sheet of paper, any treatment processes used at the receiving facility to reduce pathogens in sewage sludge:

_____

_____

f. Does the receiving facility provide additional treatment to reduce vector attraction characteristics of the sewage sludge?
_____Yes _____No

Which vector attraction reduction option is met for the sewage sludge at the receiving facility?

_____ Option 1 (Minimum 38 percent reduction in volatile solids)
_____ Option 2 (Anaerobic process, with bench-scale demonstration)
_____ Option 3 (Aerobic process, with bench-scale demonstration)
_____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
_____ Option 5 (Aerobic processes plus raised temperature)
_____ Option 6 (Raise pH to 12 and retain at 11.5)
_____ Option 7 (75 percent solids with no unstabilized solids)
_____ Option 8 (90 percent solids with unstabilized solids)
_____ None

Describe, on this form or another sheet of paper, any treatment processes used at the receiving facility to reduce vector attraction properties of sewage sludge.

_____

_____

g. Does the receiving facility provide any additional treatment or blending activities not identified in (c) or (d) above? ____ Yes ____ No

If yes, describe, on this form or another sheet of paper, the treatment or blending activities not identified in (c) or (d) above:

_____

_____

h. If you answered yes to (e), (f), or (g), attach a copy of any information you provide the receiving facility to comply with the "notice and necessary information" requirement of 40 CFR 503.12(g).

i. Does the receiving facility place sewage sludge from your facility in a bag or other container for sale or give-away for application to the land? _____ Yes _____ No

If yes, provide a copy of all labels or notices that accompany the product being sold or given away.

Complete Section B.7 if sewage sludge from your facility is applied to the land, unless the sewage sludge is covered in:

- **Section B.4 (it meets Table 1 ceiling concentrations, Table 3 pollutant concentrations, Class A pathogen requirements, and one of vector attraction reduction options 1-8); or**
- **Section B.5 (you place it in a bag or other container for sale or give-away for application to the land); or**
- **Section B.6 (you send it to another facility for treatment or blending).**

B.7. Land Application of Bulk Sewage Sludge.

a. Total dry metric tons per 365-day period of sewage sludge applied to all land application sites: _____ dry metric tons

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B.7. Land Application of Bulk Sewage Sludge. (con't)

b. Do you identify all land application sites in Section C of this application? _____ Yes _____ No

If no, submit a copy of the land application plan with application (see instructions).

c. Are any land application sites located in States other than the State where you generate sewage sludge or derive a material from sewage sludge? _____ Yes _____ No

If yes, describe, on this form or another sheet of paper, how you notify the permitting authority for the States where the land application sites are located. Provide a copy of the notification.

_____

_____

Complete Section B.8 if sewage sludge from your facility is placed on a surface disposal site.

B.8. Surface Disposal.

a. Total dry metric tons of sewage sludge from your facility placed on all surface disposal sites per 365-day period: _____ dry metric tons

b. Do you own or operate all surface disposal sites to which you send sewage sludge for disposal?

_____ Yes _____ No

If no, answer B.8.c through B.8.f for each surface disposal site that you do not own or operate. If you send sewage sludge to more than one such surface disposal site, attach additional pages as necessary.

c. Site name or number _____

d. Contact person _____

Title _____

Telephone number _____

Contact is _____Site owner _____Site operator

e. Mailing address _____

_____

f. Total dry metric tons of sewage sludge from your facility placed on this surface disposal site per 365-day period: _____ dry metric tons

Complete Section B.9 if sewage sludge from your facility is fired in a sewage sludge Incinerator.

B.9. Incineration.

a. Total dry metric tons of sewage sludge from your facility fired in all sewage sludge incinerators per 365-day period: _____ dry metric tons

b. Do you own or operate all sewage sludge incinerators in which sewage sludge from your facility is fired? _____ Yes _____ No

If no, complete B.9.c through B.9.f for each sewage sludge incinerator that you do not own or operate. If you send sewage sludge to more than one such sewage sludge incinerator, attach additional pages as necessary.

c. Incinerator name or number: _____

d. Contact person: _____

Title: _____

Telephone number: _____

Contact is: _____ Incinerator owner _____ Incinerator operator

FACILITY NAME AND PERMIT NUMBER:

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B.9. Incineration. (con't)

e. Mailing address: _____

_____

f. Total dry metric tons of sewage sludge from your facility fired in this sewage sludge incinerator per 365-day period: _____ dry metric tons

Complete Section B.10 if sewage sludge from this facility is placed on a municipal solid waste landfill.

B.10. Disposal in a Municipal Solid Waste Landfill. Provide the following information for each municipal solid waste landfill on which sewage sludge from your facility is placed. If sewage sludge is placed on more than one municipal solid waste landfill, attach additional pages as necessary.

a. Name of landfill _____

b. Contact person _____

Title _____

Telephone number _____

Contact is _____ Landfill owner _____ Landfill operator

c. Mailing address _____

_____

d. Location of municipal solid waste landfill:

Street or Route # _____

County _____

City or Town _____ State _____ Zip _____

e. Total dry metric tons of sewage sludge from your facility placed in this municipal solid waste landfill per 365-day period:

_____ dry metric tons

f. List, on this form or an attachment, the numbers of all other Federal, State, and local permits that regulate the operation of this municipal solid waste landfill.

Permit Number	Type of Permit
_____	_____
_____	_____
_____	_____

g. Submit, with this application, information to determine whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a municipal solid waste landfill (e.g., results of paint filter liquids test and TCLP test)

h. Does the municipal solid waste landfill comply with applicable criteria set forth in 40 CFR Part 258?

_____ Yes _____ No

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C. LAND APPLICATION OF BULK SEWAGE SLUDGE

Complete Section C for sewage sludge that is applied to the land, unless any of the following conditions apply:

- **The sewage sludge meets the Table 1 ceiling concentrations, the Table 3 pollutant concentrations, Class A pathogen requirements, and one of vector attraction reduction options 1-8 (fill out B.4 Instead); or**
- **The sewage sludge is sold or given away in a bag or other container for application to the land (fill out B.5 Instead); or**
- **You provide the sewage sludge to another facility for treatment or blending (fill out B.6 instead).**

Complete Section C for every site on which the sewage sludge that you reported in Section B.7 is applied.

C.1. Identification of Land Application Site.

a. Site name or number _____

b. Site location (Complete 1 and 2).

1. Street or Route # _____

County _____

City or Town _____ State _____ Zip _____

2. Latitude _____ Longitude _____

Method of latitude/longitude determination

_____ USGS map _____ Field survey _____ Other

c. Topographic map. Provide a topographic map (or other appropriate map if a topographic map is unavailable) that shows the site location.

C.2. Owner Information.

a. Are you the owner of this land application site? _____ Yes _____ No

b. If no, provide the following information about the owner:

Name _____

Telephone number _____

Mailing Address _____

_____

C.3. Applier Information.

a. Are you the person who applies, or who is responsible for application of, sewage sludge to this land application site?
_____ Yes _____ No

b. If no, provide the following information for the person who applies:

Name _____

Telephone number _____

Mailing Address _____

_____

C.4. Site Type: Identify the type of land application site from among the following.

_____ Agricultural land _____ Forest _____ Public contact site

_____ Reclamation site _____ Other. Describe: _____

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C.5. Crop or Other Vegetation Grown on Site.

a. What type of crop or other vegetation is grown on this site?

_____

b. What is the nitrogen requirement for this crop or vegetation?

_____

C.6. Vector Attraction Reduction.

Are any vector attraction reduction requirements met when sewage sludge is applied to the land application site?
_____ Yes _____ No

If yes, answer C.6.a and C.6.b;

a. Indicate which vector attraction reduction option is met:

_____ Option 9 (Injection below land surface)

_____ Option 10 (Incorporation into soil within 6 hours)

b. Describe, on this form or another sheet of paper, any treatment processes used at the land application site to reduce vector attraction properties of sewage sludge:

_____

_____

Complete Question C.7 only if the sewage sludge applied to this site since July 20, 1993, is subject to the cumulative pollutant loading rates (CPLRs) in 40 CFR 503.13(b)(2).

C.7. Cumulative Loadings and Remaining Allotments.

a. Have you contacted the permitting authority in the State where the bulk sewage sludge subject to CPLRs will be applied, to ascertain whether bulk sewage sludge subject to CPLRs has been applied to this site on or since July 20, 1993? _____ Yes _____ No

If no, sewage sludge subject to CPLRs may not be applied to this site.

If yes, provide the following information:

Permitting authority _____

Contact Person _____

Telephone number _____

b. Based upon this inquiry, has bulk sewage sludge subject to CPLRs been applied to this site since July 20, 1993?
_____ Yes _____ No

If no, skip C.7.c.

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c. Provide the following information for every facility other than yours that is sending, or has sent, bulk sewage sludge to CPLRs to this site since July 20, 1993. If more than one such facility sends sewage sludge to this site, attach additional pages as necessary.

Facility name _____

Mailing Address _____

_____

Contact person _____

Title _____

Telephone number _____

FACILITY NAME AND PERMIT NUMBER:

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D. SURFACE DISPOSAL

Complete this section if you own or operate a surface disposal site.

Complete Sections D.1 - D.5 for each active sewage sludge unit.

D.1. Information on Active Sewage Sludge Units.

a. Unit name or number: _____

b. Unit location (Complete 1 and 2).

1. Street or Route # _____

County _____

City or Town _____ State _____ Zip _____

2. Latitude_____ Longitude_____

Method of latitude/longitude determination: _____ USGS map _____ Field survey _____ Other

c. Topographic map. Provide a topographic map (or other appropriate map if a topographic map is unavailable) that shows the site location.

d. Total dry metric tons of sewage sludge placed on the active sewage sludge unit per 365-day period: _____ dry metric tons

e. Total dry metric tons of sewage sludge placed on the active sewage sludge unit over the life of the unit: _____ dry metric tons

f. Does the active sewage sludge unit have a liner with a maximum hydraulic conductivity of 1×10^{-7} cm/sec? _____ Yes _____ No

If yes, describe the liner (or attach a description):

_____

_____

g. Does the active sewage sludge unit have a leachate collection system? _____ Yes _____ No

If yes, describe the leachate collection system (or attach a description). Also describe the method used for leachate disposal and provide the numbers of any Federal, State, or local permit(s) for leachate disposal:

_____

_____

h. If you answered no to either D.1.f. or D.1.g., answer the following question:

Is the boundary of the active sewage sludge unit less than 150 meters from the property line of the surface disposal site?
_____ Yes _____ No

If yes, provide the actual distance in meters: _____

Provide the following information:

Remaining capacity of active sewage sludge unit, in dry metric tons: _____ dry metric tons

Anticipated closure date for active sewage sludge unit, if known: _____ (MM/DD/YYYY)

Provide, with this application, a copy of any closure plan that has been developed for this active sewage sludge unit.

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D.2. Sewage Sludge from Other Facilities. Is sewage sent to this active sewage sludge unit from any facilities other than your facility?

_____ Yes _____ No

If yes, provide the following information for each such facility. If sewage sludge is sent to this active sewage sludge unit from more than one such facility, attach additional pages as necessary.

a. Facility name _____

b. Mailing Address _____

_____

c. Contact person _____

Title _____

Telephone number _____

d. Which class of pathogen reduction is achieved before sewage sludge leaves the other facility?

_____ Class A _____ Class B _____ None or unknown

e. Describe, on this form or another sheet of paper, any treatment processes used at the other facility to reduce pathogens in sewage sludge:

_____

_____

f. Which vector attraction reduction option is met for the sewage sludge at the receiving facility?

_____ Option 1 (Minimum 38 percent reduction in volatile solids)
_____ Option 2 (Anaerobic process, with bench-scale demonstration)
_____ Option 3 (Aerobic process, with bench-scale demonstration)
_____ Option 4 (Specific oxygen uptake rate for aerobically digested sludge)
_____ Option 5 (Aerobic processes plus raised temperature)
_____ Option 6 (Raise pH to 12 and retain at 11.5)
_____ Option 7 (75 percent solids with no unstabilized solids)
_____ Option 8 (90 percent solids with unstabilized solids)
_____ None or unknown

g. Describe, on this form or another sheet of paper, any treatment processes used at the receiving facility to reduce vector attraction properties of sewage sludge

_____

_____

h. Describe, on this form or another sheet of paper, any other sewage sludge treatment activities performed by the other facility that are not identified in (d) - (g) above:

_____

_____

D.3. Vector Attraction Reduction

a. Which vector attraction option, if any, is met when sewage sludge is placed on this active sewage sludge unit?

_____ Option 9 (Injection below and surface)
_____ Option 10 (Incorporation into soil within 6 hours)
_____ Option 11 (Covering active sewage sludge unit daily)

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D.3. Vector Attraction Reduction. (con't)

b. Describe, on this form or another sheet of paper, any treatment processes used at the active sewage sludge unit to reduce vector attraction properties of sewage sludge:

_____

_____

D.4. Ground-Water Monitoring.

a. Is ground-water monitoring currently conducted at this active sewage sludge unit, or are ground-water monitoring data otherwise available for this active sewage sludge unit?
_____ Yes _____ No

If yes, provide a copy of available ground-water monitoring data. Also, provide a written description of the well locations, the approximate depth to ground-water, and the ground-water monitoring procedures used to obtain these data.

_____

_____

b. Has a ground-water monitoring program been prepared for this active sewage sludge unit? _____ Yes _____ No

If yes, submit a copy of the ground-water monitoring program with this permit application.

c. Have you obtained a certification from a qualified ground-water scientist that the aquifer below the active sewage sludge unit has not been contaminated? _____ Yes _____ No

If yes, submit a copy of the certification with this permit application.

D.5. Site-Specific Limits. Are you seeking site-specific pollutant limits for the sewage sludge placed on the active sewage sludge unit?
_____ Yes _____ No

If yes, submit information to support the request for site-specific pollutant limits with this application.

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E. INCINERATION

Complete this section if you fire sewage sludge in a sewage sludge incinerator.

Complete this section once for each incinerator in which you fire sewage sludge. If you fire sewage sludge in more than one sewage sludge incinerator, attach additional copies of this section s necessary.

E.1. Incinerator Information.

a. Incinerator name or number: _____

b. Incinerator location (Complete 1 and 2).

1. Street or Route # _____

County _____

City or Town _____ State _____ Zip _____

2. Latitude_____ Longitude_____

Method of latitude/longitude determination: _____ USGS map _____ Field survey _____ Other

E.2. Amount Fired. Dry metric tons per 365-day period of sewage sludge fired in the sewage sludge incinerator: _____ dry metric tons

E.3. Beryllium NESHAP.

a. Is the sewage sludge fired in this incinerator "beryllium-containing waste," as defined in 40 CFR Part 61.31? _____ Yes _____ No

Submit, with this application, information, test data, and description of measures taken that demonstrate whether the sewage sludge incinerated is beryllium-containing waste, and will continue to remain as such.

b. If the answer to (a) is yes, **submit with this application** a complete report of the latest beryllium emission rate testing and documentation of ongoing incinerator operating parameters indicating that the NESHAP emission rate limit for beryllium has been and will continue to be met.

E.4. Mercury NESHAP.

a. How is compliance with the mercury NESHAP being demonstrated?

_____ Stack testing (if checked, complete E.4.b)

_____ Sewage sludge sampling (if checked, complete E.4.c)

b. If stack testing is conducted, submit the following information with this application:

A complete report of stack testing and documentation of ongoing incinerator operating parameters indicating that the incinerator has met, and will continue to meet, the mercury NESHAP emission rate limit.

Copies of mercury emission rate tests for the two most recent years in which testing was conducted.

c. If sewage sludge sampling is used to demonstrate compliance, submit a complete report of sewage sludge sampling and documentation of ongoing incinerator operating parameters indicating that the incinerator has met, and will continue to meet the mercury NESHAP emission rate limit.

E.5. Dispersion Factor.

a. Dispersion factor, in micrograms/cubic meter per gram/second: _____

b. Name and type of dispersion model: _____

c. Submit a copy of the modeling results and supporting documentation with this application.

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E.6. Control Efficiency.

a. Control efficiency, in hundredths, for the following pollutants:

Arsenic: _____ Chromium: _____ Nickel: _____

Cadmium: _____ Lead: _____

b. Submit a copy of the results or performance testing and supporting documentation (including testing dates) with this application.

E.7. Risk Specific Concentration for Chromium.

a. Risk specific concentration (RSC) used for chromium, in micrograms per cubic meter: _____

b. Which basis was used to determine the RSC?

____Table 2 in 40 CFR 503.43

____Equation 6 in 40 CFR 503,43 (site-specific determination)

c. If Table 2 was used, identify the type of incinerator used as the basis:

____Fluidized bed with wet scrubber

____Fluidized bed with wet scrubber and wet electrostatic precipitator

____Other types with wet scrubber

____Other types with wet scrubber and wet electrostatic precipitator

d. If Equation 6 was used, provide the following:

Decimal fraction of hexavalent chromium concentration to total chromium concentration in stack exit gas: _____

Submit results of incinerator stack tests for hexavalent and total chromium concentrations, including date(s) of test, with this application.

E.8. Incinerator Parameters

a. Do you monitor Total Hydrocarbons (THC) in the sewage sludge incinerator's exit gas? _____ Yes _____ No

Do you monitor Carbon Monoxide (CO) in the sewage sludge incinerator's exit gas? _____ Yes _____ No

b. Incinerator type: _____

c. Incinerator stack height, in meters: _____

Indicate whether value submitted is: _____ Actual stack height _____ Creditable stack height

E.9. Performance Test Operating Parameters

a. Maximum Performance Test Combustion Temperature: _____

b. Performance test sewage sludge feed rate, in dry metric tons/day: _____

indicate whether value submitted is:

_____ Average use _____ Maximum design

Submit, with this application, supporting documents describing how the feed rate was calculated.

c. Submit, with this application, information documenting the performance test operating parameters for the air pollution control device(s) used for this sewage sludge incinerator.

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E.10. **Monitoring Equipment.** List the equipment in place to monitor the following parameters:

a. Total hydrocarbons or carbon monoxide: _____

b. Percent oxygen: _____

c. Moisture content: _____

d. Combustion temperature: _____

e. Other: _____

E.11. **Air Pollution Control Equipment.** Submit, with this application, a list of all air pollution control equipment used with this sewage sludge incinerator.

_____

_____

_____

_____

BILLING CODE 6560–50–C

Instructions for Completing Form 2S—Application for a Sewage Sludge Permit

Paperwork Reduction Act Notice: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 9.4 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. 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.

Send comments regarding the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OP Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M St., S.W., Washington, DC 20460. Include the OMB control number in any correspondence. Do not send the completed Form 2S to this address.

Background Information

You can obtain a permit for your facility by filling out and sending in the appropriate form(s) to your permitting authority. If the State in which your facility is located operates its own authorized sewage sludge program, then the State is your permitting authority and you should ask your State for permit application forms. On the other hand, if EPA operates the sewage sludge program in your State, then EPA is the permitting authority, and you must fill out and send in Form 2S.

Be sure to read the Preliminary Information section of Form 2S before you start filling out the form. It will help you determine whether you must fill out Part 1 or Part 2.

Commonly Asked Questions

What If I Need More Space for My Answer?

If you need more room for your answer than is provided on the form, attach a separate sheet called ''Additional Information.'' At the top of the separate sheet, put the name of your treatment works and your facility's NPDES permit number (if you have one). Also, next to your answer, put the question number from Form 2S. Provide this information on any drawings or other papers that you attach to your application as well.

Will the Public Be Able To See the Information I Submit?

Any information you submit on Form 2S will be available to the public. If you send in more information than is requested on Form 2S that is considered company-privileged information, you may ask EPA to keep that extra information confidential. If you want any of the extra information to be kept confidential, tell EPA this when you submit your application. Otherwise, EPA may make the information public without letting you know in advance. For more information on claims of confidentiality, see EPA's business confidentiality regulations at Title 40, Part 2 of the Code of Federal Regulations (CFR).

How Do I Complete the Forms?

Answer every question on Form 2S that applies to your facility. If your answer to a question requires more room than there is on the form, attach additional sheets (see above). If a particular question does not apply, write ''N/A'' (meaning ''not applicable'') as your answer to that question. If you need advice on how to fill out these forms, write or contact your EPA Regional Office or your State office.

Who Must Submit Application Information?

This application form collects information from all treatment works treating domestic sewage (TWTDS) whose sewage sludge use or disposal method is regulated by 40 CFR Part 503. This includes the following:

- Any person who generates sewage sludge that is ultimately regulated by Part 503 (i.e., it is applied to the land, placed on a surface disposal site, fired in a sewage sludge incinerator, or placed in a municipal solid waste landfill unit);
- Any person who derives material from, or otherwise changes the quality of, sewage sludge (e.g., an intermediate treatment facility such as a composting facility, or a facility that processes sewage sludge for sale or give away in a bag or other container for application to the land), if that sewage sludge is used or disposed in a manner subject to Part 503;
- Any person who owns or operates a sewage sludge surface disposal site; and
- Any person who fires sewage sludge in a sewage sludge incinerator.

In addition, the permitting authority can require other persons to submit permit application information.

Which Parts of the Form Apply?

Form 2S is presented in a modular format, enabling information collection to be tailored to your facility's sewage sludge generation, treatment, use, or disposal practices. The form tells you which parts must be filled out for each type of applicant.

Part 1 requests a limited amount of information from ''sludge-only'' facilities (facilities without a currently effective NPDES permit) that are not directed by the permitting authority to submit a full permit application at this time. This limited screening information must be submitted as expeditiously as possible, but no later than 180 days after publication of an applicable use or disposal standard or 180 days before commencing operation for a new ''sludge-only facility''. It is intended to allow the permitting authority to identify these facilities, track sewage sludge use and disposal, and establish priorities for permitting.

Part 2 of Form 2S is for facilities that are submitting a full permit application at this time. Review items 1–5 of the Part 2 Application Overview on plage 6 of Form 2S to determine which sections of Part 2 cover your facility's sewage sludge use or disposal practices. The table below summarizes which sections cover which activities.

Guidelines for Completing Part 2

Activity(ies) performed	A	B	C	D	E
Generates sewage sludge or derives material from sewage sludge—	✔	✔ (B.1–B.3)			

Guidelines for Completing Part 2—Continued

Activity(ies) performed	A	B	C	D	E
that meets ceiling concentrations in Table 1 of 40 CFR 503.13, pollutant concentrations in Table 3 of § 503.13, Class A pathogen requirements in § 503.32, and one of the eight vector attraction reduction options in § 503.33(b)(1)–(8).	✔	✔ (B.4)			
that is sold or given away in bag or other container for application to the land	✔	✔ (B.5)			
that is shipped off site for treatment or blending	✔	✔ (B.6)			
that is applied to the land in bulk form	✔	✔ (B.7)	✔		
that is placed on a surface disposal site	✔	✔ (B.8)			
that is fired in a sewage sludge incinerator	✔	✔ (B.9)			
that is sent to a municipal solid waste landfill	✔	✔ (B.10)			
Applies bulk sewage sludge to land	✔		✔		
Owns or operates a surface disposal site	✔			✔	
Fires sewage sludge in a sewage sludge incinerator	✔				✔

Additional Information and Instructions

The following section provides clarification and additional information for many of the questions on Form 2S. All applicants must also be in compliance with the Standards for the Use or Disposal of Sewage Sludge, published at 40 CFR Part 503 (58 FR 9248). Most of the terms used in Form 2S are defined in §§ 503.9, 503.11, 503.21, and 503.41. Additional terms are defined in the NPDES regulations at 40 CFR 122.2.

General Information for All Parts of Form 2S

- At the top of each page of Form 2S, put your facilities NPDES permit number (if you have one) in the appropriate space.
- Always report official names rather than colloquial names.
- When a facility address or site location is requested (as opposed to a mailing address) provide the physical location of the facility. If the facility or site lacks a street address or route number, provide the most accurate alternative geographic information (e.g., township and range, section or quarter section number, or nearby highway intersection).
- Options for meeting Class A pathogen reduction are listed at 40 CFR Part 503.32(a). Options for meeting Class B pathogen reduction are listed at § 503.32(b).
- Vector Attraction Reduction Options 1–8 are typically met at the point where sewage sludge is generated or where a material is derived from sewage sludge, and Options 9–11 are typically met at the point of use or disposal.
- If a map is used to obtain latitude and longitude, provide map datum (e.g., NAD 27, NAD 83) and map scale (e.g., 1:24000, 1:100000).
- When asked for population enter the best estimate of the actual population served at the time of application for all areas served by the treatment works (municipalities and unincorporated service areas). If another treatment works discharges into this treatment works, provide on a separate attachment the name of the other treatment works and the actual population it serves (it is not necessary to list the communities served by the other treatment works).
- When asked to submit a topographic map, make sure each map includes the map scale, a meridian arrow showing north, and latitude and longitude at the nearest whole second. Use a 7½-minute series map published by the U.S. Geological Survey (USGS), which may be obtained through the USGS Earth Science Information Center (ESIC) listed below. If a 7½-minute series map has not been published for your facility site, then you may use a 15-minute series map from the U.S. Geological Survey. If neither a 7½-minute nor 15-minute series map has been published for your facility site, use a plat map or other appropriate map, including all the requested information. If you have previously prepared a map that includes the required items, that map may be submitted to fulfill this requirement if it is still accurate.
- Maps may be purchased at local dealers (listed in your local yellow pages) or purchased over the counter at the following USGS Earth Science Information Centers (ESIC):

Anchorage—ESIC, 4230 University Dr., Rm. 101, Anchorage, AK 99508–4664, (907) 786–7011.
Lakewood—ESIC, Box 25046, Bldg. 25, Rm. 1813, Denver Federal Center, MS 504, Denver, CO 80225–0046, (303) 236–5829.
Lakewood Open Files—ESIC, Box 25286, Bldg. 810, Denver Federal Center, Denver, CO.
Menlo Park—ESIC, Bldg. 3, Rm. 3128, MS 532, 345 Middlefield Rd., Menlo Park, CA 94025–3591, (415) 329–4309.
Reston—ESIC, 507 National Center, Reston, VA 22092, (703) 648–6045.
Rolla—ESIC, 1400 Independence Rd., MS 231, Rolla, MO 65401–2602, (314) 341–0851.
Salt Lake City—ESIC, 2222 West 2300 South, Salt Lake City, UT 84119, (801) 975–3742.
Sioux Falls—ESIC, EROS Data Center, Sioux Falls, SD 57198–0001, (605) 594–6151.
Spokane—ESIC, U.S. Post Office Bldg., Rm. 135, 904 W. Riverside Ave., Spokane, WA 99201–1088, (509) 3532524.
Stennis Space Center—ESIC, Bldg. 3101, Stennis Space Center, MS 39529, (601) 688–3541.
Washington, D.C.—ESIC, U.S. Dept. of Interior, 1849 C St., NW, Rm. 2650, Washington, D.C. 20240, (202) 208–4047.

When submitting a map as few sheets as necessary should be used to clearly show what is involved. Each sheet should be labeled with your facility's name, permit number, location (city, county, or town), date of drawing, and designation of the number of sheets of each diagram as ''page ____ of ____.''

- The certification requirements are as follows:

An application submitted by a *municipality, State, Federal, or other public agency* must be signed by either a principal executive officer or ranking elected official. A principal executive officer of a Federal agency includes: (1) The chief executive officer of the agency, or (2) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of EPA).

An application submitted by a *corporation* must be signed by a responsible corporate officer. A responsible corporate officer means: (1) A president, secretary, treasurer, or vice president in charge of a principal business function, or any other person who performs similar policy- or decision-making functions; or (2) the

manager of manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

An application submitted by a *partnership or sole proprietorship* must be signed by a general partner or the proprietor, respectively.

Information on Specific Sections of Form 2S

Section B (Generation of Sewage Sludge or Preparation of a Material Derived From Sewage Sludge)

Complete this section if you are a ''person who prepares sewage sludge.'' This section pertains to any POTW or other TWTDS that generates sewage sludge, as well as to any facility that derives a material from sewage sludge (e.g., it composts sewage sludge or blends sewage sludge with another material). Simply distributing sewage sludge or placing it in a bag or other container for sale or give-away for application to the land is not considered ''deriving a material'' from sewage sludge (because it does not change sludge quality), and thus a facility that only distributes or bags a sewage sludge is not required to provide the information in this section.

B.4. Preparation of Sewage Sludge Meeting Ceiling and Pollutant Concentrations, Class A Pathogen Requirements, and One of Vector Attraction Options 1–8

Sewage sludge meeting *all* of these criteria is often referred to as ''exceptional quality (EQ)''. It is exempt from the general requirements of § 503.12 and the management practices of § 503.14, and thus fewer permitting and permit application requirements typically pertain to facilities generating such sludge. For this reason, if you are eligible to complete Section B.4, *you may skip Sections B.5–B.7* unless specifically required to complete any of them by the permitting authority.

B.5. Sale or Give-Away in a Bag or Other Container for Application to the Land

When sewage sludge is placed in a bag or other container for sale or give-away for application to the land, either a label must be affixed to the bag or other container, or an information sheet must be provided to the person receiving the sewage sludge. The information that must be on the label or information sheet is listed at 40 CFR Part 503.14(e).

B.7. Land Application of Bulk Sewage Sludge

If you complete this section (which requests summary information for all bulk sewage sludge that is applied to the land), also complete Section C for each land application site. Current regulations require you to submit a *land application plan* at the time of permit application if you intend to apply sewage sludge that does not meet the EQ requirements to land application sites that have not been identified at the time of permit application. The minimum requirements for this plan are listed in § 122.21(q)(9)(v). The permit writer will work with you to develop additional details of the land application plan on a case-by-case basis. Such details could include site selection criteria (site slope, run-on and run-off control, etc.) and site management guidelines (sludge application rates, access controls, etc.). A land application plan provides for public notice when the land application plan is developed as part of the permit, and it discusses how the public will be notified about new sites. If any land application sites are located in States other than the State where you generate the bulk sewage sludge or derive the material from sewage sludge, the notice to the permitting authority in the States where the land application sites are located must contain the requirements listed at § 503.12(i).

B.8. Surface Disposal

If you own or operate a surface disposal site, also complete Section D.

B.9. Incineration

If you own or operate a sewage sludge incinerator, also complete Section E.

B.10. Disposal on a Municipal Solid Waste Landfill

Sewage sludge placed on a MSWLF must meet requirements in Part 258 concerning the quality of materials placed on a MSWLF unit. Part 258 specifies minimum Federal criteria for MSWLFs, including landfills that accept sewage sludge along with household waste. In contrast to Part 503, Part 258 controls sewage sludge placed on MSWLFs through a facility design and management practice approach. In Part 503, EPA has adopted the Part 258 criteria as the appropriate standard for sewage sludge disposed of with municipal waste. EPA concluded that if sewage sludge is disposed of in a MSWLF complying with Part 258 criteria, public health and the environment are protected. Note that the POTW is legally responsible for knowing whether a MSWLF is in compliance with Part 258 and may be liable if it sends its sludge to an MSWLF that is not in compliance with Part 258.

Section C (Land Application of Bulk Sewage Sludge)

Complete this section if you completed Section B.7 (Land Application of Bulk Sewage Sludge). Unless the permitting authority specifically requires you to complete this section, you may skip this section for sewage sludge that is covered in any of the following sections of this application:

- *Section B.4.* Such sewage sludges are exempt from the general requirements and management practices of Part 503 when they are land applied (unless the permitting authority requires otherwise), and thus the site information in Section C is not required for permitting.
- *Section B.5* Section C does not cover the sale or give-away of sewage sludge in a bag or other container for application to the land because EPA typically will not control the users of such sewage sludge (typically, home gardeners or other small-scale users), or the land on which the sludge is applied, through the generator's permit.
- *Section B.6* Section C does not apply to a generator that sends sewage sludge to another facility for treatment or for blending, because the Part 503 requirements addressed by Section C will largely be the responsibility of the receiving facility.

Provide the information in this section for each land application site that has been identified at the time of permit application. In cases where the sewage sludge is applied to numerous sites with similar characteristics, you may combine the information for several sites under a single response (the name and address of each site must still be provided, however).

C.5. Crop or Other Vegetation Grown on Site

a. If the crop or vegetation to be grown on the site is not yet known, or is likely to change in an unforeseeable manner during the life of the permit, you may so indicate instead of providing the type of crop or other vegetation.

b. Information on the nitrogen content of vegetation grown on the site may be obtained from local agricultural extension services, a local Farm Advisor's Office, or published sources.

C.6. Vector Attraction Reduction

Options 1–8 were covered in Section B.3, which requests information on sewage sludge treatment at the facility generating the sewage sludge. If you met any of options 1–8 (e.g., processes to

reduce volatile solids, reduce specific oxygen uptake rate, raise pH, raise percent solids), you should have identified that option in Question B.3.c and described how the option is met in Question B.3.d.

By contrast, vector attraction reduction options 9 and 10 are typically met at the land application site. Options 9 and 10 are not available for sewage sludge applied to a lawn or home garden.

C.7. Cumulative Loadings and Remaining Allotments

Complete Section C.7. *only* for sewage sludge that is applied to the site subject to cumulative pollutant loading rates (CPLRs). Sewage sludge applied to the site on or before July 20, 1993, is not subject to this section. You may *not* apply bulk sewage sludge subject to CPLRs to the site until you have contacted the permitting authority in that State.

Section D (Surface Disposal)

Complete this section if you own or operate a surface disposal site and are required to submit a full permit application (i.e., Part 2 of Form 2S) at this time. A sewage sludge surface disposal site is, by definition, a treatment works treating domestic sewage, and the owner/operator of the site is required to apply for a permit. You are required to submit Part 2 of this form (including Section D) if:

- The surface disposal site is already covered by an NPDES permit (e.g., a POTW's NPDES permit); or
- You have been required by the permitting authority to submit a full permit application at this time.

If none of these criteria apply, you should submit Part 1 instead of Part 2 (and may therefore skip Section D). Part 1 requests a limited amount of information from so-called ''sludge-only'' facilities (facilities without a currently-effective NPDES permit) that are not requesting site-specific permit limits and are not otherwise required to submit a full permit application at this time. Part 1 is intended to allow the permitting authority to identify these facilities, track sewage sludge use and disposal, and establish priorities for permitting.

D.1. Information on Active Sewage Sludge Units

Most requirements for surface disposal of sewage sludge under Part 503 pertain to individual active sewage sludge units at a surface disposal site. Permit conditions for your facility may be developed on a unit-by-unit basis, or may be developed for the entire surface disposal site if all units are sufficiently similar.

D.4. Ground-Water Monitoring

Placement of sewage sludge on an active sewage sludge unit must not contaminate an aquifer. Compliance must be demonstrated through either: (1) The results of a ground-water monitoring program developed by a qualified ground-water scientist, or (2) certification by a qualified ground-water scientist that contamination has not occurred. This section solicits existing ground-water monitoring data and other documentation to indicate the potential for contamination of an aquifer at the active sewage sludge unit, and the capability of the owner/operator of the surface disposal site to demonstrate that contamination has not occurred.

D.5. Site-Specific Limits

After August 18, 1993, you are allowed to seek site-specific pollutant limits only for good cause, and must do so within 180 days of becoming aware that good cause exists. If you request site-specific pollutant limits with this permit application, you are required to submit information supporting the request, including a demonstration that existing values for site parameters specified by the permitting authority differ from the values for those parameters used to develop the pollutant limits in Table 1 of § 503.23. You must also submit follow-up information at the request of the permitting authority. If the permitting authority determines that site-specific pollutant limits are appropriate, he or she may specify site-specific limits in the permit as long as the existing concentrations of the pollutants in the sewage sludge are not exceeded.

Section E (Incineration)

Complete this section if you own or operate a sewage sludge incinerator. A sewage sludge incinerator is, by definition, a treatment works treating domestic sewage, and the owner/operator of a sewage sludge incinerator is required to submit a full permit application (i.e., Part 2 of Form 2S).

E.3. Beryllium NESHAP

The firing of sewage sludge in a sewage sludge incinerator must not violate the National Emission Standard (NESHAP) for beryllium as established in Subpart C of 40 CFR Part 61. The beryllium NESHAP only applies, however, to sewage sludge incinerators firing ''beryllium-containing waste.'' The beryllium NESHAP is 10 grams of beryllium in the exit gas over a 24-hour period, unless the incinerator owner/operator has been approved to meet a 30-day average ambient concentration limit on beryllium in the vicinity of the sewage sludge incinerator of 0.01 μg/m3. Complete this section to demonstrate compliance with the beryllium NESHAP.

E.4. Mercury NESHAP

The firing of sewage sludge in a sewage sludge incinerator must not violate the NESHAP for mercury as established in Subpart E of 40 CFR Part 61. Complete this section to demonstrate compliance with the mercury NESHAP. Information on stack testing and sewage sludge sampling can be found at 40 CFR Parts 61.53 and 61.54.

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federal register

Wednesday
August 4, 1999

Part III

Environmental Protection Agency

40 CFR Part 58

Air Quality Index Reporting; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[FRL–6409–7]

RIN 2060–AH92

Air Quality Index Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today, EPA adopts revisions to the uniform air quality index used by States for daily air quality reporting to the general public in accordance with section 319 of the Clean Air Act (Act). These changes include the addition of the following elements: a new category described as ''unhealthy for sensitive groups;'' two new requirements, first, to report a pollutant-specific sensitive group statement when the index is above 100, and second, to use specific colors if the index is reported in a color format; new breakpoints for the ozone (0_3) sub-index in terms of 8-hour average 0_3 concentrations; a new sub-index for fine particulate matter ($PM_{2.5}$); and conforming changes to the sub-indices for coarse particulate matter (PM_{10}), carbon monoxide (CO), and sulfur dioxide (SO_2). In addition, EPA is changing the name of the index from the Pollutant Standards Index (PSI) to the Air Quality Index (AQI). This document discusses the development of related informational materials on pollutant-specific health effects and sensitive groups and on precautionary actions that can be taken by individuals to reduce exposures of concern. This document also discusses the interrelationship between the uniform air quality index and other programs that provide air quality information and related health information to the general public, including State and local real-time air quality data mapping and community action programs.

EFFECTIVE DATE: October 4, 1999.

ADDRESSES: A docket containing information relating to EPA's revisions of the air quality index (Docket No. A–98–20) is available for public inspection in the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, South Conference Center, Room M–1500, 401 M St., SW, Washington, DC 20460, telephone (202) 260–7548. The docket may be inspected between 8 a.m. and 5:30 p.m. on weekdays, and a reasonable fee may be charged for copying. For the availability of related information, see **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Terence Fitz-Simons, EPA (MD–14), Research Triangle Park, NC 27711, telephone (919) 541–0889, e-mail fitz-simons.terence@epa.gov. For health effects information, contact Susan Lyon Stone, EPA (MD–15), Research Triangle Park, NC 27711, telephone (919) 541–1146, e-mail stone.susan@epa.gov.

SUPPLEMENTARY INFORMATION: In compliance with President Clinton's June 1, 1998 Executive Memorandum on Plain Language in government writing, this package is written using plain language. Thus, the use of ''we'' or ''us'' in this package refers to EPA. The use of ''you'' refers to the reader and may include industry, State and local agencies, environmental groups and other interested individuals.

Availability of Related Information

Certain documents are available from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. Available documents include:

(1) The Review of the National Ambient Air Quality Standards for Ozone: Assessment of Scientific and Technical Information (''Staff Paper'') (EPA–452/R–96–007, June 1996, NTIS # PB–96–203435, $67.00 paper copy and $21.50 microfiche). (Add a $3.00 handling charge per order.)

(2) Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information (''Staff Paper'') (EPA–452/R–96–013, July 1996, NTIS # PB–97–115406, $47.00 paper copy and $19.50 microfiche). (Add a $3.00 handling charge per order.)

The guidance documents associated with this rulemaking are available from EPA's Office of Air Quality Planning and Standards in Research Triangle Park, NC. Requests for these publications can be mailed to: Terence Fitz-Simons, EPA (MD–14), Research Triangle Park, NC 27711. Your request may also be phoned in to Terence Fitz-Simons at 919–541–0889, or sent by e-mail to fitz-simons.terence@epa.gov.

(1) Guideline for Public Reporting of Daily Air Quality—Air Quality Index (AQI) (EPA–454/R–99–010).

(2) Guideline for Developing an Ozone Forecasting Program (EPA–454/R–99–009).

The following document is available from EPA's Office of Mobile Sources (OMS) in Ann Arbor, MI. Requests for this publication can be mailed to: Michael Ball, US EPA—National Vehicle and Fuel Emissions Laboratory (NVFEL), 2000 Traverwood Dr., Ann Arbor, MI 48103. Your request may also be phoned in to Michael Ball at 734–214–4897, or sent by e-mail to ball.michael@epa.gov.

(1) Community Action Programs: Blueprint for Program Design (EPA 420–R–98–003).

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I. Background

A. What Are the Legislative Requirements?

Section 319 of the Act governs the establishment of a uniform air quality index for reporting of air quality. This section directs the Administrator to ''promulgate regulations establishing an air quality monitoring system throughout the United States which utilizes uniform air quality monitoring criteria and methodology and measures such air quality according to a uniform air quality index'' and ''provides for daily analysis and reporting of air

quality based upon such uniform air quality index * * *''.

B. What Is the History of the Air Quality Index?

In 1976, we established a nationally uniform AQI, called the Pollutant Standards Index (PSI), for use by State and local agencies on a voluntary basis (41 FR 37660). This uniform index was established in light of a study conducted by EPA and the President's Council on Environmental Quality (CEQ, 1976). This study found that the 55 urban areas in the U.S. and Canada reporting an index of air quality used 14 different indices, in conjunction with different cautionary messages, such that in essence 55 different indices were being used to report air quality. This diversity of indices sent a confusing message about air quality to the public. Based in part on this study, we developed an index to meet the needs of State and local agencies that has the following advantages: it sends a clear and consistent message to the public by providing nationally uniform information on air quality; it is keyed as appropriate to the national ambient air quality standards (NAAQS) and the significant harm level (SHL) [1] which have a scientific basis relating air quality and public health; it is simple and easily understood by the public; it provides a framework for reflecting changes to the NAAQS; and it can be forecasted to provide advance information on air quality.

The PSI, which is also commonly referred to by some State and local agencies as the AQI, includes sub-indices for O_3, PM, CO, SO_2, and nitrogen oxide (NO_2), which relate ambient pollutant concentrations to index values on a scale from 0 through 500. This represents a very broad range of air quality, from pristine air to air pollution levels that present imminent and substantial endangerment to the public. The index has historically been normalized across pollutants by defining an index value of 100 as the numerical level of the short-term (i.e., averaging time of 24-hours or less) primary NAAQS for each pollutant and an index value of 500 as the SHL.[2] Such index values serve to divide the index into categories, with each category being identified by a simple informative descriptor. The descriptors are intended to convey to the public information about how air quality within each category relates to public health, with increasing public health concerns being conveyed as the categories range to the upper end of the scale. Additional information about the general health effects associated with each category, and precautions that sensitive groups and the general public can take to avoid exposures of concern, has been made available through an informational booklet, updated as appropriate, that also presents and explains the PSI (EPA, 1994).

In 1979, we made changes to the AQI, in part to reflect revisions to the NAAQS for O_3, and to establish requirements for AQI reporting (44 FR 27598). The requirement for State and local agencies to report the AQI appears in 40 CFR part 58.50, and the specific requirements (e.g., what to report, how to report, reporting frequency, calculations) are in appendix G to 40 CFR part 58.

C. What Programs Are Related to the AQI?

Historically, State and local agencies have used primarily the AQI, or other AQIs, to provide general information to the public about air quality and its relationship to public health. In recent years, many States and local agencies, as well as EPA, have been developing new and innovative programs and initiatives to provide more information to the public, in a more timely way. These initiatives, including real-time data reporting through the Ozone Mapping Project and community action programs, can serve to provide useful, up-to-date, and timely information to the public about air pollution and its effects. Such information will help individuals take actions to avoid or reduce exposures of concern and can encourage the public to take actions that will reduce air pollution on days when levels are projected to be in air quality categories of concern to local communities. Thus, these programs are significantly broadening the ways in which State and local agencies can meet the nationally uniform AQI reporting requirements, and are contributing to State and local efforts to provide community health protection and to attain or maintain compliance with the NAAQS. We and State and local agencies recognize that these programs are interrelated with AQI reporting and with the information on the effects of air pollution on public health that is generated through the periodic review, and revision when appropriate, of the NAAQS.

The most recent revisions to the O_3 and PM NAAQS, the Ozone Mapping Project, and community action programs are discussed briefly below. In light of the interrelationships among these programs, we have developed today's revisions to the uniform AQI with the goal of creating a revised AQI that can effectively serve as a nationally uniform link across these programs. In so doing, we intend to support and encourage State and local participation in real-time data reporting initiatives and the development and implementation of community action programs that serve public education and health protection goals.

1. Ozone and Particulate Matter NAAQS Revisions

On July 18, 1997, we revised the primary NAAQS for O_3 and PM based on a thorough review of the scientific evidence linking exposures to ambient concentrations of these pollutants to adverse health effects at levels allowed by the previous NAAQS. In particular, we replaced the 1-hour O_3 NAAQS with an 8-hour O_3 NAAQS and supplemented the PM NAAQS with 24-hour and annual standards for fine particulate matter (measured as $PM_{2.5}$ [3]). These decisions were challenged in the U.S. Court of Appeals for the District of Columbia Circuit, and on May 14, 1999, the Court remanded them to the Agency for further consideration, principally in light of constitutional concerns regarding section 109 of the Act as interpreted by EPA. *American Trucking Associations* v. *EPA*, Nos. 97–1440, 97–1441 (D.C. Cir. May 14, 1999). On June 28, 1999, the U.S. Department of Justice on behalf of EPA filed a petition for rehearing seeking review of the Court's decision by the entire Court of Appeals. The EPA is continuing to assess what further legal or administrative proceedings may be appropriate in response to the Court's decision, as well

[1] Significant harm levels are those ambient concentrations of air pollutants that present an imminent and substantial endangerment to public health or welfare, or to the environment, as established in 40 CFR 51.151.

[2] Intermediate index values of 200, 300, and 400 were defined and are the basis for the Alert, Warning, and Emergency episode levels included in 40 CFR part 51, appendix L, as part of the Prevention of Air Pollution Emergency Episodes program. This program requires specified areas to have contingency plans in place and to implement these plans during episodes when high levels of air pollution, approaching the SHL, are in danger of being reached. Changes to this emergency episode program will be proposed in the near future.

Below an index value of 100, historically an intermediate value of 50 was defined either as the level of the annual standard if an annual standard has been established (for PM_{10} and SO_2), or as a concentration equal to one-half the value of the short-term standard used to define an index value of 100 (for O_3 and CO). Coarse or inhalable particulate matter, PM_{10}, refers to particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers.

[3] $PM_{2.5}$ refers to particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

as its relevance to other rulemakings such as this one.

With respect to the present rulemaking, we have concluded that it is appropriate to proceed with final action on the proposed AQI revisions. As indicated previously, section 319 of the Act requires the Agency to establish a uniform air quality index, and this requirement is independent of the statutory provisions governing establishment and revision of the NAAQS. Moreover, there is no statutory requirement that the AQI be linked to the NAAQS, although EPA has used NAAQS levels in the past as reference points for the establishment of specific breakpoints within sub-indices. Nothing in the Court's opinion alters the conclusions EPA reached in revising the air quality criteria for PM and O_3 under section 108 of the Act, or in the NAAQS rulemakings, concerning the occurrence of specific health effects at varying concentrations of PM and O_3 in the air. Regardless of the outcome of the remand as to the NAAQS themselves, we believe the scientific record and conclusions underlying them are more than sufficient as a basis for decisions on the levels at which the public should be notified about health risks associated with daily air quality.[4]

We do not regard this notification function as involving the constitutional concerns raised in the Court's opinion. The AQI has no bearing on pollution control requirements for specific sources; nor does it serve to implement the NAAQS involved in the litigation. Rather, it provides information on air quality and health that will help individual citizens take prudent, self-protective actions to avoid or reduce exposures of concern and to avoid contributing to air pollution on days when unhealthy air quality is projected. In this regard, the AQI is essentially a way of conveying scientific/medical advice to the public in an easily understood form.

As indicated below, there was broad support in public comments for modifying and expanding the use of the AQI to take into account the expanded understanding of air quality-health relationships that resulted from EPA's review of the latest scientific information on the effects of PM and O_3. Other proposed revisions were designed to enhance the effectiveness of the AQI generally. The function the AQI serves of conveying to the public information on daily air quality and associated health risks is clearly important, and the season of higher pollution levels is imminent. For all the above reasons, we see no reason to delay final action on the proposed revisions of the AQI. The remainder of this section discusses aspects of the O_3 and PM NAAQS rulemakings as they relate to today's action.

As a result of the reviews of the scientific information upon which the 1997 NAAQS for O_3 and PM are based, an expanded understanding emerged as to the nature of the relationships between exposure to ambient concentrations of these pollutants and the health effects likely to be experienced, especially near the level of the NAAQS. We and the Clean Air Scientific Advisory Committee (CASAC)[5] recognized that for these pollutants there may be no thresholds below which health effects are not likely to occur, but rather a continuum of effects potentially extending down to background levels. As ambient concentrations increase, the proportion of individuals likely to experience effects and the seriousness of the health effects increase. Thus, the 1997 standards were not considered risk free. While the standards were intended to protect public health with an adequate margin of safety, in accordance with section 109(b) of the Act, including the health of sensitive groups, exposures to ambient concentrations just below the numerical level of the standards may result in exposures of concern for the most sensitive individuals. Conversely, exposures to ambient concentrations just above the numerical level of the standards are not likely to result in exposures of concern for most healthy people. This expanded understanding is reflected in the forms of the new standards, which allow for multiple days above the numerical level of the standards.

These understandings were also reflected in CASAC's advice to the Administrator during the O_3 NAAQS review, urging expansion of the public health advisory system (i.e., a uniform AQI) and communication to the public of the apparent nonthreshold nature of the health effects. More specifically, a number of CASAC panel members recommended ''that an expanded air pollution warning system be initiated so that sensitive individuals can take appropriate 'exposure avoidance' behavior'' (Wolff, 1995). Consistent with this advice, in the preamble to the proposed revisions to the O_3 NAAQS (61 FR 65733–65734), the Administrator requested comment on the usefulness of providing specific health effects information when ambient concentrations are around the numerical level of the standard, the appropriateness of using the AQI to convey such information to the public, the possible addition of two new AQI categories (one just above and one just below the numerical level of the standard) and associated descriptors and levels, as well as related health effects and cautionary statements.

Broad support for modifying the AQI was received in public comments on this aspect of the O_3 NAAQS proposal, as discussed in the final rule establishing revisions to the O_3 NAAQS (62 FR 38873–38874). Commenters overwhelmingly endorsed expanding the use of the AQI for various reasons, although many expressed concern with the possible category descriptors suggested in the proposal (i.e., ''moderately good'' and ''moderately unhealthful''). Many commenters felt that an expanded AQI could help particularly sensitive people take action to minimize their exposures, and that the AQI could be combined with community action programs to reduce ambient concentrations when the numerical level of the standard was forecasted to be exceeded. Some commenters endorsed increasing the specificity of health and cautionary statements related to the AQI categories. Commenters from State and local agencies encouraged us to develop any approaches to revising the AQI in consultation with them, specifically in the areas of sharing real-time monitoring data, risk communication with the public, and coordination of a national program.

2. Real-time Data Reporting Initiative (Ozone Mapping Project)

The Ozone Mapping Project is part of EPA's Environmental Monitoring for

[4] Under section 319, the levels that are appropriate for this purpose do not necessarily depend on the NAAQS levels that may be appropriate under section 109. Depending on how the Agency chose to set an ambient standard, for example, it might conclude that the standard does not need to preclude certain effects falling below the level of public health concern, and at the same time set the AQI in such a way as to assure that sensitive individuals who might experience those effects receive notification and advice on actions they might take to avoid them. Similarly, AQI values might be set that are higher than the standard would permit but that would require more serious health warnings. This is not to say, however, that the levels of the 1997 NAAQS are irrelevant to decisions on the AQI breakpoints. To the contrary, the levels of the 1997 NAAQS are useful surrogates for a series of scientific conclusions reached in the NAAQS rulemakings, based on the revised air quality criteria, regarding the nature, extent, and severity of health effects associated with varying concentrations of PM and O_3 in the air. Accordingly, later sections of this notice make reference as appropriate to relevant levels of the 1997 NAAQS.

[5] CASAC is a scientific advisory committee established under the Act to review the scientific criteria and standards and to advise the Administrator on revision of the NAAQS, as appropriate.

Public Access and Community Tracking (EMPACT) initiative—a new approach to providing timely environmental information to communities. It is a cooperative effort of the EPA, State and local air pollution control agencies, and regional organizations including the Mid-Atlantic Regional Air Management Association (MARAMA), the Northeast States for Coordinated Air Use Management (NESCAUM), the northeast Ozone Transport Commission (OTC), the Lake Michigan Air Directors Consortium (LADCO), SouthEast States Air Resource Managers (SESARM), and Central States Air Resource Agencies (CenSARA). During the summer of 1998, EPA's Office of Air Quality Planning and Standards assumed coordination of the project.

The Ozone Map provides simple and timely information about ground-level O_3. During the 1998 O_3 season it was available on EPA's AIRNOW web site (http://www.epa.gov/airnow) and on some local television and news reports. It is an animated contour map that shows concentrations of O_3, in categories ranging from good to moderate to varying degrees of unhealthy, based on AQI values, as they develop across the eastern United States. In 1998, the map was created from real-time, hourly O_3 data provided by a network of more than 400 air monitoring stations from South Carolina to Wisconsin and Maine. When accessed on a computer, cautionary statements for each category could be displayed by running a cursor over the legend. Also available on the AIRNOW web site were still maps of maximum values and forecasted values, and archived animated maps. In 1999, the ozone mapping coverage is being expanded to include 31 States and over 1500 monitors across the eastern and central U.S., and California. In addition, TV weather service providers are planning to carry the Ozone Map and forecasts as part of their traditional weather packages for local TV stations.

Along with the Ozone Map, the AIRNOW web site contains information about O_3 health effects in the ''Health Facts'' section, and emission reduction activities in the ''What You Can Do'' section. It also provides links to real-time data, and community action program web sites, that are maintained by State and local agencies around the country. The goals of the web site are to: (1) Provide real-time air pollution data in an understandable, visual format, (2) provide information about the public health and environmental effects of air pollution, and (3) provide the public with information about ways in which they can protect their health and actions they can take to reduce pollution.

3. Community Action Programs

The implementation of community action programs (also referred to as voluntary action programs or episodic emission control programs) is becoming increasingly popular across the country as an innovative approach used to reduce emissions of O_3 precursors, CO, and PM. Motivation for implementation of this type of program often stems from local government and business concerns about the NAAQS attainment status of the area and the restrictions, additional controls, and costs associated with being classified as a nonattainment area. Many areas are also motivated by public health concerns and believe that increasing the amount of air quality information available to sensitive populations raises awareness and results in significant health benefits. Specific goals which are usually associated with community action programs include: (1) Educate the public and enhance protection of public health; (2) attain or maintain NAAQS attainment status and the associated economic benefits; (3) meet specific emission reduction targets; and (4) manage/reduce traffic congestion.

Community action programs are usually voluntary and generally provide multiple steps that the public, business, and industry can take to reduce emissions when higher levels of air pollution are forecast to occur, including in particular transportation-related measures such as trip reduction, postponement of certain activities such as vehicle refueling, and maintenance of cars. The programs emphasize educating the public about the impact of individual activities on local air quality and the basics of air pollution. The educational component of these programs also helps to create a strong link between environmental goals and associated public health benefits.

Most of these programs are based on the categories of the AQI and make use of the AQI descriptors and related health effects and cautionary statements on action days. By linking action days to the AQI, local control programs hope to alter individual behavior to reduce emissions and to reduce exposures to the population. In addition to reduced pollutant exposure of the general population due to improved air quality, there are other health benefits directly associated with community action programs that can be enhanced by linkage to the AQI. Different population groups are more sensitive to the harmful effects of the different air pollutants included in the AQI, and the revisions to the AQI being adopted today, together with related informational materials, will significantly improve the effectiveness of communications with these groups. Public education, or programs directly targeting these groups, may provide the most significant benefits of a community action program. Forecasting days with elevated pollution levels, and then communicating effectively about air quality and associated health effects, may help these groups selectively limit their outdoor activities and, therefore, limit their potential for exposures of concern.

We are committed to providing States and local agencies with support in their efforts to meet air quality standards, to inform the public about air quality, and to educate the public about the impacts of air pollution. The revisions to the AQI being adopted today have as a goal the creation of a revised AQI that can effectively serve as a nationally uniform link across the range of programs (e.g., real-time data reporting initiatives, community action programs) that have these functions.

In support of community action programs, we have developed informational materials related to the AQI, including the health effects and cautionary statements associated with each category and more detailed health effects information (see section II.D.), available on the AIRNOW web site, that State and local agencies may use to enhance their community action programs. Focusing on transportation measures that are often a major component of community action programs, EPA's OMS has developed a report entitled, ''Community Action Programs: Blueprint for Program Design.'' This document describes the major steps needed to put together a successful episodic control program and provides criteria that State and local agencies can use to examine and evaluate their own programs. The report is available from OMS (see Availability of Related Information).

II. Rationale for Final Revisions

In developing the revisions to the AQI that are being adopted today, we sought extensive input from State and local agencies and from the public. We sponsored a workshop with State and local agencies, participated in numerous meetings, prepared and made available a staff draft revision to the AQI sub-index for O_3 for use during the 1998 O_3 season, and conducted several focus groups across the nation to obtain public input on the effectiveness of draft revisions to the AQI and related O_3 maps and informational materials. A

detailed history of the process leading to the proposal and the rationale for the proposed revisions are described more fully in the December 9, 1998 proposal notice (63 FR 67818–67834). The subsections below contain a description of the revisions we proposed, a discussion of the significant comments we received and our responses to them, and a summary of the AQI we are adopting today.

A. What Revisions Did We Propose?

The primary consideration that shaped the proposed revisions was the importance of providing nationally uniform health information associated with daily ambient levels of the air pollutants included in the index, consistent with the requirement of section 319 of the Act for an index to achieve national uniformity in daily air quality reporting. More specifically, the proposed changes to the AQI sub-indices for O_3 and PM reflected the 1997 revisions to the O_3 and PM NAAQS. The proposed general changes to the structure of the AQI were based on the expanded understanding that emerged during the O_3 and PM reviews as to the nature of the relationships between exposure to ambient concentrations of these pollutants and the health effects likely to be experienced, consideration of the implications of changes for the other pollutants, and broad input from State and local agencies and the public. The proposed general changes to the AQI, together with related informational materials, were intended to expand the use of the AQI to provide more pollutant-specific health information, especially when ambient concentrations are close to the level of the primary NAAQS.

1. What Were the Proposed General Changes?

a. Categories and related descriptors, index values and colors. The AQI currently incorporates the pollutants O_3, PM, CO, SO_2, and NO_2. Index values range from 0 to 500[6], and the index is segmented into five categories named by descriptor words that were chosen to characterize the relationship between daily air quality and public health. To reflect better the current understanding of the health effects associated with exposure to these air pollutants, we proposed to revise the AQI categories and descriptors, and to associate specific colors with the categories as shown below in Table 1.

[6] For NO_2, the index ranges from 200 to 500, since there is no short-term NAAQS for this pollutant.

TABLE 1.—PROPOSED CATEGORY INDEX VALUES, DESCRIPTORS, AND COLORS

Index values	Descriptor	Color
0–50	Good	Green
51–100	Moderate	Yellow
101–150	Unhealthy for sensitive groups.	Orange
151–200	Unhealthy	Red
201–300	Very unhealthy	Purple
301–500	Hazardous	Maroon

These proposed changes reflected the addition of a new category above an AQI of 100, created by dividing the current ''unhealthful'' category into two categories.

When air quality is in the ''unhealthy for sensitive groups'' range, people that are in the sensitive group, whether the sensitivity is due to medical conditions, exposure conditions, or inherent sensitivity, may experience exposures of concern. However, exposures to ambient concentrations in this range are not likely to result in exposures of concern for most healthy people. The descriptor ''unhealthy for sensitive groups'' was chosen to convey this message clearly. Participants in focus groups (SAIC 1998) clearly understood that ''sensitive groups'' does not refer to the general public, indicating that this descriptor effectively communicates the intended health message. This category would include a caution that while perhaps of interest to all citizens, would be of particular interest to individuals and families of individuals who are members of sensitive groups.

As air quality moves into the ''unhealthy'' range, exposures are associated with an increase in the number of individuals who could potentially experience effects and includes a greater proportion of members of the general public. Based on input received in the development of the proposal, the descriptor ''unhealthy'' appropriately characterizes air quality in this range.

In addition to an increasing number of exposures of concern, when air quality moves into the ''unhealthy'' range and above, individuals who were affected at lower levels, typically members of sensitive groups, are likely to experience more serious health effects than members of the general public. To reflect this understanding, it is appropriate to convey two messages in the cautionary statements for both the ''unhealthy'' and ''very unhealthy'' categories. One message is directed to members of sensitive groups, and the other is directed to the general public. The use of a distinct cautionary message for members of sensitive groups is entirely consistent with an original goal that the index be based on the relationships between pollutant concentrations and adverse health effects within various groups, e.g., aggravation of disease in people with respiratory disease and incidence of respiratory effects in healthy people. Guidance on pollutant-specific cautionary statements related to the categories of the AQI is discussed below in section II.D.

Consistent with the overarching goal of national uniformity in the reporting of air quality, we proposed that the specific colors listed in Table 1 be associated with each category. While the AQI can be reported without the use of colors (through text and numbers alone), when the index is reported using colors, we proposed to require that only these specified colors be used. Three examples of AQI reports that use color are the color bars that appear in many newspapers, the color scales on State and local agency web sites, and the color contours of the Ozone Map. We participated in many discussions with State and local agencies and associations regarding which specific colors should be associated with the AQI categories, particularly above an index value of 100. These discussions typically were in the context of either the Ozone Mapping Project or community action programs. It was clear that the color associated with a category can be part of the health effects and cautionary message being conveyed. Were various State and local agencies to use different colors to represent the same category, and thus the same level of air quality, it could well send a confusing message about air quality and associated health effects to the public.

As an alternative to requiring the use of specified colors, we solicited comment on the option of recommending, rather than requiring, the use of these colors when reporting agencies choose to report the AQI in color format. In soliciting comment on this alternative, we sought to allow communities maximum flexibility in AQI reporting, while still preserving a nationally uniform AQI. We, therefore, requested that commenters addressing this issue discuss how this more flexible approach would satisfy the statutory language requiring a nationally uniform AQI if different colors may be used across the nation to represent the same range of air quality.

b. Reporting requirements. We proposed to change 40 CFR part 58.50 to require reporting of the AQI in all

Metropolitan Statistical Areas (MSAs)[7] with a population over 350,000, instead of all urbanized areas with a population over 200,000. This change was proposed for consistency with the other monitoring regulations in part 58, which are or will be based on MSAs. This proposed change would not, however, have a significant impact on who is required to report, since virtually the same number of cities would be covered under the proposed reporting requirement as are covered under the existing requirement.

Consistent with early input from State and local agencies, we proposed to change the rounding conventions used to calculate index values corresponding to pollutant concentrations at and above the numerical level of the NAAQS to be consistent with the rounding conventions used in defining the NAAQS for each pollutant. This would avoid situations where a health advisory could be issued that describes the air as unhealthy, when in fact the numerical level of the standard has not been exceeded.

The proposed rule retained the requirements to identify the area for which the AQI is being reported, the time period covered by the report, the ''critical'' pollutant for which the reported AQI value was derived, the AQI value, and the associated category descriptor. Recognizing that many agencies use a color format to report the AQI, the proposed rule added the requirement to report the associated category color if a color format is used. Because different sensitive groups are at-risk from different pollutants, issuing advisories for all sensitive groups who may be affected at AQI values greater than 100 clearly improves public health protection. Therefore, the proposed rule encouraged, but did not require, that AQI reports include: appropriate health effects and cautionary statements, all AQI values greater than 100, the AQI for sub-divisions of the MSA (if there are important differences in air quality across sub-divisions of the MSA), possible causes for high index values, and the actual pollutant concentrations. These topics were also discussed in our draft ''Guideline for Public Reporting of Daily Air Quality—Pollutant Standards Index (PSI)'' that was made available on the AIRLINKS web site.

The proposed rule emphasized the importance of forecasting the AQI by specifying that forecasted values should be reported, when possible, but did not require that forecasted values be reported. Given the importance of the O_3 sub-index in a large number of MSAs, and the use of an 8-hour averaging time for calculating the O_3 sub-index value, forecasting the O_3 index value is now more beneficial than before. For a health advisory system to be effective, people need to be notified as early as possible to be able to avoid exposures of concern. Because the O_3 sub-index is based on 8-hour O_3 averages, forecasting O_3 concentrations clearly would have increased value in providing cautionary statements to the public. We recognized that many State and local air agencies are already issuing health advisories based on forecasted O_3 concentrations. Since we have determined that forecasting would add much to the benefits of AQI reporting, we indicated that we would be making available guidance on starting a forecasting program (EPA 1999b) in an area or MSA where forecasting is not presently done. Included in the document is guidance on using hourly O_3 concentrations as predictors for 8-hour averages.

c. Index name. Many State and local agencies encouraged us to change the name of the PSI to the Air Quality Index, or AQI, since many agencies already use the name AQI when reporting the AQI value to the public. Most participants in the focus groups preferred the name AQI, commenting that it more clearly identified the index as relating to the quality of the air rather than to environmental pollution in general. Based on these considerations, we solicited comment on changing the index name from Pollutant Standards Index (PSI) to Air Quality Index (AQI).

2. What Were the Proposed Changes to the Sub-Indices?

To conform to the proposed general changes to the AQI discussed above, and to reflect the recent revisions to the O_3 and PM NAAQS, we proposed changes to the sub-indices for O_3, PM, CO, and SO_2; no conforming changes are necessary for the NO_2 sub-index. The proposed sub-indices are summarized below in Table 2, in terms of pollutant concentrations that correspond to breakpoints in the index, and are discussed in the following sections.

TABLE 2.—PROPOSED BREAKPOINTS FOR O_3, $PM_{2.5}$, PM_{10}, CO, AND SO_2 SUB-INDICES

AQI value	O_3		PM		CO, 8-hr (ppm)	SO_2, 24-hr (ppm)
	8-hr (ppm)	1-hr (ppm)	$PM_{2.5}$, 24-hr (μg/m³)	PM_{10}, 24-hr (μg/m³)		
50	0.07		15	50	4	0.03
100	0.08	0.12	65	150	9	0.14
150	0.10	0.16	*100	250	12	0.22
200	0.12	0.20	*150	350	15	0.30
300	0.40 (1-hr)	0.40	*250	420	30	0.60
400	0.50 (1-hr)	0.50	*350	500	40	0.80
500	0.60 (1-hr)	0.60	*500	600	50	1.00

*If a different SHL for $PM_{2.5}$ is promulgated, these numbers will be revised accordingly.

a. Proposed ozone sub-index. On July 18, 1997, we revised the O_3 primary NAAQS to replace the 1-hour standard with a new standard with an 8-hour average at a level of 0.08 ppm and a form based on the 3-year average of the annual fourth-highest daily maximum 8-hour average O_3 concentrations measured at each monitor within an area (62 FR 38856–38896). These proposed revisions were based on findings from the most recent review of the NAAQS indicating that the new primary standard will provide increased protection to the public, especially children active outdoors and other sensitive groups, against a wide range of O_3-induced health effects, including decreased lung function; increased respiratory symptoms; hospital admissions and emergency room visits

[7] A complete list of MSAs and their boundaries can be found in the Statistical Abstract of the United States (1998).

for respiratory causes, among children and adults with pre-existing respiratory disease such as asthma; inflammation of the lung; and possible long-term damage to the lungs. In setting this standard, we recognized that there is no apparent threshold below which health effects do not occur, that the standard is not risk free, and, thus, that exposures of concern are possible below the numerical level of the standard for some extremely sensitive individuals.

We proposed to set an index value of 100 equal to the level of the 8-hour O_3 standard. Recognizing the continuum of health effects, we considered the results of a quantitative risk assessment (Whitfield et al., 1996) in selecting 8-hour O_3 concentrations to correspond to index values of 50, 150 and 200. Since no human health effects information was available for 8-hour average O_3 concentrations at significantly higher levels, we proposed to retain the breakpoints at the upper end of the AQI scale (between the ''very unhealthy'' and ''hazardous'' categories and the SHL which corresponds to the top of the PSI scale of 500) in terms of the existing 1-hour average concentrations.

These proposed revisions reflect the new 8-hour O_3 NAAQS and will in almost all areas result in a more precautionary index than the current 1-hour sub-index. However, we recognized that a very small number of areas in the U.S. have atypical air quality patterns, with very high 1-hour daily peak O_3 concentrations relative to the associated 8-hour average concentrations. In such areas, the use of the current 1-hour sub-index may be more precautionary on a given day than the proposed 8-hour sub-index. To allow for the reporting of the more precautionary sub-index value, we proposed to retain the 1-hour sub-index at and above AQI values of 100 and to allow the reporting of the higher of the two O_3 sub-index values. Thus, both the new 8-hour and the current 1-hour sub-indices, as shown in Table 2, were included in the proposed appendix G. Since for the large majority of areas the 8-hour sub-index will be more precautionary, we did not propose to require all areas to calculate both sub-index values. Rather, we proposed to allow areas the flexibility to calculate both sub-index values and, when both sub-index values are calculated, to require that the higher value be reported. We specifically solicited comment on this proposed approach.

b. Proposed PM sub-index. On July 18, 1997, we revised the PM NAAQS by adding a new set of standards for fine particles, or $PM_{2.5}$, set at levels of 15 μg/m³ (annual) and 65 μg/m³ (24-hour average) (62 FR 38652–38760). These revisions were based on findings from the most recent review of the PM NAAQS that recently published studies have indicated that serious health effects were more closely associated with the levels of the smaller particle subset of PM_{10}. These health effects include premature mortality and increased hospital admissions and emergency room visits, primarily in the elderly and individuals with cardiopulmonary disease; increased respiratory symptoms and disease in children and individuals with cardiopulmonary disease; decreased lung function, particularly in children and individuals with asthma; and alterations in respiratory tract defense mechanisms. In addition, PM_{10} standards were retained at the same levels of 50 μg/m³ (annual) and 150 μg/m³ (24-hour average) to continue to provide protection against health effects associated with the coarse particle subset of PM_{10}, including aggravation of asthma and respiratory infections. To reflect these revisions to the PM NAAQS, we proposed to add a new sub-index for $PM_{2.5}$, and to make conforming changes to the sub-index for PM_{10}, consistent with the proposed general changes to the AQI. The proposed sub-indices are summarized in Table 2 and discussed below.

Proposed new $PM_{2.5}$ sub-index. Consistent with the historical method of selecting breakpoints of the AQI, we proposed to set an index value of 100 at the level of the 24-hour $PM_{2.5}$ NAAQS, 65 μg/m³, and an index value of 50 at the level of the annual NAAQS, 15 μg/m³. Also consistent with the basic structure of the AQI, the proposed upper bound index value of 500 corresponds to the SHL, established in section 51.16 of the CFR under the Prevention of Air Pollution Emergency Episodes program. The SHL is set at a level that represents an imminent and substantial endangerment to public health. When we propose revisions to the Prevention of Air Pollution Emergency Episodes program, the proposal will include a SHL for $PM_{2.5}$. In the interim, we proposed to establish a $PM_{2.5}$ concentration of 500 μg/m³ to be associated with a $PM_{2.5}$ index value of 500.

For intermediate breakpoints in the AQI between values of 100 and 500, $PM_{2.5}$ concentrations were proposed that generally reflect a linear relationship between increasing index values and increasing $PM_{2.5}$ values. The available scientific evidence of health effects related to population exposures to $PM_{2.5}$ concentrations between the 24-hour NAAQS level and the proposed $PM_{2.5}$ concentration to be associated with a $PM_{2.5}$ index value of 500 suggest a continuum of effects in this range, with increasing $PM_{2.5}$ concentrations being associated with increasingly larger numbers of people likely experiencing serious health effects (62 FR 38675; Staff Paper, p. VII–27). The proposed generally linear relationship between AQI values and $PM_{2.5}$ concentrations in this range, rounded to increments of 50 μg/m³ to reflect the approximate nature of such a relationship, is consistent with this evidence.

Proposed conforming changes to the PM_{10} sub-index. Consistent with the retention of the levels of the PM_{10} NAAQS, we proposed to retain the PM_{10} sub-index generally and to add a new breakpoint at an index value of 150 to conform to the proposed additional AQI category. We proposed that this breakpoint be set at a PM_{10} 24-hour average concentration of 250 μg/m³, the mid-point between the breakpoints associated with index values of 100 and 200. We believe that the PM_{10} sub-index, with this conforming change, remains appropriate for the public health protection purposes of the AQI.

c. Proposed conforming changes to the CO and SO_2 sub-indices. Since the current AQI sub-indices reflect the current NAAQS for CO and SO_2, the only change we proposed for these sub-indices was to add a breakpoint to each sub-index at an index value of 150 to conform to the proposed additional AQI category. We proposed that these breakpoints be set at concentrations at the mid-points between the breakpoints associated with index values of 100 and 200, consistent with the approach described above for conforming changes to both the 1-hour O_3 sub-index and the PM_{10} sub-index. These proposed breakpoints are summarized in Table 2 and will be reviewed in conjunction with the future reviews of the CO and SO_2 NAAQS.

B. What Were the Significant Comments and Our Responses?

This section describes the significant comments we received on proposed revisions to the index and our general responses to them. More detailed comment summaries and responses are contained in a Response to Comments Document that is available in the docket (see **ADDRESSES**).

1. Comments and Responses on General Changes

a. Categories and related descriptors, index values and colors. With regard to the proposed changes to the general structure of the index, we received comments that focused on two major

issues. The first major issue was whether to add a category above or below the standard, or both. In addition, related to that issue were comments about the proposed descriptor for the category we proposed to add above the level of the standard. The second major issue regarded the particular colors, listed in Table 1, we proposed to associate with each category.

With regard to the general structure of the index, most commenters supported our proposal to add a category above the level of the standard. However, commenters from environmental groups and several States suggested adding a category below the level of the standard to provide additional caution for members of sensitive groups, instead of, or in addition to one above. These commenters expressed the view that the proposed sub-indices, that added a category above the standard, did not sufficiently caution members of sensitive groups about health effects occurring below the level of the standard. Specifically, their comments were in reference only to potential health effects occurring below the 8-hour O_3 and 24-hour $PM_{2.5}$ standards. Regarding health effects below the $PM_{2.5}$ standard, one State commenter took exception with the statement in the proposal that an additional category below the standard, while perhaps meaningful for O_3, would not be an appropriate distinction for the other pollutants in the index. This commenter noted that ''such a distinction would be more imperative for other pollutants, especially for PM where the level of the 24-hour standard may be less protective of sensitive groups than the ozone standard.'' (Docket No. A–98–20, IV–D–19). Agreeing with the importance of cautioning sensitive groups below the level of the 24-hour $PM_{2.5}$ standard, another commenter noted ''We believe that adding a category below the level of the standard is of particular importance with respect to fine particles.'' (Docket No. A–98–20, IV–D–11). Regarding the O_3 sub-index, some of the States and the environmental groups that endorsed adding a category below the level of the standard supported that position by noting that we and CASAC stated that extremely sensitive individuals may be affected down to background levels of O_3. One comment from an environmental group noted that:

> The CASAC recognized that for O_3 and fine particle pollution, ''there are no discernible thresholds below which health effects are not likely to occur in the most sensitive individuals' as it was advising EPA to set new health standards. We agree with CASAC and support the idea of setting ''an expanded air pollution warning system (to) be initiated so that sensitive individuals can take appropriate exposure avoidance behavior,'' however EPA has misrepresented the health threat with the levels it has proposed. (Docket No. A–98–20, IV–D–17).

A State commenter that supported adding a category below the level of the standard observed that adding such a category would be consistent with EPA's conclusion ''that exposures to ambient concentrations just below the numerical level of the standard may result in exposures of concern for the most sensitive individuals.'' (Docket No. A–98–20, IV–D–19).

We understand and agree with the issues related to communication of risk below the levels of the 24-hour $PM_{2.5}$ and 8-hour O_3 standards. For the $PM_{2.5}$ sub-index, we have addressed concerns about health effects below the level of the 24-hour $PM_{2.5}$ standard by revising the $PM_{2.5}$ sub-index so sensitive groups are cautioned below the 24-hour $PM_{2.5}$ standard. Based on review of the suggested revisions to the $PM_{2.5}$ sub-index that we received in comments, we believe this approach fully addresses their concerns. The revision is discussed in section II.B.2 below.

For better communication of health risk below the 8-hour O_3 standard, we have addressed the issues raised by commenters by revising the O_3 sub-index. We have expanded the ''moderate'' range of the 8-hour O_3 sub-index to make it more precautionary. When air quality is in the ''moderate'' range of the 8-hour O_3 sub-index, we have provided health effects and cautionary statements, available in our AQI Reporting Guidance document (EPA, 1999a) (discussed in section II.D), that may be used by State and local agencies to caution unusually sensitive individuals below the level of the 8-hour O_3 standard. This revision is discussed in section II.B.2 below.

We do not believe it is necessary or appropriate to change the general structure of the index by adding a new category below the level of the standard to caution extremely sensitive individuals. Based on the concerns of State and local agencies that the addition of two new categories would unduly complicate the index, we are adding just one new category to maintain the degree of simplicity strongly supported by State and local agencies, none of whom advocated the addition of two new categories. As described in section II.A.1 above, we believe that adding a category above the level of the standard makes a distinction that is useful for members of sensitive groups without alarming the general public. As noted by one State commenter:

> We are satisfied and support the proposed category index values, descriptors and colors. [We] believe that the Air Quality Index * * * has been a very effective communication tool during the ozone season. It has been our experience that a category above the standard provides the proper communication to the affected populations without alarming or desensitizing others. (Docket No. A–98–20, IV–G–04).

Further, given the changes we have made to the $PM_{2.5}$ sub-index, and the expanded ''moderate'' range and the cautionary statements we have made available in guidance for use below the level of the 8-hour O_3 standard, we do not believe a category below the level of the standard to caution members of sensitive groups would be an appropriate distinction for any of the pollutants included in the index. We believe that the approach we have adopted retains the simplicity of the index while allowing for more detailed cautionary information to be made available to the public when appropriate.

With regard to the descriptor ''unhealthy for sensitive groups,'' some commenters expressed the view that this descriptor is misleading because it encompasses a large segment of the population. In addition, they argued, the public will not know that for certain pollutants healthy people, especially healthy children, are members of sensitive groups. Noting that it is prudent policy to assume that most risk communication regarding air quality impacts will be limited to the general descriptors, some of these commenters requested that if we continue to distinguish sensitive groups from the general population, that the descriptor be changed from ''unhealthy for sensitive groups'' to ''unhealthy for children and other sensitive groups,'' so that the public would receive a clear message that children are members of a sensitive group that may be at increased risk from exposure to ozone. (Docket No. A–98–20, IV–D–2, IV–D–4 and IV–D–11). We agree with the view of these commenters, based on the responses of participants in the focus groups, that the public will not know that healthy people, including healthy children, may be at risk when air quality is in the ''unhealthy for sensitive groups'' range. The suggested descriptor, however, is only appropriate for pollutants for which children are a sensitive group. Since the sensitive groups differ from one pollutant to another, and children are only part of the sensitive group for O_3, $PM_{2.5}$ and NO_2, this descriptor is not appropriate for the other pollutants. For

example, the descriptor ''unhealthy for children and other sensitive groups'' would not be appropriate for use in the CO sub-index, where people with heart disease are the group most at-risk. Use of this descriptor when CO levels are above an index value of 100 could lead to confusion about the health effects associated with high levels of CO. Therefore, we do not believe it would be useful or prudent to adopt the descriptor ''unhealthy for children and other sensitive groups.'' To increase public awareness that healthy children are members of the sensitive group for O_3, we are adding the requirement that when the AQI value is above 100, reporting agencies include in their published report a statement describing the sensitive group for that particular pollutant. The reporting requirement for pollutant-specific statements describing sensitive groups is discussed below in section II.C.1.b on reporting requirements, and listed in appendix G. We believe that the requirement for agencies to report the pollutant-specific statements identifying the groups at risk, when air quality is above an index value of 100, will more effectively communicate the risk associated with specific air pollutants, and thereby better help members of the public reduce personal exposure. To the extent possible with AQI reporting, this requirement will also ensure that the public is informed that children are part of the sensitive group for O_3. This requirement will not only improve protection for healthy children, but also healthy adults, the elderly, and people with heart and lung disease. We believe that another good way to address this lack of awareness is to educate the public, and the media and health care professionals that inform the public, about the health effects message associated with the category ''unhealthy for sensitive groups.'' To help accomplish the goal of educating the public, we will be expanding the development of education and outreach materials and activities as described in section II.D below.

With regard to the colors listed in Table 1, we received comments concerning both the particular colors associated with the different categories and whether specific colors should be required or recommended. The majority of commenters, including most State and local agencies commenting, supported our proposed color scheme. Many of those (commenters that did support it), had used the same or a similar color scheme associated with either community action programs or ozone maps. Commenters that had used the same or a similar color scheme noted that it effectively and appropriately portrayed the full range of local air quality values. On the other hand, some environmental groups and several States commented that the color red should be used for the category just above standard, instead of the color orange that we proposed. Primarily, these commenters expressed the view that the color orange would not send a sufficiently strong message that the standard has been exceeded. In the proposal we indicated that because the color red sends a strong cautionary message, it is most appropriately used when effects are likely to occur in the general population, and when more serious effects are likely in members of sensitive groups. Many of these commenters noted that since up to 30 percent of the population could be considered to be in the sensitive group for O_3, when the standard is exceeded the general public should be alerted. These commenters expressed the view that it is appropriate to use the color red just above the level of the standard both to alert the public of potential health risks and to encourage emission reduction actions. An environmental group commented:

> While individuals that are sensitive to poor air quality may look at the daily listing in the newspaper or call a message recorded by the state or local air agency, we know from experience that air quality does not receive broad public attention until it is predicted or reaches the level of ''code red.'' At that point, the television and radio media announces that people should restrict outdoor activity and take steps to not add more pollution to the air by carpooling, using less electricity, or using mass transit. (Docket No. A–98–20, IV-D–17).

Another commenter from a State agency noted:

> Considering that the definition of sensitive individuals for ozone includes healthy active children and outdoor workers, a clear unambiguous message needs to be sent to the public so that they can respond accordingly. For parents of active children, a message which states that air quality is unhealthy, and displays it using the color red, sends a clear message—even though it may carry with it the risk that individuals not in the sensitive population might also take exposure avoidance measures. Issuing a message that air quality is unhealthy for sensitive individuals and displays it with a code orange runs the risk of having sensitive individuals, or those guiding sensitive individuals (i.e., doctors and parents) not prescribe any avoidance action because of the ambiguity of the message. (Docket No. A–98–20, IV-G–19).

Additionally, these commenters suggested that the color orange be used for the category they wanted us to add below the level of the standard, as described above.

In considering these comments, we recognize that the NAAQS are set to protect public health with an adequate margin of safety, including the health of sensitive groups. When the standards are met, public health is protected. Exposures to ambient concentrations just above the numerical level of the standards are not likely to result in exposures of concern for most healthy people. This is especially true for the 8-hour O_3 standard, which has a concentration-based form designed to offer more protection from higher concentrations than from multiple smaller exceedances of the standard. The form of the 8-hour O_3 standard allows for multiple days above the level of the standard, provided the 3-year average of the fourth-highest maximum concentrations does not exceed the level of the standard. This means that public health is protected, even when there are multiple days each year when ambient O_3 concentrations are above the level of the standard, as long as the standard is met. Therefore, it is inappropriate on any given day to express a high level of concern when air quality just exceeds the level of the standard. Besides sending an inaccurate health effects message by using the color red with the category ''unhealthy for sensitive groups,'' another concern is the potential loss of credibility that could result from repeatedly sending a signal disproportionate to the expected incidence of noticeable symptoms. If this were to happen, the AQI could lose the power to influence people's behavior to protect their health. One commenter from a State agency expressed this concern:

> One of our key concerns * * * is that the general public will become ambivalent if we forecasted 20, 30, or more Code Red days over the course of an ozone season. Under this scenario, people may not take adequate precautions to protect themselves when an actual unhealthy level is reached. (Docket No. A–98–20, IV–G–05).

A commenter from another State agency expressed a similar view:

> It is important to make sure that this general message is not jeopardized by treating the new 85 ppb, 8-hour standard as the bright line between healthy and unhealthy. The Code Red message will not be considered credible if it is issued between 40 to 60 times a summer in our area. Last year there were 54 days * * * where the 8-hour standard was exceeded. (Docket No. A–98–20, IV–G–13).

From the comments we have received and from our focus group research, we believe that the color red sends too strong a message for use in the

''unhealthy for sensitive groups category.'' Additionally, based on the comments of State and local agencies that have used the same or a similar color scheme, we believe that the color orange sends an appropriate health message and yet a strong message that the standard has been exceeded. One State commenter noted that their environmental agency:

> has been using a green/yellow/orange/red communication system since 1993. The media has used the red, orange *and yellow* air quality codes to convey a ''the air is not clean'' message. In general, the media has used Code Red to convey a message that air pollution is or will be at a near emergency level. Code Orange has connoted ''very dirty.'' Code Yellow has, in general, been used to characterize air pollution as not too bad—but still not clean. (Docket No. A–98–20, IV–G–13).

Another State commenter noted:

> We disagree, however, with * * * [the] assertion that the ''Code Orange'' message in the PSI does not adequately protect public health. Our experience * * * has been that the health message can be effectively delivered for Code Orange levels. We have received much feedback from the general public about our ozone action day program, and the resounding message has been: Thank you for this program, I can now plan my day to avoid exposure to high levels of ozone. (Docket No. A–98–20, IV–G–05).

In addition, ozone mapping projects have successfully represented air quality using the full AQI color scheme. In the Ozone Mapping Project, described in section I.C.2, the proposed AQI color scheme was used successfully during the 1998 O_3 season. Participating State and local agencies and regional organizations have selected the same color scheme for use in the 1999 O_3 season. Having used the proposed color scheme in their local O_3 map, one metropolitan air agency noted that ''EPA's proposed color scheme communicates clearly in a logical progression which in our experience is already understood by the public and the media.'' (Docket No. A–98–20, IV–G–11).

Because we believe the proposed color scheme effectively and appropriately communicates the health effects message that was the basis for setting the O_3 and PM standards, we have adopted the color scheme as proposed. However, we strongly agree with the views expressed by commenters that it is important for the health effects message associated with the category ''unhealthy for sensitive groups'' to be effectively communicated to the public, health care providers and the media. It is very important that members of sensitive groups, which for some pollutants includes healthy children and adults, be alerted to potential health risks and that the general public be motivated to take emissions reductions measures when air quality is above the level of the standard. In response to the concerns expressed by these commenters, we are planning to significantly step up the development of education and outreach materials and increase activities to get this message out, as discussed in section II.D below.

Only two commenters recommended against requiring specific colors. The first commenter did so on the grounds that requiring specific colors would be unenforceable, and may lead to frustration and conflict. While applauding our goal of establishing a consistent message, and agreeing that it is good to have as much national consistency as possible, this commenter noted that efforts to legislate aesthetics are uncomfortable, unwieldy and ultimately unnecessary. (Docket No. A–98–20, IV–D–11). The second commenter noted that some States may elect to use Code Red for ozone action programs at levels other than what is being proposed and the regulation should not preclude them from doing that. (Docket No. A–98–20, IV–D–19). On the other hand, there was very strong support in the comments for us to require that agencies that use color, use specific colors in AQI reporting. All of the other commenters that addressed this issue, including a commenter from an environmental organization, supported requiring specific colors for all State/local agencies using a color format. The commenter from an environmental group noted:

> EPA states that revisions to the PSI have as a goal the creation of a nationally uniform link across a range of programs. We urge that this uniformity be achieved through the use of a national public health warning system that is clear to the public. To this end, we do support the EPA requiring that when colors are used by a state in its PSI, that the same color system incorporated in the PSI, and not variants, be utilized by such state. (Docket No. A–98–20, IV–D–21).

One of the many State commenters agreeing with us that such a requirement was necessary for national uniformity, noted that ''Specific colors * * * associated with each category should be required for national uniformity and ease of understanding. Anything less would defeat the purpose of a national index for comparing air quality in different locales.'' (Docket No. A–98–20, IV–D–07). Another State commenter made the point that ''Consistency of message is important, especially if the regional nature of many air pollution problems is to be communicated effectively.'' (Docket No. A–98–20, IV–D–01).

In response to the first commenter's objections, we do not believe that requiring specific colors presents any particular enforceability problems. This requirement is one of many contained in the 40 CFR part 58 Ambient Air Quality Surveillance requirements and would be enforceable in the same manner and to the same extent as any other requirement of this section. As such, we believe there is no difference in enforceability between this and a requirement for the use of particular descriptors or air quality index values. We expect to work with EPA Regional Offices to ensure that they monitor State implementation of the revised AQI and work with the States to encourage compliance.

With regard to comments that our requirement would preclude States from using other color schemes and action levels in their voluntary programs, it is important to note that the AQI addresses the reporting of measured air quality and does not impose any requirements or limitations on community action programs based on air quality forecasts. We recognize that a nationally uniform color scheme for AQI reporting will, as a practical matter, complicate a State's efforts to use other color schemes in action programs based on predicted air quality, but they remain free to do so under our regulations.

Because it is the fundamental goal of the AQI to provide nationally uniform information about daily air quality and the public health messages that are appropriately associated with various daily air quality levels, in a format that is timely and easily understood, we continue to believe that requiring specified colors when the AQI categories are reported in color format is both necessary and appropriate. Neither of the commenters opposing this requirement addressed how a more flexible approach of recommending specific colors, thereby allowing the use of different colors to represent the same range of air quality, would satisfy the statutory language requiring a nationally uniform air quality index. Therefore, we are adopting the requirement, as specified in appendix G below, that when State and local agencies report the AQI in a color format, that the specific colors listed in Table 1 be associated with each category.

b. Reporting requirements. We received significant comments on several issues related to the reporting requirements, including the population threshold and other aspects of the reporting requirements, the appropriate

method of monitoring and reporting the PM sub-indices, the effect of AQI changes relative to the SHL program, and the effective date of the final rule. Since we received no significant comments on our proposal to change the rounding conventions for calculating the index to make them consistent with the rounding conventions used in defining the NAAQS, we are adopting that revision as proposed. With regard to the population threshold, one commenter expressed the view that the change from requiring AQI reporting in urbanized areas with a population greater than 200,000, to requiring reporting in MSAs with populations greater than 350,000, would raise the threshold for the requirement and appear to mean that large segments of the U.S. population would not have access to AQI reporting. (Docket No. A–98–20, IV–D–03). We have adopted the requirement for AQI reporting in MSAs with populations greater than 350,000 to be consistent with the State/Local Air Monitoring Stations (SLAMs) monitoring regulations in 40 CFR part 58, since AQI reporting is based on information from SLAMS monitors that are located and reported within the context of MSAs. The use of MSAs also provides for more stable reporting areas since MSAs are usually defined by county boundaries that typically do not change, whereas the boundaries for urbanized areas are very irregular, may include parts of counties, and may change with each census. In selecting the MSA population threshold of 350,000, we tried to make the new reporting requirement equivalent to the old one. Under the new requirement, virtually the same number of cities will be required to report the AQI as were previously. Because urbanized areas and MSAs are not equivalent, we realize that some areas will be required to report the AQI that were not required to do so before this rulemaking, and vice versa. The regulation does not preclude any area from reporting the AQI, and we encourage State and local air agencies to report the AQI whenever possible so that people will be informed about local air quality.

Another commenter noted that some MSAs fall within the boundaries of more than one State, and requested that we identify which of the two or more reporting agencies would be responsible for reporting the AQI for the MSA. (Docket No. A–98–20, IV–G–15). We expect that decisions about AQI reporting in multi-State MSAs will be made by participating agencies in the same manner as decisions about activities to implement the standards through the State Implementation Plans (SIPs). Guidance for air quality planning and implementation in MSAs that fall within the boundaries of more than one State generally calls for the participating State and local agencies to identify, in the SIPs for those States, who will be responsible for the preparation and submission of the required elements, including AQI reports. Where a local or regional planning organization has been designated to carry out such requirements, such an organization is the appropriate one to report the AQI. In any case, we encourage AQI reporting on the sub-MSA level, especially where the AQI differs within the MSA.

Another commenter urged us to expand the requirement for AQI reporting to areas with populations less than 350,000, if these areas are likely not to be in attainment for the 8-hour O_3 standard. To support this position, the commenter noted that O_3 can be transported long distances downwind from where it is generated, resulting in serious air quality problems in downwind rural and smaller urban areas. (Docket No. A–98–20, IV–G–27). We agree with this commenter that downwind areas may be significantly affected by transport of O_3 and precursors. In section 5 of appendix G, we encourage States to evaluate air quality in affected areas downwind of MSAs to identify the potential for significant transport-related air quality impacts and to expand their AQI reporting to address these situations. We have also changed the language in this section such that the affected area need not be contiguous to the reporting MSA.

On a related topic, one commenter noted an example in which a MSA with a population greater than 350,000, has not registered AQI values in excess of 50 (such that AQI reporting would be discretionary), although values above 100 are registered infrequently at a national monument within the larger air basin. (Docket No. A–98–20, IV–G–17). This commenter requested that we revise the reporting requirements to add an air quality consideration to the population threshold as a second component of AQI reporting. To address one part of this comment, we encourage State and local air agencies to report the AQI and issue forecasts for national parks or monuments whenever possible, since these are places people go to for activities that often involve prolonged or vigorous exertion, thereby increasing the risk from air pollution. We have worked with the National Park Service to develop appropriate guidance for visitors and staff to use when index values are expected to be above 100 for O_3. To address the other part of this comment, section 8 of appendix G describes exceptions under which AQI reporting becomes discretionary, either for one pollutant or the entire index, for areas with good air quality. Regarding these exceptions, a State commenter suggested that we require a minimum of 2 years at an AQI value lower than 50 before allowing agencies to ''opt out'' of reporting the AQI for a particular pollutant, so that for example, one unusually good O_3 season would not make it possible for an agency to avoid reporting high index values in subsequent O_3 seasons. (Docket No. A–98–20, IV–D–06). We believe that requiring 2 years of index values lower than 50 before allowing State and local agencies discretion in reporting, while appropriate in some situations, may be unnecessary in others. We agree with this commenter that it is appropriate to require reporting of higher index values, even if air quality has been good throughout the previous year. Therefore, we have revised section 8 of appendix G, such that when the criteria for an exemption are no longer met, the responsible agency is required to report the AQI. Another commenter expressed the view that we should strengthen the minimum notification requirements, so that when the AQI value exceeds 100, State and local agencies are required to report the index to all three media (print, radio and television) to help ensure that the public is informed that the standard has been exceeded. (A–98–20, IV–E–3) We agree that it is important to inform the public when the AQI is above 100, and therefore have strengthened the reporting provisions in section 6 of appendix G. In particular, when the AQI exceeds 100, reporting agencies should expand reporting to all major news media, and at a minimum, should include notification to the media with the largest market coverages for the area in question.

Looking at these reporting provisions more broadly, we believe that it would be very beneficial for reporting agencies to educate the media about alternative sources for this information, such as web sites and community action programs. Many State and local agencies have web sites that provide quick access to timely and accurate air quality and related information. For State and local agencies participating in the Ozone Mapping Project, the media could be directed to the AIRNOW web site as a source of information about O_3 air quality and associated health effects for yesterday, today and tomorrow. In addition, this web site provides in-depth information about O_3 health effects, sources of emissions and simple

measures people can take to improve air quality. Community action programs also provide timely and accurate information, and are often used to inform the public when air quality is predicted to be above an index value of 100. Tools and programs such as these can significantly improve the timeliness of AQI reporting and provide additional useful information. We believe that, in the near future, the AQI will be reported by the regional and national media in ways, such as the Ozone Map, that will not be limited to specific MSAs. This type of approach will help provide AQI reporting for areas that would otherwise not be covered, including, in some cases, rural and small urban areas and national parks.

Regarding reporting the PM sub-indices, one commenter requested that we clarify whether $PM_{2.5}$ and PM_{10} should be treated as one pollutant (e.g., reported simply as PM) or two different pollutants (e.g., reported separately). (Docket No. A–98–20, IV–D–19). We expect State and local air agencies to report $PM_{2.5}$ and PM_{10} separately, since there are two separate sub-indices with different sensitive groups, and different health effects and cautionary statements. In response to this comment, we have added clarifying language to section 9 in appendix G. In addition, many commenters noted that at the present time there is very little monitoring for PM (both $PM_{2.5}$ and PM_{10}) that is suitable for use in daily AQI reports, and requested guidance for the use of non-reference methods for the purpose of AQI reporting. Since PM is often measured at intervals longer than every 24-hours, State and local agencies are encouraged to use monitoring data from continuous PM monitors for use in AQI reporting, whenever possible. As noted by commenters, due to the lack of appropriate monitoring information, at this time it may not be possible to report the AQI for PM in many locations. To assist State and local agencies in the use of non-reference methods, we have added language to section 10 of appendix G stating that non-reference methods may be used for the purpose of AQI reporting if it is possible to demonstrate a simple linear relationship between the non-reference and the reference methods.

Regarding the effect of changes to the AQI on the SHL program, we received two significant comments. One commenter noted that our proposed changes to the categories, to standardize them such that the upper bound falls on an even number, rounded to 50 (e.g., 200), and lower bound falls on an odd number (e.g., 201), resulted in the AQI breakpoint of 200 being the upper bound of the ''unhealthy'' category, rather than the lower bound of the ''very unhealthy'' category, as it has been historically. Since the AQI breakpoint of 200 is also commonly used as the ''Alert Level,'' or the first stage of an air pollution emergency episode in example guidance associated with the SHL program, this commenter requested that we leave the AQI value of 200 as the lower breakpoint of the ''very unhealthy'' category, so that emergency episodes would start when air quality is classified as ''very unhealthy'' and include appropriate-sounding health effects and cautionary statements. (Docket No. A–98–20, IV–D–22). We are adopting the breakpoints as proposed, because we believe that it is important to be consistent in the treatment of the category boundaries (e.g., 51 to 100, 101 to 150, 151 to 200, etc.). When we propose revisions to the requirements of the SHL program, we plan to change all references to the ''Alert Level'' so they will refer to air quality that exceeds the ''Alert Level,'' rather than to air quality that reaches the ''Alert Level.'' However, State and local agencies should not change their emergency episode plans at this point simply because we are adopting this consistent approach to setting AQI breakpoints. Eventually, some agencies may have to revise emergency episode plans because we have revised the AQI value of 200 for the 8-hour O_3 sub-index. But we do not expect States to make any revisions to their emergency episode plans until we promulgate the revised requirements. Finally, several commenters noted that in the proposal, we did not specify an effective date for the final revisions. Some of these commenters suggested that we extend the effective date, with suggestions ranging from 60 days to more than a year after publication. We are adopting an effective date of 60 days after publication. We believe that this will allow adequate time for State and local agencies to revise daily AQI reports. We recognize that it may take longer to revise related informational materials, such as printed documents, or related programs that agencies may want to revise. However, since this rulemaking applies only to the requirements for daily reporting of air quality, we believe an effective date of 60 days is adequate.

c. Index name. All commenters that expressed a view on the index name supported changing the name of the index from the Pollutant Standards Index (PSI) to the Air Quality Index (AQI), because this name clearly identifies the index as relating to the quality of the air. Accordingly, we are changing the name of the index to the Air Quality Index, or AQI.

2. Comments and Responses on Changes to the Sub-Indices.

All of the comments we received on proposed changes to the sub-indices focused on the sub-indices that were added for O_3 (8-hour) and $PM_{2.5}$. Since we did not receive specific comments on the conforming changes we proposed to the CO, SO_2 and PM_{10} sub-indices, we are adopting these sub-indices as proposed.

a. Ozone sub-index. We received significant comments on two issues related to the O_3 sub-index. The first group of comments was in response to our request for comment on retaining the 1-hour O_3 sub-index in addition to the 8-hour O_3 sub-index. The second group of comments focused on the appropriateness of providing precautionary language below the level of the 8-hour O_3 standard. Regarding the 1-hour sub-index, almost all of the comments that addressed this issue supported retaining the 1-hour O_3 sub-index. However, one State commenter expressed the view that the proposal was unclear regarding how areas that have not attained the 1-hour O_3 standard are to use the new 8-hour O_3 sub-index. This commenter also noted that it might be confusing to report the AQI based on the 8-hour O_3 sub-index in an area where the 1-hour O_3 standard had not yet been attained. (Docket No. A–98–20, IV–D–07). We are requiring that all State and local agencies that report the AQI for O_3 calculate the 8-hour O_3 sub-index, even if the reporting area has not attained the 1-hour standard. In addition to calculating the 8-hour O_3 sub-index, which is required, the reporting agency may also calculate the 1-hour O_3 sub-index, but this is not required. However, if the reporting agency calculates both O_3 sub-index values, it is required to report the higher index value of the two. The AQI does not relate to attainment status; rather, it is a tool for reporting daily air quality and associated health information. We are retaining the 1-hour O_3 sub-index only because we recognize that there are a very small number of areas in the U.S. that have atypical air quality patterns, with very high 1-hour daily peak O_3 concentrations relative to 8-hour average concentrations. In such areas, an index value greater than 100 might be calculated using the 1-hour sub-index, even when the 8-hour sub-index might be below 100. For these areas, the use of the 1-hour sub-index is clearly more precautionary. Because our major interest is that appropriate precautionary messages be issued, we

are not retaining a complete 1-hour O_3 sub-index with ''good'' and ''moderate'' categories. Likewise, when ambient 8-hour O_3 concentrations are greater than 0.374 ppm, reporting agencies must calculate the index value using the 1-hour O_3 sub-index. This is because no human health effects information is available for higher 8-hour average O_3 concentrations to use as a basis for selecting 8-hour breakpoints and for developing appropriate health effects and cautionary statements. We believe that since State and local agencies are required to report the name of the pollutant responsible for an index value greater than 100, but not the associated averaging period, using the 8-hour O_3 sub-index should not be confusing in areas that have not yet attained the 1-hour O_3 standard.

Regarding the issue of alerting sensitive individuals below the level of the 8-hour O_3 standard, some commenters not only suggested adding a category below the level of the standard, but also suggested reducing the lower bound of the ''moderate'' category. (Docket No. A–98–20, IV–D–11, IV–D–17, IV–D–19, IV–G–21). We are not adding a category below the level of the standard as discussed in section II.B.1. above. However, to be somewhat more precautionary, we have expanded the ''moderate'' range by reducing the lower bound of this category from 0.070 ppm to 0.065 ppm O_3, 8-hour average. We believe that setting the breakpoint between the ''good'' and ''moderate'' categories at this lower level, is appropriate, based in part on risk estimates done in conjunction with the review of the O_3 NAAQS which suggested that risk to healthy people likely becomes negligible at this level (Whitfield et al., 1996). This change is also responsive to comments from State agencies that the proposed range of the ''moderate'' category was so narrow (spanning only 15 ppb O_3, as compared to 20 ppb range used in the Ozone Map in 1998) that it would be more difficult to forecast accurately and also would provide too quick a transition from good to unhealthy. (Docket No. A–98–20, IV–D–10, IV–G–04). Conversely, an industry group and a State commenter took exception to issuing a ''limited health notice'' for O_3 that we proposed as the purpose of the ''moderate'' category. (Docket No. A–98–20, IV–D–12, IV–G–14). The State commenter objected to the use of the term ''health notice'' below the level of the standard because it implies that the standard is not protective of public health. In addition to stating that the ''limited health notice'' associated with moderate air quality is inconsistent with the 8-hour O_3 standard because the standard is intended to protect public health, even the health of sensitive populations, with an adequate margin of safety, the industry commenter expressed the view that we should omit from our materials the health effects and cautionary statements suggesting that air quality meeting the level of the standard is a threat to health. We agree with the industry and State commenters that since the 8-hour O_3 standard is intended to protect public health, including the health of sensitive groups, with an adequate margin of safety, that the term ''limited health notice'' may be misleading. However, we continue to believe that it is appropriate to provide guidance with cautionary language for extremely sensitive individuals, not populations or groups, below the level of the standard. This approach is consistent with the advice of CASAC, and the way we discussed expanding the use of the AQI, specifically to caution extremely sensitive individuals below the level of the O_3 standard, in the O_3 proposal and final decision notices.

b. $PM_{2.5}$ sub-index. We received a number of comments regarding the $PM_{2.5}$ sub-index, almost all of them focusing on our proposal to set the index value of 100 at the level of the 24-hour standard (65 μg/m³). Some commenters recommended setting an index value of 100, or otherwise providing for cautionary messages, at concentrations lower than 65 μg/m³. One commenter, for example, stated that under the proposal ''many areas of the country will likely violate the annual standard of 15 μg/m³ without ever (or hardly ever) reaching a PSI of 100 or a category indicating some degree of unhealthfulness. This situation will result in an inconsistent and inappropriate message to the public, especially given the severe health effects associated with fine particles.'' (Docket No. A–98–20, IV–D–11).

In light of these comments, we have reexamined the basis for selecting $PM_{2.5}$ AQI breakpoints and agree that the sub-index as proposed would not adequately caution sensitive groups about potential risks associated with short-term exposures to $PM_{2.5}$. This is essentially because the proposed $PM_{2.5}$ sub-index was developed using the Agency's historical approach to selecting index breakpoints, which on examination does not correspond well with the way the $PM_{2.5}$ standards were intended to function. The historical practice has been simply to set the AQI value of 100 at the level of the short-term standard for a pollutant (in this case, the 24-hour $PM_{2.5}$ standard) and the AQI value of 50 at the level of the annual standard, if there is one, or at one-half the level of the short-term standard.[8] This method of structuring the index is appropriate for a ''typical'' suite of air-quality standards, which includes a short-term standard designed to protect against the health effects associated with short-term exposures and an annual standard designed to protect against health effects associated with long-term exposures. In such cases, the short-term standard in effect defines the level of health protection provided against short-term risks and thus is a useful benchmark against which to compare daily air-quality concentrations.

In the case of the $PM_{2.5}$ standards, however, EPA took a different approach to protecting against health risks associated with short-term exposures. For reasons discussed in the preamble to the final standards, the annual and 24-hour $PM_{2.5}$ standards were designed to work together for this purpose, and the intended level of protection against short-term risk is not defined by the 24-hour standard but by the combination of the two standards working in concert. Indeed, the annual $PM_{2.5}$ level of 15 μg/m³ was intended to serve as the principal vehicle for protection against short-term $PM_{2.5}$ exposures (by reducing the entire distribution of $PM_{2.5}$ concentrations in an area), with the short-term standard serving essentially to provide supplemental protection in special situations.[9] Given the respective roles of the two standards, setting the AQI value of 100 at the level of the 24-hour standard would not reflect the short-term health risks associated with lower concentrations, which the annual standard was designed to address. Accordingly, we agree that it is appropriate to caution members of sensitive groups below the level of the 24-hour standard and believe this should be done in a way that reflects the intended roles of both standards in protecting against short-term risks.

It would also be inappropriate to compare daily air-quality concentrations directly with the level of the annual standard (by setting the AQI value of 100 at that level), because the annual standard represents an average of many daily concentrations rather than daily values per se. In the circumstances, we believe the guiding principle for $PM_{2.5}$ should be to set the AQI value of 100 in a way that, at least conceptually, reflects the general level of health protection against short-term risks

[8] See 63 FR 67819, 67829 (Dec. 9, 1998).

[9] See 62 FR 38669–71, 38676–77 (July 18, 1997).

provided by the annual and 24-hour standards in combination. This approach, although inexact, is consistent with the historical approach, in that the underlying logic of that approach, as applied to a typical suite of standards, is also to set the AQI value of 100 in a way that reflects the level of protection provided against short-term risks—that is, by setting it at the level of the short-term standard that provides the protection. In the case of $PM_{2.5}$, as indicated above, the level of the 24-hour standard (65 μg/m^3) is too high to reflect the intended level of protection, and the level of the annual standard (15 μg/m^3) is too low. Between the two values, the available health studies indicate a continuum of risks associated with increasing PM concentrations, although with significant uncertainties as to the extent of the risk associated with single peak exposures.[10] Consistent with EPA's general practice of setting AQI breakpoints in symmetrical fashion where health effects information does not suggest particular levels,[11] we concluded that it is appropriate to set the AQI value of 100 at the mid-point of the range between the annual and the 24-hour $PM_{2.5}$ standards (40 μg/m^3). Given that decision, we also concluded that it is appropriate to retain the level of the annual standard for an AQI value of 50, as proposed, and to set the AQI level of 150 at the level of the 24-hour standard.

To reiterate, the purpose of setting the AQI value of 100 somewhat below the level of the 24-hour standard was to reflect the dual role of the annual and 24-hour $PM_{2.5}$ standards in protecting against short-term risks, and the aim was to select a breakpoint that would serve as a rough surrogate for the general level of protection provided by the two standards in combination. Given the nature of the standards and the available health information, a more exact approach was not possible. In this regard, setting the breakpoint at the mid-point of the range between the annual and 24-hour standards, as opposed to a level somewhat higher or lower within that range, simply reflected EPA's general practice of setting symmetrical breakpoints as indicated above, and does not imply any sort of health-effects threshold. In particular, it does not reflect a judgment about the extent of the risk associated with single peak concentrations of $PM_{2.5}$, as to which the available health information is inconclusive, or the level at which EPA might set a 24-hour standard if the annual standard did not serve as the primary vehicle for protection against such concentrations. As with other AQI breakpoints, it also has no effect on the degree of control required of specific sources.

In short, EPA's decision to treat the annual standard as the principal vehicle for protecting against short-term $PM_{2.5}$ concentrations, although judged to be the best approach based on the available health information, does present a different situation than that involved in previous AQI rulemakings. As discussed in the preamble to the final standards, the annual standard was intended to reduce all $PM_{2.5}$ concentrations, including short-term peaks, in an area sufficiently to protect public health with an adequate margin of safety, aside from special situations which the 24-hour standard was designed to address. As one commenter suggested, however, it would be possible for an area to violate the annual standard without ever experiencing (or seldom experiencing) daily peaks that exceeded the level of the 24-hour standard. Moreover, it might be difficult, if not impossible, to predict in advance whether the annual standard will be attained in a given area. For these reasons, as well as the uncertainties in the available health information, it is inherently difficult to judge the significance of single peak concentrations when they occur. In view of the various uncertainties involved, particularly sensitive individuals may wish to avoid exposure to such concentrations, especially concentrations that approach the level of the 24-hour standard. To facilitate such choices, consistent with the purposes of the AQI and the advice of CASAC, we believe that cautioning members of sensitive groups in the range of 40 to 65 μg/m^3 is appropriate.

We did not receive any comments on the proposal to establish a concentration of 500 μg/m^3 to be associated with a $PM_{2.5}$ index value of 500, or our method of selecting the intermediate breakpoints. Therefore, we are adopting 500 μg/m^3 as the upper bound of the index.[12] For intermediate breakpoints in the AQI between values of 150 and 500, we have adopted $PM_{2.5}$ concentrations that generally reflect a linear relationship between increasing index values and increasing $PM_{2.5}$ values. As discussed in the proposal, the generally linear relationship between AQI values and $PM_{2.5}$ concentrations in this range, rounded to increments of 50 μg/m^3 to reflect the approximate nature of such a relationship, is consistent with the health effects evidence that was the basis for the PM standards.

C. What Are the Final Revisions?

The sub-sections below only summarize changes to the regulatory text. They do not describe all aspects of 40 CFR part 58.50 or appendix G.

1. What Are the General Changes?

Based on the proposed structure of the AQI, the comments we received and our responses to them, as discussed above, we are adopting the following changes to the general structure and reporting requirements to the AQI.

a. Categories and related descriptors, index values and colors. We are adopting the index values, descriptors and associated colors listed in Table 1 above.

b. Reporting requirements. We are revising 40 CFR 58.50 to require reporting of the AQI in all MSAs with a population over 350,000. In appendix G, we are adopting rounding conventions to be used to calculate index values that are consistent with the rounding conventions used in defining the NAAQS for each pollutant.

The final rule retains the requirements to identify the area for which the AQI is being reported, the time period covered by the report, the ''critical'' pollutant for which the reported AQI value was derived, the AQI value, and the associated category descriptor. The final rule adds two requirements: (1) To report the associated category color if a color format is used and, (2) to report the pollutant-specific sensitive group for any reported index value greater than 100. The final rule encourages, but does not require, that AQI reports include: appropriate health effects and cautionary statements, all AQI values greater than 100, the AQI for sub-divisions of the MSA (if there are important differences in air quality across sub-divisions of the MSA), possible causes for high index values, and the actual pollutant concentrations.

In the case of rural or small urban areas that are significantly affected by pollutants transported from a MSA where the AQI is reported, the final rule recommends that the MSA report the AQI for the affected areas as well. In addition, when the AQI is greater than 100, reporting agencies should expand AQI reporting to include all major news media. The final rule continues to allow agencies to discontinue reporting for any pollutant, if index values for that pollutant have been below 50 for an entire season or a year. However, if in subsequent years pollutant levels rise

[10] See 62 FR 38670, 38677 (July 18, 1997).

[11] See 63 FR 67824, 67832 (Dec. 9, 1998).

[12] As discussed in the proposal, should the final SHL for $PM_{2.5}$, when promulgated, be different from this concentration, we will revise this $PM_{2.5}$ sub-index accordingly.

such that index values for that pollutant would be above 50, then the final rule requires that AQI reporting for that pollutant resume. The final rule emphasizes the importance of forecasting the AQI by specifying that forecasted values should be reported, when possible, but does not require that forecasted values be reported.

c. Index name. We are adopting the name the Air Quality Index or AQI.

2. What Are the Changes to the Sub-Indices?

Based on the proposed sub-indices, the comments we received and our responses to them, as discussed above, we are adopting new sub-indices corresponding to the 8-hour O_3 standard and the $PM_{2.5}$ standards, as well as conforming changes to the CO, 1-hour O_3, PM_{10}, and SO_2 sub-indices. The adopted breakpoints for the O_3 (8-hour and 1-hour) $PM_{2.5}$, PM_{10}, CO and SO_2 sub-indices are listed in Table 3.

TABLE 3.—BREAKPOINTS FOR O_3, $PM_{2.5}$, PM_{10}, CO, AND SO_2 SUB-INDICES

AQI value	O_3		PM		CO, 8-hr (ppm)	SO_2, 24-hr (ppm)
	8-hr (ppm)	1-hr (ppm)	$PM_{2.5}$, 24-hr (μg/m³)	PM_{10}, 24-hr (μg/m³)		
50	0.06		15	50	4	0.03
100	0.08	0.12	40	150	9	0.14
150	0.10	0.16	65	250	12	0.22
200	0.12	0.20	*150	350	15	0.30
300	0.40 (1-hr)	0.40	*250	420	30	0.60
400	0.50 (1-hr)	0.50	*350	500	40	0.80
500	0.60 (1-hr)	0.60	*500	600	50	1.00

*If a different SHL for $PM_{2.5}$ is promulgated, these numbers will be revised accordingly.

These sub-indices are presented in more detail in appendix G to reflect the changes to the numerical rounding conventions for calculating index values.

D. What Are the Related Informational Materials?

The primary documents associated with the AQI and this rulemaking, are our guidance on AQI reporting, ''Guideline for Public Reporting of Daily Air Quality—Air Quality Index (AQI)'' (EPA 1999a), and our guidance on AQI forecasting, ''Guideline for Developing an Ozone Forecasting Program'' (EPA 1999b). These documents are available on AIRLINKS (http://www.epa.gov/airlinks). The AQI Reporting document contains information regarding the AQI requirements and recommendations, example AQI reports, and a list of MSAs required to report the AQI. It also includes pollutant-specific health effects and cautionary statements for use with the index, for O_3, $PM_{2.5}$, PM_{10}, CO, and SO_2. The AQI Forecasting document explains the steps necessary to start an air pollution forecasting program. Included in the document is guidance on using hourly O_3 concentrations as predictors for 8-hour averages.

Other related informational materials are also available. The brochure ''The Pollutant Standards Index'' (EPA 1994) contained general information about the health effects and air quality, and general precautions that sensitive groups and the general public can take to avoid exposures of concern. It is being revised to be consistent with the new name (i.e., the Air Quality Index brochure), with final revisions to the AQI, and will identify sensitive groups in the health effects statements for each of the pollutants, and include the pollutant-specific health effects and cautionary statements discussed above. A colorful fact sheet, called the ''Air Quality Guide,'' provides information about the AQI, O_3 health effects and the sources of ground-level O_3 is available on the AIRNOW web site. A revised booklet, ''SMOG—Who Does It Hurt?,'' provides information for the general public about O_3 health effects and is based on scientific information gained in the recent review of the O_3 standard. ''SMOG—Who Does It Hurt?'' was designed to provide, in simple language, enough detail for individuals to understand who is at most risk from O_3 exposure and why, the nature of O_3 health effects, and a detailed explanation of how individuals can reduce the likelihood of exposure using common everyday activities as examples. We are also developing a shorter, summary pamphlet about O_3 health effects to complement the ''SMOG—Who Does It Hurt?'' booklet. We expect the AQI brochure, ''SMOG—Who Does It Hurt?'' and the shorter summary pamphlet about O_3 health effects to be available in paper format and on the AIRNOW web site early in the 1999 ozone season. In addition, we will translate the Air Quality Guide, the AQI brochure, ''SMOG—Who Does It Hurt?'', and the shorter summary pamphlet into Spanish. These materials will be available on a Spanish page on the AIRNOW web site.

There are other materials available on the AIRNOW web site that provide general information about O_3. Information about ground-level as contrasted to stratospheric O_3 may be found in EPA's publication ''Ozone: Good Up High, Bad Nearby.'' The EPA's video, ''Ozone Double Trouble'' also provides information about ground-level and stratospheric O_3 and the health effects associated with exposure to ground-level O_3, or smog.

In addition to the products discussed above, to address the concerns of commenters that when air quality is in the ''unhealthy for sensitive groups'' range the public will not understand that the standard has been exceeded or who is at risk, we are going to significantly increase education and outreach related to the AQI. At this point, we are still in the process of planning specific new products or activities, but have decided what general direction these efforts will take. First, we plan to increase our contacts with the news providers to better inform them about the importance of including accurate, timely and understandable information in their broadcasts and reporting, and to enlist them as full partners in the implementation of the AQI. Second, we plan to form new associations with health care providers to keep them informed about air pollution health effects, since these professionals are the most trusted source of health effects information. Third, we plan to increase direct outreach to the public through a variety of means, including materials tailored to school-age children, the Spanish-speaking community, and others. Finally, we plan to work with public health interest organizations to support

their efforts to provide more immediate and interactive education and outreach to all of these groups.

III. Regulatory and Environmental Impact Analyses

A. Executive Order 12866: OMB Review of ''Significant Actions''

Under Executive Order 12866, the Agency must determine whether a regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as one that may:

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

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

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

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. The EPA has determined that the revisions to air quality index reporting in this final rule would not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities, and therefore did not prepare a regulatory impact assessment. The OMB has advised us this final decision should be construed as a ''significant regulatory action'' within the meaning of Executive Order 12866. Accordingly, this action was submitted to the OMB for review. Any changes made in response to OMB suggestions or recommendations will be documented in the public record and made available for public inspection at EPA's Air and Radiation Docket Information Center (Docket No. A–98–20).

B. Regulatory Flexibility Analysis/Small Business Regulatory Enforcement Fairness Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. Under 6 U.S.C. 605(b), this requirement may be waived if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and governmental entities with jurisdiction over populations less than 50,000 people.

Today's final decision to revise the AQI program modifies existing air quality reporting requirements for MSA's with populations over 350,000 people. Today's final decision will not establish any new regulatory requirements affecting small entities. On the basis of the above considerations, EPA certifies that today's final decision will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA. Based on the same considerations, EPA also certifies that the new small-entity provisions in section 244 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) do not apply.

C. 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 1 year. In addition, before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that today's final decision would not include a Federal mandate that may result in estimated costs of $100 million in any 1 year to either State, local, or tribal governments, in the aggregate, or to the private sector. Accordingly, EPA has determined that the provisions of section 202 of the UMRA do not apply to this rulemaking. With regard to section 203 of the UMRA, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This rule requires reporting of the Air Quality Index only in MSAs with populations greater than 350,000, and therefore does not affect small governments.

D. Paperwork Reduction Act

Today's final decision does not establish any new information collection requirements beyond those which are currently required under the Ambient Air Quality Surveillance Regulations in 40 CFR part 58 (OMB #2060–0084, EPA ICR No. 0940.15). Therefore, the requirements of the Paperwork Reduction Act do not apply to today's action.

E. Executive Order 13045: Children's Health

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), requires Federal agencies to ensure that their policies, programs, activities, and standards identify and assess environmental health and safety risks that may disproportionately affect children. To respond to this order, agencies must explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency. In today's final decision, EPA identified children as one of the sensitive groups which may be at increased risk of experiencing the effects of concern following exposure to O_3, $PM_{2.5}$ and $NO_{2.5}$. The AQI categories, descriptors, and health effects and cautionary statements as proposed, for the first time reflect consideration of the increased health risk to children which may result from such exposures. Promulgation of the proposed AQI is one potentially effective alternative that was considered. However, based on comments that the public may not be aware that healthy, active children are included in the sensitive groups for O_3, $PM_{2.5}$ and NO_2, we have adopted the additional requirement that reporting agencies must include a pollutant-specific statement of the sensitive groups when an index value of 100 is exceeded. For example, when reporting an AQI value of 110 for ozone, the reporting agency must include a statement that children and people with asthma are the groups most at risk. Whenever the AQI value is above 100 for a pollutant, and children are one of the sensitive groups for that pollutant, the AQI report must include a statement

that children are at risk. Therefore, today's action does comply with the requirements of E.O. 13045.

F. Executive Order 12848: Environmental Justice

Executive Order 12848 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations in the United States.

The nature of today's action is to inform the general public, including minorities and low-income populations, about the nature of the air pollution in the areas in which they live. Today's action establishes a uniform tool for States to use to develop programs which will caution particularly sensitive people to minimize their exposures and educate the public about general health effects associated with exposure to different pollution levels. States may also use information established as part of the AQI to trigger programs designed to reduce emissions to avoid exceedances of the NAAQS. Therefore, today's action will help facilitate public participation, outreach, and communication in areas where environmental justice issues are present.

G. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or we will consult with those governments. If EPA complies by consulting, Executive Order 12875 requires us to provide to OMB a description of the extent of our prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires us to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule implements requirements set forth in section 319 of the Act and thus is required by statute. This rule does not establish a wholly new requirement but rather modifies existing reporting requirements which State and local governments have been implementing for approximately 20 years. While these changes are significant in many ways, they are not expected to result in a significant increase in reporting burdens. Nonetheless, EPA engaged in extensive consultation with State and local governments in the development of the proposed and final rules, and this consultation is discussed and documented elsewhere in today's notice and in the notice of proposed rulemaking.

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

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA will consult with those governments. If EPA complies by consulting, Executive Order 13084 requires us to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of our prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires us to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule implements requirements specifically set forth by the Congress in section 319 of the Act without the exercise of any discretion by us. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

This rule governs the reporting of air quality by States for MSAs and, in some cases, areas that are significantly affected by transport of pollutants from MSAs. In extensive public and intergovermental coordination efforts during the development of the proposal, EPA received no information which would suggest that the rule will impose new requirements on Indian tribal governments nor will it significantly or uniquely affect communities of Indian tribal governments. To the extent that air pollution from upwind MSAs significantly affects any lands within Indian country, this impact is not a result of, or affected by, today's rule and would be addressed under existing requirements governing the implementation of air quality standards.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. 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 the publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

IV. References

CEQ, (1976) A Recommended Air Pollution Index, report prepared by the Federal Interagency Task Force on Air Quality Indicators, Council on Environmental Quality, Environmental Protection Agency, and Department of Commerce.

EPA, (1994) Measuring Air Quality: The Pollutant Standards Index, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards (MD–10), Research Triangle Park, NC, 27711, EPA 451/K–94–001.

EPA, (1999a) Guideline for Public Reporting of Daily Air Quality—Air Quality Index (AQI), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, 27711, EPA–454/R–99–010.

EPA, (1999b) Guideline for Developing an Ozone Forecasting Program, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, 27711, EPA–454/R–99–009.

EPA, (1999c) The Air Quality Index, U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, 27711, in preparation.

Science Applications International Corporation, (1998) Report of Eight Focus Groups on the Ozone Map, the Pollutant Standards Sub-index for Ozone, and the Ozone Health Effects Booklet, Science Applications International Corporation, McLean, VA.

U.S. Department of Commerce, (1998) Statistical Abstract of the United States, U.S. Bureau of the Census.

Whitfield, R.G.; Biller, W.F.; Jusko, M.J.; Keisler, JM (1996) A probabilistic assessment of health risks associated with short-term exposure to tropospheric ozone. Report prepared for U.S. EPA, OAQPS. Argonne National Laboratory; Argonne, IL.

Wolff, G.T., (1995) Letter from Chairman of the Clean Air Scientific Advisory Committee to the EPA Administrator, dated November 30, 1995. EPA–SAB–CASAC–LTR–96–002.

List of Subjects in 40 CFR Part 58

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 23, 1999.

Carol M. Browner,

Administrator.

Accordingly, 40 CFR part 58 is amended as follows:

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

1. The authority citation for part 58 continues to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, and 7619.

2. Section 58.50 is revised to read as follows:

§ 58.50 Index reporting.

(a) The State shall report to the general public through prominent notice an air quality index in accordance with the requirements of appendix G to this part.

(b) Reporting is required by all Metropolitan Statistical Areas with a population exceeding 350,000.

(c) The population of a Metropolitan Statistical Area for purposes of index reporting is the most recent decennial U.S. census population.

3. Appendix G to part 58 is revised to read as follows:

Appendix G to Part 58—Uniform Air Quality Index (AQI) and Daily Reporting

General Requirements

1. What is the AQI?
2. Why report the AQI?
3. Must I report the AQI?
4. What goes into my AQI report?
5. Is my AQI report for my MSA only?
6. How do I get my AQI report to the public?
7. How often must I report the AQI?
8. May I make exceptions to these reporting requirements?

Calculation

9. How does the AQI relate to air pollution levels?
10. Where do I get the pollutant concentrations to calculate the AQI?
11. Do I have to forecast the AQI?
12. How do I calculate the AQI?

Background and Reference Materials

13. What additional information should I know?

General Requirements

1. What Is the AQI?

The AQI is a tool that simplifies reporting air quality to the general public. The AQI incorporates into a single index concentrations of 5 criteria pollutants: ozone (O_3), particulate matter (PM), carbon monoxide (CO), sulfur dioxide (SO_2), and nitrogen dioxide (NO_2). The scale of the index is divided into general categories that are associated with health messages.

2. Why Report the AQI?

The AQI offers various advantages:

a. It is simple to create and understand.

b. It conveys the health implications of air quality.

c. It promotes uniform use throughout the country.

3. Must I Report the AQI?

You must report the AQI daily if yours is a metropolitan statistical area (MSA) with a population over 350,000.

4. What Goes Into My AQI Report?

i. Your AQI report must contain the following:

a. The reporting area(s) (the MSA or subdivision of the MSA).

b. The reporting period (the day for which the AQI is reported).

c. The critical pollutant (the pollutant with the highest index value).

d. The AQI (the highest index value).

e. The category descriptor and index value associated with the AQI and, if you choose to report in a color format, the associated color. Use only the following descriptors and colors for the six AQI categories:

TABLE 1.—AQI CATEGORIES

For this AQI	Use this descriptor	And this color [1]
0 to 50	"Good"	Green.
51 to 100	"Moderate"	Yellow.
101 to 150	"Unhealthy for Sensitive Groups".	Orange.
151 to 200	"Unhealthy"	Red.
201 to 300	"Very Unhealthy".	Purple.
301 and above	"Hazardous"	Maroon.[1]

[1] Specific colors can be found in the most recent reporting guidance (Guideline for Public Reporting of Daily Air Quality—Air Quality Index (AQI)).

f. The pollutant specific sensitive groups for any reported index value greater than 100. Use the following sensitive groups for each pollutant:

When this pollutant has an index value above 100 * * *	Report these sensitive groups * * *
Ozone	Children and people with asthma are the groups most at risk.
$PM_{2.5}$	People with respiratory or heart disease, the elderly and children are the groups most at risk.
PM_{10}	People with respiratory disease are the group most at risk.
CO	People with heart disease are the group most at risk.
SO_2	People with asthma are the group most at risk.

When this pollutant has an index value above 100 * * *	Report these sensitive groups * * *
NO_2	Children and people with respiratory disease are the groups most at risk.

ii. When appropriate, your AQI report may also contain the following:

a. Appropriate health and cautionary statements.

b. The name and index value for other pollutants, particularly those with an index value greater than 100.

c. The index values for sub-areas of your MSA.

d. Causes for unusual AQI values.

e. Actual pollutant concentrations.

5. Is My AQI Report for My MSA Only?

Generally, your AQI report applies to your MSA only. However, if a significant air quality problem exists (AQI greater than 100) in areas significantly impacted by your MSA but not in it (for example, O_3 concentrations are often highest downwind and outside an urban area), you should identify these areas and report the AQI for these areas as well.

6. How Do I Get My AQI Report to the Public?

You must furnish the daily report to the appropriate news media (radio, television, and newspapers). You must make the daily report publicly available at one or more places of public access, or by any other means, including a recorded phone message, a public Internet site, or facsimile transmission. When the AQI value is greater than 100, it is particularly critical that the reporting to the various news media be as extensive as possible. At a minimum, it should include notification to the media with the largest market coverages for the area in question.

7. How Often Must I Report the AQI?

You must report the AQI at least 5 days per week. Exceptions to this requirement are in section 8 of this appendix.

8. May I Make Exceptions to These Reporting Requirements?

i. If the index value for a particular pollutant remains below 50 for a season or year, then you may exclude the pollutant from your calculation of the AQI in section 12.

ii. If all index values remain below 50 for a year, then you may report the AQI at your discretion. In subsequent years, if pollutant levels rise to where the AQI would be above 50, then the AQI must be reported as required in sections 3, 4, 6, and 7 of this appendix.

Calculation

9. How Does the AQI Relate to Air Pollution Levels?

For each pollutant, the AQI transforms ambient concentrations to a scale from 0 to 500. The AQI is keyed as appropriate to the national ambient air quality standards (NAAQS) for each pollutant. In most cases, the index value of 100 is associated with the numerical level of the short-term standard (i.e., averaging time of 24-hours or less) for each pollutant. Different approaches are taken for NO_2, for which no short-term standard has been established, and for $PM_{2.5}$, for which the annual standard is the principal vehicle for protecting against short-term concentrations. The index value of 50 is associated with the numerical level of the annual standard for a pollutant, if there is one, at one-half the level of the short-term standard for the pollutant, or at the level at which it is appropriate to begin to provide guidance on cautionary language. Higher categories of the index are based on increasingly serious health effects and increasing proportions of the population that are likely to be affected. The index is related to other air pollution concentrations through linear interpolation based on these levels. The AQI is equal to the highest of the numbers corresponding to each pollutant. For the purposes of reporting the AQI, the sub-indexes for PM_{10} and $PM_{2.5}$ are to be considered separately. The pollutant responsible for the highest index value (the reported AQI) is called the ''critical'' pollutant.

10. Where Do I Get the Pollutant Concentrations To Calculate the AQI?

You must use concentration data from population-oriented State/Local Air Monitoring Station (SLAMS) or parts of the SLAMS required under 40 CFR 58.20 for each pollutant except PM. For PM, you need only calculate and report the AQI on days for which you have measured air quality data (e.g., particulate monitors often report values only every sixth day). You may use particulate measurements from monitors that are not reference or equivalent methods (for example, continuous PM_{10} or $PM_{2.5}$ monitors) if you can relate these measurements by statistical linear regression to reference or equivalent method measurements.

11. Do I Have to Forecast the AQI?

You should forecast the AQI to provide timely air quality information to the public, but this is not required. If you choose to forecast the AQI, then you may consider both long-term and short-term forecasts. You can forecast the AQI at least 24-hours in advance using the most accurate and reasonable procedures considering meteorology, topography, availability of data, and forecasting expertise. The document ''Guideline for Developing an Ozone Forecasting Program'' (the Forecasting Guidance) will help you start a forecasting program. You can also issue short-term forecasts by predicting 8-hour ozone values from 1-hour ozone values using methods suggested in the Reporting Guidance, ''Guideline for Public Reporting of Daily Air Quality.''

12. How Do I Calculate the AQI?

i. The AQI is the highest value calculated for each pollutant as follows:

a. Identify the highest concentration among all of the monitors within each reporting area and truncate the pollutant concentration to one more than the significant digits used to express the level of the NAAQS for that pollutant. This is equivalent to the rounding conventions used in the NAAQS.

b. Using Table 2, find the two breakpoints that contain the concentration.

c. Using Equation 1, calculate the index.

d. Round the index to the nearest integer.

TABLE 2.—BREAKPOINTS FOR THE AQI

These breakpoints						Equal these AQIs * * *		Category
O_3 (ppm) 8-hour	O_3 (ppm) 1-hour [1]	$PM_{2.5}$ (μg/m³)	PM_{10} (μg/m³)	CO (ppm)	SO_2 (ppm)	NO_2 (ppm)	AQI	
0.000–0.064		0.0–15.4	0–54	0.0–4.4	0.000–0.034	([2])	0–50	Good.
0.065–0.084		15.5–40.4	55–154	4.5–9.4	0.035–0.144	([2])	51–100	Moderate.
0.085–0.104	0.125–0.164	40.5–65.4	155–254	9.5–12.4	0.145–0.224	([2])	101–150	Unhealthy for sensitive groups.
0.105–0.124	0.165–0.204	[4] 65.5–150.4	255–354	12.5–15.4	0.225–0.304	([2])	151–200	Unhealthy.
0.125–0.374	0.205–0.404	[4] 150.5–250.4	355–424	15.5–30.4	0.305–0.604	0.65–1.24	201–300	Very unhealthy.
([3])	0.405–0.504	[4] 250.5–350.4	425–504	30.5–40.4	0.605–0.804	1.25–1.64	301–400	
([3])	0.505–0.604	[4] 350.5–500.4	505–604	40.5–50.4	0.805–1.004	1.65–2.04	401–500	Hazardous.

[1] Areas are generally required to report the AQI based on 8-hour ozone values. However, there are a small number of areas where an AQI based on 1-hour ozone values would be more precautionary. In these cases, in addition to calculating the 8-hour ozone index value, the 1-hour ozone index value may be calculated, and the maximum of the two values reported.

[2] NO_2 has no short-term NAAQS and can generate an AQI only above an AQI value of 200.
[3] 8-hour O_3 values do not define higher AQI values (≥ 301). AQI values of 301 or higher are calculated with 1-hour O_3 concentrations.
[4] If a different SHL for $PM_{2.5}$ is promulgated, these numbers will change accordingly.

ii. If the concentration is equal to a breakpoint, then the index is equal to the corresponding index value in Table 2. However, Equation 1 can still be used. The results will be equal. If the concentration is between two breakpoints, then calculate the index of that pollutant with Equation 1. You must also note that in some areas, the AQI based on 1-hour O_3 will be more precautionary than using 8-hour values (see footnote 1 to Table 2). In these cases, you may use 1-hour values as well as 8-hour values to calculate index values and then use the maximum index value as the AQI for O_3.

$$I_p = \frac{I_{Hi} - I_{Lo}}{BP_{HI} - BP_{Lo}}\left(C_p - BP_{Lo}\right) + I_{Lo} \qquad \text{(Equation 1)}$$

Where:

I_p = the index value for $pollutant_p$
C_p = the truncated concentration of $pollutant_p$
BP_{Hi} = the breakpoint that is greater than or equal to C_p
BP_{Lo} = the breakpoint that is less than or equal to C_p
I_{Hi} = the AQI value corresponding to BP_{Hi}
I_{lo} = the AQI value corresponding to BP_{Lo}.

iii. If the concentration is larger than the highest breakpoint in Table 2 then you may use the last two breakpoints in Table 2 when you apply Equation 1.

Example

iv. Using Table 2 and Equation 1, calculate the index value for each of the pollutants measured and select the one that produces the highest index value for the AQI. For example, if you observe a PM_{10} value of 210 μg/m³, a 1-hour O_3 value of 0.156 ppm, and an 8-hour O_3 value of 0.130 ppm, then do this:

a. Find the breakpoints for PM_{10} at 210 μg/m³ as 155 μg/m³ and 254 μg/m³, corresponding to index values 101 and 150;

b. Find the breakpoints for 1-hour O_3 at 0.156 ppm as 0.125 ppm and 0.164 ppm, corresponding to index values 101 and 150;

c. Find the breakpoints for 8-hour O_3 at 0.130 ppm as 0.125 ppm and 0.374 ppm, corresponding to index values 201 and 300;

d. Apply Equation 1 for 210 μg/m³, PM_{10}:

$$\frac{150-101}{254-155}(210-155)+101=128.$$

e. Apply Equation 1 for 0.156 ppm, 1-hour O_3:

$$\frac{150-101}{0.164-0.125}(0.156-0.125)+101=140$$

f. Apply Equation 1 for 0.130 ppm, 8-hour O_3:

$$\frac{300-201}{0.374-0.125}(0.130-0.125)+201=203$$

g. Find the maximum, 203. This is the AQI. The minimal AQI report would read:

v. Today, the AQI for my city is 203 which is very unhealthy, due to ozone. Children and people with asthma are the groups most at risk.

Background and Reference Materials

13. What Additional Information Should I Know?

The EPA has developed a computer program to calculate the AQI for you. The program works with Windows 95, it prompts for inputs, and it displays all the pertinent information for the AQI (the index value, color, category, sensitive group, health effects, and cautionary language). The EPA has also prepared a brochure on the AQI that explains the index in detail (The Air Quality Index), Reporting Guidance (Guideline for Public Reporting of Daily Air Quality) that provides associated health effects and cautionary statements, and Forecasting Guidance (Guideline for Developing an Ozone Forecasting Program) that explains the steps necessary to start an air pollution forecasting program. You can download the program and the guidance documents at www.epa.gov/airnow.

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August 4, 1999

Part IV

Environmental Protection Agency

40 CFR Parts 403 and 503

Standards for the Use or Disposal of Sewage Sludge; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 403 and 503

[FRL–6401–3]

RIN 2040–AC25

Standards for the Use or Disposal of Sewage Sludge

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action amends the existing regulation regarding the land application, surface disposal, and incineration of sewage sludge. The amendments clarify existing regulatory requirements regarding operational standards for pathogen and vector attraction reduction and provide flexibility to the permitting authority and the regulated community in complying with the minimum frequency of monitoring requirements. The amendments also make the incineration subpart of the regulation totally self-implementing by providing information on air dispersion modelling, incinerator testing methods, and continuous emission monitors to the sewage sludge incinerator owner-operator. It also amends the existing General Pretreatment Regulation for Existing and New Sources of Pollution by adding a concentration for total chromium in land-applied sewage sludge to the list of pollutants that are eligible for a removal credit issued by a wastewater treatment works treating domestic sewage.

EFFECTIVE DATE: The final rule is effective September 3, 1999. For purposes of judicial review, this final rule is promulgated as of 1 pm eastern time on August 18, 1999 as provided in 40 CFR 23.7.

FOR FURTHER INFORMATION CONTACT: Alan B. Rubin, Ph.D., Senior Scientist, Health and Ecological Criteria Division (4304), Office of Science and Technology, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–7589.

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I. Regulated Entities

Entities potentially regulated by today's action are those that prepare sewage sludge and use or dispose of the sewage sludge through application to the land, placement on a surface disposal site, placement in a municipal solid waste landfill unit, or firing in a sewage sludge incinerator. Regulated categories and entities include:

Category	Examples of regulated entities
State/Local/Tribal Gov	Publicly-owned treatment works that treat domestic sewage.
Federal Government	Federally-owned treatment works that treat domestic sewage.
Industry	Privately-owned treatment works that treat domestic sewage, and persons who receive sewage sludge and change the quality of the sewage sludge before it is used or disposed.

The above list of regulated categories and entities is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The list includes the type of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed above also could be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability section in § 503.1 (Purpose and Applicability) of part 503 of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, contact the individual whose name is in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Authority

The amendments to part 503 are promulgated pursuant to the authority of section 405 of the Clean Water Act (CWA), which requires EPA to establish numerical limits and management practices that protect public health and the environment from the reasonably anticipated adverse effects of toxic pollutants in sewage sludge. Section 405(e) prohibits any person from disposing of sewage sludge from a publicly owned treatment works (POTWs) or any other treatment works treating domestic sewage for any use or disposal for which regulations have been established pursuant to subsection (d) of section 405 except in compliance with such regulations.

The amendment to part 403 is promulgated under the authority of sections 307 and 405 of the CWA. In section 307(b) of the CWA, Congress directed EPA to establish categorical pretreatment standards for industrial discharges of toxic pollutants to POTWs. Congress authorized POTWs in defined circumstances to provide relief from categorical pretreatment standards in the form of a removal credit to

indirect dischargers. Section 307(b) authorizes a removal credit where, among other things, grant of the removal credit does not prevent the POTW from using or disposing of its sewage sludge in compliance with section 405 of the CWA.

III. Background

A. Part 503 Amendments

On February 19, 1993, EPA promulgated, pursuant to section 405(d) of the CWA, Standards for the Use or Disposal of Sewage Sludge (58 FR 9248). This regulation establishes the requirements that protect public health and the environment when sewage sludge is: (1) Applied to the land to either condition the soil or fertilize crops grown in the soil; (2) placed on a surface disposal site; (3) placed in a municipal solid waste landfill unit; or (4) fired in a sewage sludge incinerator. EPA amended the part 503 sewage sludge regulation on February 25, 1994 (59 FR 9095) and again on October 25, 1995 (60 FR 54764) to address various issues.

On October 25, 1995, EPA published a document in the **Federal Register** proposing several technical changes to part 503 (60 FR 54771). These changes were intended to address a number of issues identified since promulgation of the regulation. The proposed changes clarify certain requirements, provide additional flexibility to the regulated community in complying with the part 503 requirements, and modify the requirements for sewage sludge incinerators to make the requirements self-implementing. Comments on the October 1995 proposal were considered in developing the changes in today's final rule.

B. Part 403 Amendment

Industrial facilities that discharge specific pollutants to POTWs for treatment must pretreat their effluent to meet categorical pretreatment standards promulgated under section 307(b) of the CWA. Section 307(b) also provides that where POTWs provide some or all of the treatment of an industrial user's wastewater required to meet a categorical pretreatment standard, POTWs may grant ''a removal credit'' to such an indirect discharger. The credit, in the form of a less stringent categorical pretreatment standard, allows an increased concentration of a pollutant in the discharge from the indirect discharger to the POTW.

Section 307(b) of the CWA establishes three criteria that a POTW has to meet to obtain authority to grant a removal credit to a discharger of a toxic pollutant to the POTW: (1) The POTW removes all or any part of the toxic pollutant, (2) the POTW's ultimate discharge does not violate the effluent limitation or standard that would be applicable to the toxic pollutant if it were discharged directly rather than through a POTW, and (3) the discharge to the POTW does not prevent sewage sludge use or disposal by the POTW in accordance with section 405 of the CWA. EPA promulgated removal credit regulations that are codified at 40 CFR 403.7.

On February 19, 1993, EPA amended the part 403 General Pretreatment Regulations to add a new Appendix G that includes two lists of pollutants eligible for a removal credit with respect to the use or disposal of sewage sludge if the other procedural and substantive requirements of 40 CFR 403.7 are met. The first list (Appendix G—Section I) includes, by sewage sludge use or disposal practice, the pollutants regulated in EPA's Standards for the Use or Disposal of Sewage Sludge (40 CFR part 503). The second list (Appendix G—Section II) includes, by sewage sludge use or disposal practice, additional pollutants eligible for a removal credit if the concentration of the pollutant in sewage sludge does not exceed the prescribed concentration. The pollutants in Appendix G—Section II are the pollutants EPA evaluated and decided not to regulate during the development of the part 503 regulation. See 58 FR 9381–9385, February 19, 1993.

The October 1995 proposal addressed the concentration for total chromium for land-applied sewage sludge on the list of pollutants in Appendix G—Section II of the part 403 regulations. EPA concluded after reviewing comments on the proposed concentration to establish the concentration at the value in today's final rule.

IV. Final Amendments to the Part 503 Land Application, Surface Disposal, Pathogen, and Vector Attraction Reduction Requirements

A. Ceiling Concentration Limits—Land Application

In the October 25, 1995, document, EPA proposed to amend the applicability section of the land application requirements to clarify that the ceiling concentration limits (Table 1 of § 503.13) apply to all sewage sludge that is land-applied. Specifically, EPA proposed to amend § 503.10(b)(1), (c)(1), (d), (e), (f), and (g) to expressly provide that the ceiling concentration limits have to be met in all cases. All commenters on this proposed change concurred with the change. Thus, today's action amends § 503.10(b)(1), (c)(1), (d), (e), (f), and (g) to require that the ceiling concentration limits in Table 1 of § 503.13 be met.

B. Frequency of Monitoring

Sections 503.16, 503.26, and 503.46 require periodic monitoring of sewage sludge for pollutants as well as periodic demonstration of compliance with certain pathogen density and vector attraction reduction requirements. The frequency of monitoring varies with the amount of sewage sludge used or disposed. The current regulation allows the permitting authority, after two years of monitoring, to reduce the frequency, but in no case may the permitting authority authorize monitoring less frequently than once a year. EPA proposed to amend the regulation to authorize the permitting authority to reduce the frequency of monitoring for pollutants and certain pathogen density requirements [1] to less than once a year.

Several commenters opposed the proposed change because they believed it would undermine public confidence in the quality of sewage sludge that is used or disposed. They stated that consistent monitoring of sewage sludge is essential to retaining public support for the part 503 regulation.

The Agency does not agree that the proposed change to the frequency of monitoring requirements means that consistent monitoring of sewage sludge will not continue. The reduction in the frequency only applies to pollutant concentrations and certain pathogen density requirements, and only can be made by the permitting authority.

EPA has decided to modify § 503.16, § 503.26, and § 503.46 to delete the requirement to monitor at least once per year. This change provides flexibility to permitting authority to tailor monitoring requirements to specific circumstances without jeopardizing public health and the environment.

Today's change allows, but does not require, the permitting authority to reduce the frequency of monitoring. Moreover, the permitting authority's ability to reduce the monitoring frequency is limited to monitoring for pollutants and the enteric virus and viable helminth ova density requirements in pathogen Class A,

[1] For example, EPA proposed to authorize the permitting authority to reduce the frequency of monitoring for the pathogen densities in § 503.32(a)(5)(ii) and § 503.32(a)(5)(iii). The frequency of monitoring for all other pathogen densities (e.g., the 1000 MPN per gram of total solids fecal coliform requirement for all Class A pathogen alternatives), and for the vector attraction reduction options (e.g., 38 percent volatile solids reduction) cannot be reduced by the permitting authority.

Alternative 3 (see § 503.32(a)(5)(ii) and (5)(iii)). This change does not apply to any other pathogen density requirement or to the vector attraction reduction requirements. Further, this change does not preclude the permitting authority from increasing the frequency of monitoring even if they reduce the frequency after two years of monitoring at the part 503 frequency.

Thus, EPA is today amending § 503.16(a)(2), § 503.26(a)(2), and § 503.46(a)(3) by deleting the phrase ''* * * but in no case shall the frequency of monitoring be less than once per year when * * *'' Note that the part 503 frequency of monitoring requirements do not apply if sewage sludge is not land-applied, surface-disposed, or fired in a sewage sludge incinerator during the year.

C. Certification Language

Sections 503.17 and 503.27 of the current sewage sludge regulation require sewage sludge preparers and land appliers, and the owner/operator of a surface disposal site, respectively, to keep certain records, and in the case of a Class I sludge management facility, to report this information to the permitting authority. The regulation also requires the recordkeepers to certify to compliance with applicable requirements. Failure to certify may result in significant penalties.

The October 1995 notice proposed to change the certification language in the part 503 recordkeeping sections because the effect of requiring the appropriate person to certify compliance may be to discourage self-reporting of violations. If a requirement is not being met, the applicable person obviously cannot certify to compliance with the requirement without perjury. EPA proposed only to require that the applicable person certify to the accuracy of the information that was collected to show compliance. Compliance with the requirement then would be determined by the permitting authority.

Commenters supported the proposed change. One commenter expressed concern, however, that the language change may be construed to relieve preparers of land-applied sewage sludge from meeting certain requirements. This is not the case. As indicated in § 503.7, the preparer of land-applied sewage sludge is responsible to ensure that the applicable land application requirements are met. The change in the certification language does not relieve a preparer from this duty. Under the regulation, as amended, the appropriate person must certify that information collected to show compliance with a requirement was prepared under his/her direction and supervision in accordance with the system designed to ensure that qualified personnel gather and evaluate information properly.

Another commenter suggested that the certifications in the land application recordkeeping section (§ 503.17) for the preparer be combined into one certification. The commenter also suggested this be done for the certifications for the applier. EPA has decided to retain the current certifications in the land application recordkeeping section without change because they contain the applicable certification for each requirement (i.e., pollutants, pathogens, and vector attraction reduction), and ensure there is no confusion about who is to certify to what.

Today's action amends § 503.17 by revising the certification language as described above in paragraphs (a)(1)(ii), (a)(2)(ii), (a)(3)(i)(B), (a)(3)(ii(A), (a)(4)(i)(B), (a)(4)(ii)(A), (a)(5)(i)(B), (a)(5)(ii)(F), (a)(5)(ii)(H), (a)(5)(ii)(J), (a)(5)(ii)(L), (a)(6)(iii), and (b)(6). EPA is also amending § 503.27 by revising the certification language in paragraphs (a)(1)(ii), (a)(2)(ii), (b)(1)(i), and (b)(2)(i).

D. Time of Application

In the October 25, 1995 Notice, EPA proposed to change certain of the recordkeeping requirements for land-applied sewage sludge and for domestic septage applied to agricultural land, forest, or a reclamation site. EPA proposed to delete the requirement in § 503.17(a)(5)(ii)(C) and § 503.17(b)(3) to record the time of application of bulk sewage sludge and domestic sewage, respectively, to a site. At the same time, EPA proposed to add a new requirement in § 503.17(a)(4)(ii)(E) for Class B sewage sludge. This change would require appliers of Class B sewage sludge to record the date bulk sewage sludge is applied to each site. EPA concluded that, because the regulation restricts the use of sites to which Class B sewage sludge is applied,[2] it is important to record the date Class B sewage sludge is land-applied. For the reasons discussed at proposal, EPA is today adopting these changes.

E. Definition of pH

EPA also proposed a change to the definition of pH to clarify that pH should be measured at 25 degrees Centigrade (C) or be converted to an equivalent value at 25 degrees C. Twenty-five degrees C is the reference temperature for reporting pH values in the scientific literature.

Commenters favored the proposed change, which EPA is today adopting as proposed. Today's notice amends the definition of pH in § 503.31(g) to read as follows: pH means the logarithm of the reciprocal of the hydrogen ion concentration measured at 25° Centigrade or measured at another temperature and then converted to an equivalent value at 25° Centigrade.

The following equation from Smith and Farrell can be used to adjust pH values taken at temperatures other than 25 degrees C to equivalent values at 25 degrees C:

$$\text{pH correction} = [0.03 \text{ pH units}/1.0^\circ \text{ C}] \times [\text{Temp}^\circ \text{ C}_{meas} - 25^\circ \text{ C}]$$

This equation indicates that for each degree difference between the measured temperature in degrees C and 25 degrees C, there is a change in pH of 0.03 units. Thus, if a pH of 12 is measured at 20 degrees C, the pH at 25 degrees C is 11.85 [12 + (0.03 × −5)]. There is an inverse relationship between temperature and pH.

F. Class B, Alternative 1—at the Time of Use or Disposal

EPA also proposed to amend § 503.32(b)(2) to change the pathogen reduction requirements in pathogen Class B, Alternative 1 to allow those requirements to be met any time before the sewage sludge is used or disposed. Under the current regulation, these requirements must be met ''at the time the sewage sludge is used or disposed.''

There were two reasons for EPA's decision to propose this change. First, the requirement in § 503.32(b)(2) is inconsistent with the requirements in the two other Class B pathogen alternatives.[3] Part 503 does not require that the requirements in either Class B, Alternative 2 or Class B, Alternative 3 be met at the time the sewage sludge is used or disposed. For example, when the requirements in Class B, Alternative 2 are met, the sewage sludge can be stored and then land-applied. Part 503 does not require additional treatment after the storage period.

Second, EPA concluded that protection of public health and the environment does not require that the Class B pathogen requirements be met at the time sewage sludge is used or disposed. The part 503 rule imposes site restrictions for Class B sewage sludge that is land-applied and management

[2] For example, § 503.32(b)(5) prohibits the harvesting of food crops with harvested parts below the land surface up to 38 months after land application of a Class B sewage sludge.

[3] These alternatives are Class B, Alternative 2 (treat sewage sludge in a Process to Significantly Reduce Pathogens (PSRP)) and Class B, Alternative 3 (treat sewage sludge in a process that is equivalent to a PSRP). See § 503.32(b)(3) and § 503.32(b)(4).

practices for surface-disposed Class B sewage sludge irrespective of which Class B pathogen alternative is selected. The site restrictions and management practices allow time for the environment to further reduce remaining pathogens in the sewage sludge to below detectable levels.

To make the Class B pathogen alternatives consistent, the Agency proposed to delete the requirement that the fecal coliform density in Class B, Alternative 1 be met at the time of use or disposal. This means that the fecal coliform density requirement can be met any time (e.g., before storage) before the sewage sludge is used or disposed. As mentioned above, the site restrictions for land-applied Class B sewage sludge and the surface disposal management practices provide time for the environment to further reduce the remaining pathogens in Class B sewage sludge to below detectable levels.

One commenter opposed the proposed change believing that it would increase the public health risk, particularly when the sewage sludge is stored before it is used or disposed. The Agency disagrees and is adopting the change as proposed.

There is no evidence of increased incidences of disease from exposure to Class B sewage sludge that is either stored, or used or disposed. There is evidence, however, that over time the densities of *Salmonella sp.* bacteria, enteric viruses, and viable helminth ova in sewage sludge are reduced to below detectable levels by environmental conditions. Thus, in EPA's judgement, public health and the environment are protected when the Class B pathogen requirements and the land application site restrictions for a Class B sewage sludge are met. With respect to the concern about stored sewage sludge, the U.S. Department of Agriculture and EPA are preparing guidance on storage of sewage sludge. This guidance will address, among other things, good practices for storing sewage sludge. Today's action amends § 503.32(b)(2)(i) to indicate that seven representative samples of the sewage sludge that is used or disposed shall be collected.

G. Site Restriction for Grazing of Animals

EPA also proposed to change the site restriction in § 503.32(b)(5)(v). The current regulation indicates that animals shall not be allowed to graze for 30 days after land application of a Class B sewage sludge. The language in the proposed change indicates that animals shall not be grazed for 30 days after land application of a Class B sewage sludge. This restriction applies to the intentional, not inadvertent, grazing of animals. Commenters supported this change, and EPA is adopting it today.

H. Vector Attraction Reduction Equivalency

Sewage sludge has a number of qualities that may attract disease-spreading agents—''vectors''—like birds, flies and rats. The part 503 regulation includes requirements for reducing what is called ''vector attraction'' potential. The regulation allows use of any of 10 vector attraction reduction options when sewage sludge is applied to the land (or 11 options in the case of sewage sludge that is placed on a surface disposal site). See 40 CFR 503.33.

In the October 25, 1995, notice, EPA proposed to allow the use of other vector attraction reduction options for any of the eight treatment options if the permitting authority determined that such an option was ''equivalent,'' (i.e, equally effective in reducing vector attraction). This flexible approach is similar to that provided currently in the part 503 regulation for Class A and Class B pathogen reduction processes. Processes other than those prescribed in the regulation may be used to reduce pathogens if the permitting authority determines they are equivalent.

All of the commenters supported the proposed change. However, none of the commenters provided information necessary to develop appropriate measures that could be used to determine whether an option is equivalent to one of the first eight vector attraction reduction options. Without such measures, equivalency cannot be determined.

Because no measures exist currently that can be used to determine whether a vector attraction reduction option is equivalent to one of the first eight vector attraction reduction options, EPA concluded that the part 503 regulation should not be amended at this time to allow for vector attraction reduction equivalency. For this reason, today's action does not amend § 503.15(c), § 503.25(b), and § 503.33(a).

The Agency encourages anyone with information that can be used to develop appropriate measures for vector attraction reduction equivalency to submit the information to EPA. If measures can be developed, EPA will consider reproposing the changes to § 503.15(c), § 503.25(b), and § 503.33(a) to allow an option that is equivalent to one of the first eight vector attraction reduction options, if the equivalent option is approved by the permitting authority.

I. Vector Attraction Reduction at the Time of Use or Disposal

Another proposed change in the October 25th notice was the time when certain vector attraction reduction options have to be met. Under the current regulation, vector attraction reduction Options 1 through 8 can be met any time before the sewage sludge is used or disposed. In the case of Options 9, 10, and 11, however, they must be met at the time the sewage sludge is used or disposed.

The October 25th notice proposed to change the time when vector attraction reduction Options 6, 7, and 8 have to be met. The proposed change required that those options be met at the time the sewage sludge is used or disposed rather than any time before the sewage sludge is used or disposed.

As explained in the proposal (60 FR 54775, October 25, 1995), vector attraction reduction achieved by pH adjustment (Option 6) may not always be permanent. The target pH conditions in Option 6 allow sewage sludge to be stored for some period before use or disposal without the pH dropping. If the sewage sludge is stored for some longer period of time, however, the pH may drop. At that point, biological activity in the sewage sludge may resume, and the sewage sludge may putrefy and attract vectors.

Similarly, in the case of vector attraction reduction Options 7 and 8, the moisture content of the sewage sludge may increase during storage after the percent solids requirements are met, and biological activity could increase. This also could cause vectors to be attracted to the sewage sludge.

EPA received a significant number of comments opposing the proposed change for Option 6—pH adjustment. Several commenters stated that the proposed change to Option 6 would require them to adjust the pH of the sewage sludge twice—once before storage and then again after storage before use or disposal. This would increase the cost of Option 6.

The commenters assumed incorrectly that part 503 requires the pH of the sewage sludge to be adjusted prior to storage. EPA only proposed to require that the pH be adjusted at the time of use or disposal. Thus, the only cost attributable to part 503 would be the cost of one pH adjustment at the time of use or disposal.

The commenters presented several other reasons for retaining Option 6 in its current form. These include the following. First, nutrient problems could result when high pH sewage sludge is land-applied (micro nutrients

are less available for plant uptake in high pH soils, particularly in coastal plains). Second, the high calcium content of the sewage sludge will lower the agronomic rate for the application site. Third, the effectiveness of herbicides applied to a site will be reduced because herbicides are less available in high pH soils. Finally, sewage sludge with a high pH may induce manganese deficiency because manganese is more water soluble at high pH and, thus, may be removed from a site through leaching to ground water. Some commenters also indicated that if Option 6 is changed, ''unstabilized'' sewage sludge could be stockpiled or stored and could cause harm to public health. Other commenters indicated there have been no vector attraction problems in cases where the pH of the sewage sludge is adjusted prior to storage, but not at the time of use or disposal.

The only comment on the proposed change to Options 7 and 8 (i.e., percent solids) suggest that these options are often relied on by small POTWs. Thus, the change may have an economic impact on those POTWs.

After further review, EPA concluded that the time when vector attraction reduction Options 6, 7, and 8 have to be met should not be changed. In cases where Option 6 is met prior to storage of the sewage sludge, the pH of the sewage sludge could drop during storage. The Agency agrees, however, that there have been no documented cases of vector attraction problems when this occurs, and that it is desirable to reduce the attractiveness of stored sewage sludge to vectors. In addition, there are measures that can be taken to keep the pH of the sewage sludge from dropping during storage. Thus, the time when Option 6 can be met (i.e., any time before the sewage sludge is used or disposed) remains unchanged.

In the case of Options 7 and 8, the Agency is not aware of any documented cases concerning protection of public health and the environment when those options are met prior to use or disposal. Thus, the time when Options 7 and 8 can be met (i.e., any time before the sewage sludge is used or disposed) also remains unchanged.

J. Time Period for Vector Attraction Reduction Option 10

In the October 25, 1995, notice, EPA proposed to modify the part 503 regulation to allow the permitting authority to change the time period sewage sludge has to be incorporated into the soil in vector attraction reduction Option 10. Vector attraction reduction Option 10 requires incorporation of sewage sludge into the soil within six hours after it is land-applied or surface-disposed. This reduces the attraction of vectors to the sewage sludge by placing a barrier between the sewage sludge and the vectors. EPA proposed this change to allow the permitting authority to consider site-specific conditions (e.g., the remoteness of the land application site) that may affect the time period during which sewage sludge can be incorporated into the soil.

Commenters supported the proposed change. However, one commenter asked EPA to modify the language so as to make it clear that, while the permitting authority may relax the time requirements in Option 10, the permitting authority could not tighten them. EPA is rejecting this suggestion because there may be circumstances in which more rapid soil incorporation is necessary to protect public health and the environment.

The current regulation authorizes the permitting authority to modify the existing part 503 requirements where warranted by circumstances. Section 503.5(a) indicates that a permitting authority may impose additional or more stringent requirements than the requirements in part 503 if necessary to protect public health and the environment. Section 503.5(b) indicates that a State or political subdivision thereof can establish additional or more stringent requirements than those in part 503 for any reason.

EPA is today amending § 503.33(b)(10)(i) to allow the permitting authority to increase the time period during which sewage sludge has to be incorporated into the soil. Only the permitting authority can authorize a time period that is different from the time period in part 503.

K. Technical Corrections

In the October 25, 1995 Notice, EPA proposed several technical corrections to part 503 that were minor in nature and that clarified some of the technical requirements of the part 503 regulation. Commenters supported the clarifications. Today's final amendment makes the following technical corrections to the part 503 regulation with the one exception discussed below.

1. Sections 503.16(a)(1) and 503.26(a)(1)—Frequency of Monitoring

Sections 503.16(a)(1) and 503.26(a)(1) contain the requirements for monitoring for pollutants, pathogen densities, and vector attraction reduction. Those sections indicate there are pathogen density requirements in § 503.32(b)(3) and (b)(4). This is incorrect. Today's final amendment deletes the reference to § 503.32(b)(3) and (b)(4) from § 503.16(a)(1) and § 503.26(a)(1).

Sections 503.16(a)(1) and 503.26(a)(1) also indicate that the frequency of monitoring requirements apply to vector attraction reduction Option 5 in § 503.33(b)(5) and Option 6 in § 503.33(b)(6). This also is incorrect. Today's final amendment deletes the reference to vector attraction reduction Options 5 and 6 from § 503.16(a)(1) and § 503.26(a)(1).

2. Section 503.17(b)(7)—Recordkeeping for Land Application of Domestic Septage

Today's final amendment changes § 503.17(b)(7) by changing an incorrect reference.

3. Section 503.18—Reporting

Today's final amendment corrects the omission of a reporting date in the part 503 regulation by inserting February 19th in § 503.18(a)(2).

4. Section 503.21(c)—Contaminate An Aquifer

Today's final amendment corrects the reference to the maximum contaminant level for nitrate in § 503.21(c). On January 30, 1991, EPA published a regulation (56 FR 3526) that changed the reference for the maximum contaminant level for nitrate from 40 CFR 141.11 to 40 CFR 141.62(b). That change was effective July 30, 1992. For this reason, the reference to the maximum contaminant level for nitrate in the definition of contaminate an aquifer is being changed to 40 CFR 141.62(b) in today's final rule.

5. Section 503.22(b)—General Requirements

Today's final amendment changes § 503.22(b) by correcting the statutory reference and by inserting the appropriate date.

6. Section 503.32(a)(3)—Pathogens

In the October 1995 notice, EPA indicated that pathogen Class A, Alternative 1 only applies to thermal processes such as anaerobic digestion, and does not apply to composting. Upon further review, EPA concluded that the time/temperature conditions in Class A, Alternative 1 can be achieved through composting. If the temperature of every particle of the composted sewage sludge is raised to the appropriate value for the appropriate time period, *Salmonella sp.* bacteria, enteric viruses, and viable helminth ova in the sewage sludge are reduced to below detectable levels. For this reason, the proposed change to

§ 503.32(a)(3) to exclude composting is not being made.

7. Appendix B to Part 503—Pathogen Treatment Processes

The description of Process to Further Reduce Pathogens (PFRP) No. 6 (Gamma ray irradiation) is corrected to insert the phrase ''at dosages of at least 1.0 megarad at room temperature (ca. 20° C)'' that was omitted inadvertently.

V. Final Amendments to the Part 503 Incineration Requirements

A. Compliance Period

In the October 25, 1995, proposal, EPA proposed to amend § 503.2 to require compliance with the revised incineration requirements in subpart E of part 503 as expeditiously as practicable, but in no case later than 90 days after publication of the final amendment. If compliance with the revised subpart E requirements required construction of new pollution control facilities compliance had to be achieved as expeditiously as practicable but no later than 12 months after publication of today's final amendment.

Commenters indicated that 90 days are not enough to comply with the revised incineration requirements, particularly the requirement to install continuous emission monitors for total hydrocarbons (THC). EPA agrees, and has increased the time to comply with the revised requirements in subpart E.

Today's final rule amends § 503.2 by adding a new paragraph (d) that, unless otherwise specified in subpart E, requires compliance with the revised subpart E requirements in the final rule as expeditiously as practicable, but in no case later than 12 months after the effective date for the final rule. If new pollution control facilities have to be constructed to comply with the revised requirements, compliance with the revised subpart E requirements shall be achieved as expeditiously as practicable, but no later than 24 months after the effective date for the final rule.

B. Site-Specific Exemption From Frequency of Monitoring, Recordkeeping, and Reporting Requirements

The October 25, 1996, notice proposed to amend the applicability section in § 503.40 to exempt sewage sludge incinerators on a site-specific basis from the frequency of monitoring, recordkeeping, and reporting requirements for a specific pollutant in defined circumstances. Under the proposed approach, if the limit for arsenic, cadmium, chromium, lead or nickel, determined pursuant to § 503.43, is significantly higher than the measured concentration for the pollutant, the permitting authority could exempt the pollutant from the above requirements so long as the incinerator continued to operate within the values for the incinerator operating parameters established during the performance test required by the regulation. The notice requested comments on whether this approach is appropriate, and how to determine whether the calculated limit for a pollutant is significantly higher than the measured concentration of the pollutant in sewage sludge.

All commenters favored allowing such an exemption. With respect to how to determine whether a calculated pollutant limit is significantly higher than the measured concentration, commenters suggested two different approaches. The first limits the availability of the exemption for a pollutant to circumstances in which the monthly average pollutant concentration did not exceed 50 percent of the calculated limit. The second approach varies the frequency of monitoring, based on the percentage the measured concentration bore to the calculated limit. For example, the frequency of monitoring could be reduced to once per year if the measured concentration is 80 percent of the calculated limit. If the measured concentration is 60 percent of the calculated limit or less, there would be no monitoring requirement for that pollutant.

After considering this proposed change further, EPA has decided not to amend the regulation for the following reasons. Although several commenters offered suggestions on how to determine whether a calculated limit is significantly higher than the measured concentration for a pollutant, no commenter provided any test the permit writer could apply for ensuring that, in fact, the actual concentration for the pollutant falls substantially below the calculated limit. Moreover, there are questions about how much data are needed to support an exemption and the period of the exemption (e.g., one year, five years, or forever). In addition, there are many factors that could affect the actual concentration of a pollutant in sewage sludge (e.g., variability of the pollutant in the influent to the treatment works).

Another concern EPA has about the proposed change is the assumption that the incinerator will be operated as it was during the performance test. There are many factors that affect the performance test results (e.g., feed rate and excess oxygen). If these factors change, the calculated limits for a pollutant could change.

Given the concerns about changes in both the calculated limit and the measured concentration of a pollutant in sewage sludge, EPA concluded that the part 503 regulation should not provide for a site-specific exemption from the frequency of monitoring, recordkeeping, and reporting requirements in subpart E. Thus, today's notice does not amend § 503.40 to add a new paragraph (d).

C. Pollutant Limits for Arsenic, Cadmium, Chromium, Lead and Nickel

In the October 25, 1995 notice, EPA proposed several changes to the requirements in § 503.43 for sewage sludge that is incinerated. As explained in greater detail in the preamble to the proposal (60 FR 54777–54779, October 25, 1995), 40 CFR 503.43 establishes limits on the allowable ''daily concentration'' of arsenic, cadmium, chromium, lead and nickel in sewage sludge. The allowable limits are calculated using equations set forth in the regulation, and are dependent on a number of factors that vary with specific conditions at an incinerator site. To calculate the limit for each of the five pollutants, the regulation requires determination of two factors that are dependent on site-specific conditions. They are: (1) A dispersion factor (DF)—how pollutants are dispersed when they exit the incinerator stack, and (2) the incinerator's control efficiency (CE)—how efficiently the incinerator removes a pollutant in the sewage sludge that is incinerated. The regulation requires use of an air dispersion model to determine the DF and a performance test to establish the CE, both of which must be specified by the permitting authority. In addition, in the case of chromium, the regulation requires the permitting authority to determine whether the risk specific concentration (RSC) for chromium, which is used to establish the allowable chromium sewage sludge pollutant concentration, should be based on default values provided in the regulation (Table 2 of § 503.43) or determined by a site-specific calculation.

The requirement for site-specific action by the permitting authority has significant implications for compliance and enforcement of the regulation. Site-by-site tailoring of a particular incinerator's requirements effectively defers the determination of an individual incinerator's limits until action by the permitting authority. Given the resource-intensive nature of these site-by-site determinations and constraints on available resources, EPA

proposed to adopt a different approach. The Agency proposed to delete the requirement for the permitting authority to approve the air dispersion modeling and performance tests used to determine DF and CE, respectively, as well as modify the requirement for the permitting authority to determine the appropriate chromium RSC. EPA also proposed to clarify the definition of the allowable concentration of a pollutant in sewage sludge.

1. Average Daily Concentration

EPA proposed to revise 40 CFR 503.43(c)(1) and (d)(1) to clarify that the calculated sewage sludge concentration is an *average* daily concentration based on the number of days in a month that the incinerator operates. This change made the calculated concentration consistent with the risk specific concentration (i.e., the allowable ambient air concentration for a pollutant developed through risk assessment) for a pollutant.

Comments on this proposed changed were generally favorable, but the commenters asked for a clarification with respect to the number of days in the month the incinerator operates. Commenters questioned whether the calculated limit was a monthly average. Upon further review, EPA concluded that it is not appropriate to calculate the allowable concentration of a pollutant in sewage sludge fed to a sewage sludge incinerator using the number of days in the month the incinerator operates. Instead, the average daily concentration should be the arithmetic mean of the concentration of a pollutant in the samples collected and analyzed during a month. Thus, if one sample is collected and analyzed during the month, the average daily concentration is the concentration of a pollutant in that sample. If two samples are collected and analyzed during the month, the average daily concentration is the arithmetic mean of the concentration of a pollutant in those two samples. Likewise, if only one sample is collected and analyzed during the year, the average daily concentration is the concentration for a pollutant in that one sample.

After considering the comments on the proposed change to the allowable concentration of a pollutant in sewage sludge, EPA concluded that the allowable concentration should be an average daily concentration. Thus, today's notice amends § 503.43(c)(1) and (d)(1) by changing the definition of ''C'' in equations (4) and (5), respectively, to average daily concentration. Today's notice also amends § 503.41—Special Definition—by adding the following definition for average daily concentration: ''Average daily concentration is the arithmetic mean of the concentration of a pollutant in milligrams per kilogram of sewage sludge (dry weight basis) in the samples collected and analyzed in a month.''

2. Approval of Air Dispersion Model and Performance Test

As noted above, the October 1995 notice proposed to amend the regulation to delete the requirement in § 503.43(c)(2), (c)(3), (d)(4), and (d)(5) for the permitting authority to specify the air dispersion model and performance test used to calculate the sewage sludge pollutant limits. EPA received no comments on these proposed changes. Therefore, today's notice amends § 503.43 (c)(2), (c)(3), (d)(4), and (d)(5) by deleting the requirement for the permitting authority to specify how to meet these requirements.

EPA also proposed amending § 503.43(d)(3) to delete the requirement for the permitting authority to specify one of the two means of calculating the risk specific concentration for chromium. EPA received only one comment, and it favored the proposed change. Thus, today's final rule amends § 503.43(d)(3) by deleting the requirement for the permitting authority to specify how to meet this requirement.

The October 1995 notice also proposed to add a new paragraph (e) to § 503.43. This paragraph contains requirements for air dispersion modeling and performance tests to serve the purpose of the deleted requirements in § 503.43(c)(2), (c)(3), (d)(4), and (d)(5) that the permitting authority specify the air dispersion model and performance test.

The proposed § 503.43(e)(1) required that any air dispersion model and performance test be ''consistent with good air pollution control practices for minimizing air pollution.'' One commenter objected to this provision asserting that such a requirement was inappropriate. In the commenter's view, an air dispersion model and a performance test are used to measure something, not to minimize air emissions. EPA concurs with the comment on § 503.43(e)(1). Thus, today's final amendment only requires that the air dispersion model be appropriate for the geographical, physical, and population characteristics at the incinerator site, and that the performance test be appropriate for the type of sewage sludge incinerator.

Proposed § 503.43(e)(2) required that an air dispersion modeling protocol be submitted to the permitting authority within 30 days of the publication date of this final amendment. The permitting authority would then have 30 days to review the protocol, including the selected air dispersion model, and provide comments on the protocol. If the permitting authority did not object within 30 days, the protocol could be used to determine the dispersion factor for the incinerator site. No comments were received on this proposed requirement.

Upon further review, EPA concluded that the air dispersion model protocol should not be submitted to the permitting authority 30 days from the date of publication of this final amendment because the Agency lacks the resources to review and comment on the protocol within 30 days after it is received. Instead, today's action amends § 503.43(e)(2) to require that results of air dispersion modeling initiated after September 3, 1999, be submitted to the permitting authority no later than 30 days after completion of the modeling. This requirement does not apply to air dispersion modeling completed prior to September 3, 1999.

EPA encourages the person who conducts the air dispersion modeling to coordinate with the permitting authority prior to conducting the modeling. This could prevent future problems if the permitting authority has concerns about the air dispersion modeling.

As indicated in the October 1995 notice, EPA has published several guidance documents that contain recommendations on how to select appropriate air dispersion models. These models consider such site-specific factors as stack height, stack diameter, stack gas temperature, exit velocity and topography of surrounding terrain. See Guidelines on Air Quality Models in Appendix W to 40 CFR part 51 and in the U.S. EPA, ''Technical Support Document for Sewage Sludge Incineration'' at Section 5.6.1 (EPA 822/R–93–003, November 1992). Information on air quality models also can be obtained from the Support Center for Regulatory Air Models (SCRAM) on the Technology Transfer Network, (http://ttnwww.rtpnc.epa.gov/).

Proposed § 503.43(e)(3) contained the minimum procedures for conducting a performance test. A performance test measures the degree to which a sewage sludge incinerator and associated air pollution control devices remove a pollutant. As previously explained, the pollutant control efficiency from a performance test is used to calculate the allowable concentration of a pollutant in sewage sludge fired in the incinerator.

The procedures in the proposed § 503.43(e)(3) parallel the procedures in 40 CFR 60.8, a regulation that describes the general procedures for conducting performance testing under the Clean Air Act. EPA concluded that it is necessary to specify minimum procedures for conducting performance tests now that the part 503 incineration requirements are self-implementing.

The procedures in proposed § 503.43(e)(3)(i) require that the performance test be conducted under representative incinerator conditions at the highest expected sewage sludge feed rate within design specifications. A commenter suggested that EPA should recognize the variability in the feed rate during the operation of the sewage sludge incinerator.

EPA agrees that the feed rate used in performance tests may well differ from the sewage sludge feed rate during day-to-day operation of the incinerator. Part 503 takes this into account by requiring that the ''highest expected'' feed rate be used in the performance test. Because the actual feed rate is expected to be equal to or less than the highest expected feed rate, the actual feed rate should not cause the control efficiency for a pollutant to decrease during the day-to-day operation of the incinerator.

The above comment is more applicable to the feed rate used to calculate the limit for a pollutant than to the feed rate during a performance test. As provided in the current rule, the sewage sludge feed rate used in the equations in § 503.43(c)(1) and (d)(1) to calculate the limit for a pollutant takes the feed rate during operation into account. The feed rate used in these equations is either the average daily amount of sewage sludge fired in all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located for the number of days in a 365 day period that each sewage sludge incinerator operates, or the average daily design capacity for all sewage sludge incinerators within the property line of the site where the sewage sludge incinerators are located (see § 503.41(j)). This definition recognizes potential variability in the actual feed rate, and accounts for the variability by providing for averaging over a 365 day period.

The October 25, 1995, proposal required in § 503.43(e)(3)(ii) that the permitting authority be notified at least 30 days prior to a performance test so that the permitting authority may have the opportunity to comment on the test protocol and test methods, and to observe the test. This requirement does not apply in cases where performance tests were conducted prior to September 3, 1999. This change is included in today's final rule as proposed.

EPA has decided not to adopt a provision it proposed as § 503.43(e)(3)(iii) that would have required that performance testing facilities contain safe sampling platforms and safe access to them because that provision is not related directly to the use or disposal of sewage sludge. In addition, for sewage sludge incinerators subject to 40 CFR part 60, subpart O, the proposed provision reflects a similar provision in 40 CFR 60.8 concerning performance tests. There also may be other federal or state safety requirements that govern the way performance tests are conducted. Therefore, the Agency concluded that this provision does not need to be in today's final rule.

Today's final § 503.43(e)(3)(iii), proposed as subparagraph (e)(3)(iv), concerns the number of runs for a performance test. Each performance test shall consist of three runs. The arithmetic mean of the results of the three runs is the control efficiency for a pollutant. All commenters on this proposal agreed with the requirement. Thus, this requirement in today's final rule is the same as it was in the proposal.

Today's action also promulgates § 503.43(e)(4) as proposed on October 25, 1995. This provision requires that the calculated pollutant limits be submitted to the permitting authority within 30 days of completion of air dispersion modeling and performance tests.

As proposed, § 503.43(e)(5) requires new air dispersion modeling and performance testing when there are ''significant changes'' in specific aspects of the site or in incinerator operating conditions. One commenter asked how high above the feed rate in the performance tests or the feed rate used to calculate pollutant limits can the actual feed rate be before a new performance test or a new limit for a pollutant is required. One possibility is to allow the actual feed rate to increase by a certain percentage (e.g., 10 percent) of the feed rate in the performance test or the feed rate used to calculate a limit before a new performance test has to be conducted or a new limit for a pollutant calculated.

Another possibility is to decide how much the actual feed rate can increase on a case-by-case basis. Under this approach, all the factors that affect the decision on whether to conduct a new performance test or calculate a new limit can be considered. For example, if the measured concentration of a pollutant in sewage sludge is significantly lower than the calculated limit for the pollutant, public health may still be protected if the feed rate increases by more than 10 percent, while in another case, an increase of 10 percent in the feed rate may result in a pollutant limit being exceeded.

Today's final rule does not specify when new performance tests have to be conducted or when new pollutant limits have to be calculated. Section 503.43(e)(5) indicates that significant changes in incinerator operating conditions will require that new performance tests be conducted. The decision on whether a change in operating conditions, including feed rate, is significant will be determined on a case-by-case basis by the permitting authority. Protection of public health should be the major factor in deciding whether to conduct new performance tests or calculate new pollutant limits.

3. Technical Corrections

The October 1995 notice also proposed three technical corrections to § 503.43(d)(1) and (d)(2). Two of the changes corrected typographical errors in the definition of terms in (d)(1) and the other change corrected a reference in (d)(2). These changes are included in today's final rule.

4. Air Emissions Analytical Methods

The preamble in the October 1995 notice requested comments on whether to specify methods to analyze emissions from sewage sludge incinerator stacks in part 503. Commenters on the proposal recommended that EPA not include specific test methods for air emissions in part 503 because EPA approved methods already are required in other regulations. EPA agrees with the commenters.

EPA's Office of Air Quality Planning and Standards has approved Method 29 in 40 CFR part 60, Appendix A as a method for determining compliance with the particulate emissions standards in subpart O of 40 CFR part 60 (Standards of Performance for Sewage Treatment Plants), and the beryllium and mercury emissions standards in subparts C and E, respectively, of 40 CFR part 61 (National Emission Standards for Hazardous Air Pollutants). This method only requires that one sampling train be used. The methods in 40 CFR part 266 (Boilers and Industrial Furnaces), Appendix IX, section 3.1 also can be used to measure emission rates. When those methods are used, more than one sampling train is needed. Because both methods are available, today's final rule does not specify a method to measure emission rates. EPA recommends, however, that Method 29

be used during the performance test required by part 503 because that method only requires one sampling train.

D. Management Practices

Sections 503.45(a)(1) and § 503.45(b)–(d) of the sewage sludge regulation require the installation of instruments that continuously monitor total hydrocarbons (THC) concentration, oxygen concentration, information to determine moisture content in the sewage sludge incinerator stack emissions, and combustion temperature, respectively. These instruments must be installed, calibrated, operated, and maintained ''as specified by the permitting authority.''

As explained in the October 1995 proposal (60 FR 54779), the part 503 regulation required the permitting authority to specify the manner in which the above instruments are installed calibrated, operated, and maintained because, at the time the regulation was published, there was only limited EPA guidance in this area. Because there is now EPA guidance on how to install, calibrate, operate, and maintain the above instruments, EPA proposed to amend § 503.45(a)(1) and § 503.45(b)–(d) to delete the requirement that the permitting authority specify how the instruments required by those sections are installed, calibrated, operated, and maintained. With one exception, all comments received on the proposed changes concurred with the changes.

EPA received one comment suggesting alternative means of demonstrating compliance with the total hydrocarbons or carbon monoxide operational standards. The commenter suggested that EPA consider providing for the site-specific establishment and continuous monitoring of a minimum incinerator exhaust temperature, in lieu of continuous monitoring of total hydrocarbons or carbon monoxide. The commenter also suggested that the incinerator owner/operator be allowed to demonstrate a site-specific correlation between total hydrocarbons and carbon monoxide emissions as an alternative method of demonstrating compliance with either emissions limit. The Agency did not propose either of these alternatives in the October 25, 1995 proposal. However, in the preamble to the proposal, the Agency stated that it would study monitoring for other parameters, including temperature, to measure compliance with either the total hydrocarbon limit or the carbon monoxide limit and would decide whether further amendments to part 503 were needed as a result of the study. (60 FR 54779). EPA undertook this study and produced a report on the feasibility of alternatives to continuous monitoring of total hydrocarbons or carbon monoxide. A copy of the report, entitled ''An Investigation of Alternative Means for Demonstrating Compliance with the part 503 Total Hydrocarbon Operational Standards,'' EPA 822–R–98–001 is in the rulemaking docket. The study indicated that, while technically feasible on a site-specific basis , either of these options would be extremely resource intensive and would involve the permitting authority in complex procedures to determine and approve site-specific temperature limits or site-specific total hydrocarbons/carbon monoxide correlations. As a result of these findings, the Agency, has decided not to pursue either the option of establishing and continuously monitoring for site-specific temperature limits or the option of establishing site-specific correlations between total hydrocarbons and carbon monoxide emissions in lieu of complying independently with either the 100 ppm total hydrocarbons or carbon monoxide emissions limits. However, the Agency invites the public to comment on whether these options for demonstrating compliance should be pursued further and to provide any additional information to supplement the report that EPA relied on in deciding not to allow for these alternatives at this time. Thus, the above changes are included in today's final rule.

In the October 1995 notice, EPA also proposed to delete the requirements in § 503.45 (e) and (f) for the permitting authority to specify the maximum combustion temperature for a sewage sludge incinerator and the values for the operating parameters for the air pollution control devices, respectively. These proposed changes help make the part 503 incineration requirements self-implementing. Commenters supported the proposed modifications, and they are included in today's final rule.

EPA also proposed to amend § 503.45 (e) to require that the maximum combustion temperature for the incinerator, which is based on information obtained during the performance test, not be exceeded significantly. EPA recognized that the combustion temperature of a sewage sludge incinerator could vary. Consequently, the Agency asked for comment on: (1) What averaging period should be used to determine the maximum allowable combustion temperature (daily average, hourly?) and (2) how much the maximum combustion temperature could vary from the performance test maximum combustion temperature.

Commenters' suggestions ranged from measuring maximum operating combustion temperature as a hourly average to a daily average, with temperature monitored hourly. EPA concluded that the operating combustion temperature for a sewage sludge incinerator should be the arithmetic mean of the hourly average temperature in the hottest zone of the furnace for the hours during the day the incinerator operates, and that the maximum allowable operating combustion temperature be based on the average combustion temperature during the performance test (see discussion below). Any variation in the operating combustion temperature over a day is not expected to significantly impact either the concentration of a pollutant in the emissions from the sewage sludge incinerator or the ambient air concentration for the pollutant and, therefore, is not expected to significantly impact public health. Thus, EPA is amending the part 503 regulation to add a new definition to § 503.41—Special Definitions—for incinerator operating combustion temperature as follows: ''Incinerator operating combustion temperature is the arithmetic mean of the temperature readings in the hottest zone of the furnace recorded in a day (24 hours) when the temperature is averaged and recorded at least hourly during the hours the incinerator operates in a day.''

As indicated above, EPA proposed that the maximum allowable operating combustion temperature be based on information obtained during the incinerator performance test required by § 503.43 (c)(3) and (d)(5). The proposed regulation required three separate runs for each performance test. Commenters argued that the maximum combustion temperature from each of the runs should be averaged to determine the maximum combustion temperature for the performance test and that temperature should then be increased by a certain percentage (e.g., 20 percent) to determine the maximum operating combustion temperature.

EPA agrees that an average should be used to describe the combustion temperature in a performance test. The Agency does not agree, however, that the maximum temperature from each run should be averaged and that average increased by a certain percentage to obtain the maximum operating combustion temperature. EPA concluded that the performance test combustion temperature should be the arithmetic mean of the average combustion temperature in the hottest

zone of the furnace from each of the runs in a performance test. This accounts for variability in the combustion temperature because all of the continuously measured temperature readings are used to calculate the arithmetic mean. Thus, today's final rule amends § 503.41—Special Definitions—by adding the following definition for performance test combustion temperature: ''Performance test combustion temperature is the arithmetic mean of the average combustion temperature in the hottest zone of the furnace for each of the runs in a performance test.''

EPA also agrees that the performance test combustion temperature should be increased by a certain percentage to determine the maximum operating combustion temperature for an incinerator. After further review, EPA concluded that a 20 percent increase in the performance test combustion temperature is reasonable. The change in control efficiency resulting from a 20 percent increase in performance test combustion temperature is not expected to be significant because that change is not expected to result in a significant change in the concentration of a pollutant in the incinerator stack emissions and is not expected to result in a significant change in the allowable limit for a pollutant (control efficiency is one of the variables used to calculate the limit for a pollutant). Because neither the stack emissions concentration nor the allowable limit for a pollutant are expected to change significantly, public health is not expected to be impacted significantly with a 20 percent increase in performance test combustion temperature on an average daily basis. This is particularly true with respect to the pollutant limits because the limits are designed to protect public health from a lifetime of exposure (i.e., 70 years). In addition, most of the calculated pollutant limits for sewage sludge incinerators are higher (sometimes several orders of magnitude higher) than the measured sewage sludge concentration for a pollutant. Also, as indicated in the report titled ''Human Health Risk Assessment for Use & Disposal of Sewage Sludge: Benefits of the Regulation'' (EPA 822–R–93–005, November 1992), the estimated aggregate risk (i.e., risk to the entire exposed population) from exposure to emissions from sewage sludge incinerators prior to the establishment of the part 503 incineration requirements (i.e., baseline risk) is low. Because the baseline aggregate risk is low, a 20 percent increase in the performance test combustion temperature on an average daily basis is not expected to impact the risk to the exposed population from incineration of sewage sludge.

A 20 percent increase also provides flexibility needed to operate a sewage sludge incinerator, particularly multiple hearth incinerators. In addition, one of the commenters on the proposal recommended a 20 percent increase even though their recommended increase was in the maximum performance test combustion temperature. As mentioned above, EPA concluded that it is reasonable to apply the increase to the average temperature from the performance test. Thus, § 503.45(e) in today's final rule indicates that the arithmetic mean of the temperature readings in the hottest zone of the furnace recorded in a day when the temperature is average and recorded at least daily (i.e., the operating combustion temperature) shall not exceed the arithmetic mean of the average combustion temperature in the hottest zone of the furnace for each of the runs in the performance test (i.e., the performance test combustion temperature) by more than 20 percent.

Today's final rule amends § 503.45(f) to delete the requirement that the permitting authority specify the air pollution control device operating parameters. Instead, § 503.45(f) requires that the air pollution control device be appropriate for the sewage sludge incinerator and that the operating parameters for the air pollution control device indicate adequate performance of the device. As explained in the preamble to the proposal (60 FR 54780, October 25, 1995), EPA intended that the values for the air pollution control device operating parameters be expressed as a range, and requested comment on what the allowable range of values should be relative to the values determined during the performance test. EPA also requested comments on whether to standardize operating parameters for different air pollution control devices in today's final rule. Operating parameters for different types of air pollution control devices are presented in the ''Technical Support Document for Sewage Sludge Incineration'' in section 7.5 and Appendix M (EPA 822/R–93–003, November 1992).

All commenters opposed EPA establishing standardized operating parameters in part 503 for the different types of air pollution control devices. The operating parameters and the value for the operating parameter should be established on a case-by-case basis. However, if EPA decides to standardize operating parameters, commenters recommended that EPA establish average daily values, and allow flexibility in selecting the values for the operating parameters (e.g., allow values for the operating parameters that are as low as 70 percent of the average daily value in the performance test).

Because the operating parameters vary depending on the type of air pollution control device used and the values for the operating parameters depend on site-specific conditions, EPA agrees that those parameters and values should be determined on a case-by-case basis. Thus, today's § 503.45(f) does not standardize the operating parameters for the different types of air pollution control devices.

Section 503.45(f) in the proposal indicated that operation of the sewage sludge incinerator shall not cause a significant exceedence of the values for the air pollution control device operating parameters. One commenter requested that EPA define ''significant exceedence'' as the phrase was used in proposed § 503.45(f). The commenter suggested that EPA employ a concept that uses 20 percent and 40 percent ranges to define ''significant exceedence.''

Subpart O of 40 CFR part 60 (Standards for Performance for Sewage Sludge Plants) applies to sewage sludge incinerators when the material charged is at least 10 percent sewage sludge or when more than 2205 pounds of sewage sludge are charged per day, and when construction or modification of the incinerator commences after June 11, 1973. That subpart contains the requirements for the operation of the incinerator air pollution control device. For this reason, § 503.45 (f) in today's final rule requires that for sewage sludge incinerators subject to subpart O of 40 CFR part 60, operation of the air pollution control device shall not violate the requirements for the air pollution control device in subpart O.

For all other sewage sludge incinerators, § 503.45 (f) in today's final rule indicates that operation of the sewage sludge incinerator shall not cause a significant exceedence of the average value for the air pollution control device operating parameters from the performance tests required by § 503.43 (c)(3) and (d)(5). EPA decided not to define ''significant exceedance'' in this case at this time. The Agency is considering whether to request comments on the allowable ranges for the values for the air pollution control device parameters in a subsequent proposal to amend the part 503 regulation.

EPA also proposed to add a new section § 503.45(h). As proposed, this provision would require that the instruments required in § 503.45(a)–(d) be appropriate for the type of sewage sludge incinerator, and shall be installed, calibrated, operated, and maintained ''consistent with good air pollution control practice for minimizing air emissions.'' EPA received only one comment on this provision. The commenter argued that the phrase ''consistent with good air pollution control practice for minimizing air emissions'' is not pertinent. EPA agrees that the requirement to install certain instruments for measuring emissions, temperature, etc. is not directly related to emissions capture, and has deleted this phrase from the final rule.

E. Frequency of Monitoring

EPA proposed several changes to the frequency of monitoring requirements in § 503.46 for sewage sludge incinerators. 60 FR 54780–82, October 25, 1995.

1. *Mercury and beryllium*. In the case of mercury and beryllium [4], EPA proposed to delete the requirement that the permitting authority specify the monitoring frequency, and that the frequency be the frequency in the National Emission Standard for Hazardous Air Pollutant (NESHAP) for beryllium in subpart C of 40 CFR part 61 and in the NESHAP for mercury in subpart E of 40 CFR part 61. EPA also requested comment on whether to establish a periodic monitoring frequency for beryllium and mercury for sewage sludge incinerators that is different from the monitoring frequencies in the NESHAP.

The October 1995 notice stated that the Agency was considering three options for the frequency of monitoring for mercury. The options were: (1) Periodic (quarterly or annual) stack or sewage sludge sampling, (2) periodic (monthly, quarterly, or annual) sewage sludge sampling, and (3) sewage sludge sampling based on the amount of sewage sludge fired in a sewage sludge incinerator. For beryllium, EPA indicated that periodic stack sampling only for sewage sludge incinerators that must comply with the beryllium emission standard in 40 CFR 61.32(a) was being considered.

Most of commenters opposed additional beryllium and mercury monitoring beyond that required by the current NESHAP for beryllium and mercury. One commenter recommended a semi-annual frequency for mercury monitoring if mercury in the stack emissions exceeds 1600 grams per day (the NESHAP requires annual monitoring if mercury in the stack emissions exceeds 1600 grams per day). Another commenter recommended sewage sludge sampling for mercury according to the part 503 frequency of monitoring for arsenic, cadmium, chromium, lead, and nickel rather than stack emission sampling. Another commenter recommended no stack sampling and that the monitoring frequency for mercury be based on the amount of sewage sludge fired in a sewage sludge incinerator. [5]

EPA has decided not to establish additional monitoring requirements for beryllium and mercury. The Agency concluded that monitoring frequencies in the beryllium and mercury NESHAPs are reasonable. Thus, today's final regulation amends § 503.46(a)(1) to delete the requirement for the permitting authority to designate the frequency of monitoring for beryllium and mercury in emissions. The regulation, as amended, now provides that the monitoring frequency for beryllium and mercury is the frequency in the beryllium and mercury NESHAP, respectively.

Even though the mercury NESHAP only requires annual monitoring if mercury in the stack emissions exceeds 1600 grams per day, the frequency can be increased on a case-by-case basis by the permitting authority when necessary to protect public health and the environment (see § 503.5). Thus, in areas like the Great Lakes where mercury emissions are a major concern, the monitoring frequency for mercury may be increased by the permitting authority, or the person who fires sewage sludge in a sewage sludge incinerator could elect to increase the mercury monitoring frequency.

2. *Reduction in frequency of sewage sludge monitoring.* The October 1995 notice also proposed to amend § 503.46(a)(3). This section currently allows the permitting authority to reduce the frequency of monitoring for pollutants after the sewage sludge has been monitored for two years at the frequency in Table 1 of § 503.46. In no event, however, may monitoring be less frequent than once per year. EPA proposed to delete the requirement for monitoring at least once per year.

Commenters supported the proposed change. Thus, for the reasons explained above in the previous discussions for the frequency of monitoring for land application and surface disposal, today's final rule amends § 503.46(a)(3) by deleting the at-least-once-per-year monitoring frequency requirement.

3. *Continuous monitoring of THC, oxygen concentration, information to determine moisture content, and combustion temperature.* As previously explained, the current regulation requires continuous monitoring of THC, oxygen concentration, information to determine moisture content, and combustion temperature. EPA proposed in the October 1995 notice to amend this requirement so as to permit monitoring at less frequent intervals. The Agency requested comment on how to determine when less frequent monitoring should be authorized (e.g., should the frequency of monitoring be based on the amount of sewage sludge fired annually or on the number of days in a year an incinerator operates?).

All commenters supported the proposed change to delete the requirement for continuous monitoring for the four parameters. They also offered several recommendations on when to allow less than continuous monitoring of the exit gas. Some commenters recommended exempting fluidized bed incinerators from the continuous monitoring requirement entirely or any incinerator after two years of continuous monitoring if the monitoring results indicate minimal THC concentrations in the emissions. Others recommended exempting an incinerator when the amount of sewage sludge fired is below a specified amount or exempting an incinerator if a demonstration can be made that temperature can be measured continuously in lieu of measuring THC continuously. After reviewing the comments, EPA has decided not to adopt any of the recommendations. EPA concluded that the commenters had failed to provide adequate technical or scientific support for relieving an incinerator from the continuous monitoring requirements. The commenters failed to show how compliance with the applicable requirements could be demonstrated in the absence of continuous monitoring.

4. *Operating parameters for air pollution control devices.* As explained in the preamble to the proposal (60 FR 54779, October 25, 1995), and as discussed above, § 503.45 currently requires the operation of a sewage

[4] The preamble to the proposal explains the current standards and monitoring requirements for incineration of sewage sludge containing mercury and beryllium. 60 FR 54780, October 25, 1995.

[5] One commenter also requested clarification of the applicability of the beryllium NESHAP to sewage sludge incinerators. The beryllium NESHAP applies to incinerators that process beryllium-containing waste, as defined in 40 CFR 61.31(g). Thus, if sewage sludge contains beryllium-containing waste and the sewage sludge is fired in a sewage sludge incinerator, the sewage sludge incinerator is subject to the beryllium NESHAP.

sludge incinerator's air pollution control device be specified by the permitting authority. Section 503.46(c) requires the permitting authority to specify the frequency of monitoring for the air pollution control device operating parameters. EPA proposed to change § 503.46(c) to delete the requirement for the permitting authority to specify the monitoring frequency for air pollution control device operating parameters and to require that those parameters be monitored at least daily. Commenters supported these proposed changes.

Currently, incinerators that charge more than 10 percent sewage sludge (dry weight) or that charge more than 2205 pounds of sewage sludge per day; that commence construction or modification after June 11, 1973; and that have a wet scrubbing device are required to measure and record the pressure drop of the gas flow through the wet scrubber continuously (see 40 CFR 60.153). Incinerators that meet the first two of the above requirements and that have another type of air pollution control device also may have to monitor air pollution control device operating parameters continuously, if required by the EPA Administrator. The Agency decided not to establish additional frequency of monitoring requirements in today's final rule for sewage sludge incinerators subject to 40 CFR part 60. Thus, the final rule indicates for sewage sludge incinerators subject to part 60, the frequency of monitoring for the air pollution control device operating parameters shall be the frequency of monitoring in subpart O of part 60.

For all other sewage sludge incinerators, the frequency of monitoring for the air pollution control device operating parameters in today's rule is at least daily, as proposed. EPA is considering whether to establish a continuous monitoring requirement for the air pollution control device operating parameters in a subsequent proposal to amend the part 503 regulation. Continuous monitoring is consistent with the monitoring requirements for air pollution control device operating parameters now being considered by other EPA programs. Until a different frequency of monitoring requirement is established, however, the frequency of monitoring for the air pollution control device operating parameters for sewage sludge incinerators not subject to the requirements in subpart O of part 60 is at least daily.

F. Recordkeeping

Today's action amends § 503.47(f) by changing the requirement to record the maximum combustion temperature for the sewage sludge incinerator to a requirement to record the operating combustion temperatures for the sewage sludge incinerator. This change makes § 503.47(f) consistent with the new definition of operating combustion temperature in § 503.41(i).

VI. Final Amendment to Part 403

Part 503, as published on February 19, 1993, restricted the total chromium concentration of land-applied sewage sludge to prevent possible plant injury (i.e., phytotoxicity). On November 15, 1994, the U.S. Court of Appeals for the D.C. Circuit remanded the total chromium land application pollutant limits for modification or additional justification, concluding that EPA lacked an adequate evidentiary basis for the risk-based total chromium limits. *Leather Industries of America* v. *Environmental Protection Agency*, 40 F.3d 392 (DC Cir. 1994). On October 25, 1995, EPA promulgated a final rule that deleted total chromium from the pollutants regulated when sewage sludge is applied to the land (60 FR 54764, October 25, 1995). EPA concluded that there is no current basis for establishing total chromium limits for land-applied sewage sludge.

At the same time EPA deleted the total chromium limits from the part 503 land application requirements, the Agency took two other actions. First, EPA removed total chromium from the list of pollutants in Appendix G—Section I (40 CFR part 403) for which a removal credit is available when sewage sludge is land-applied. EPA removed total chromium because the Appendix G—Section I list is limited to those pollutants specifically regulated in part 503. Second, to ensure the continued eligibility of chromium for a removal credit when sewage sludge is land-applied, EPA added a footnote to the table in Appendix G—Section II. This table lists pollutants not regulated in part 503 that are eligible for a removal credit so long as the concentration of the pollutant in sewage sludge does not exceed the concentration for the pollutant in the table. The footnote stated that determination of a concentration limit for total chromium in sewage sludge that is land-applied would be made on a case-by-case basis. Case-by-case determinations would continue until EPA published a concentration for total chromium in Appendix G—Section II for land-applied sewage sludge.

EPA reviewed the part 503 land application risk assessment for total chromium, and on October 25, 1995, proposed to establish the concentration for total chromium for removal credit purposes in Appendix G—Section II at 12,000 mg/kg (60 FR 54771). This is the value determined to be protective of ground water in the part 503 land application risk assessment. The ground-water pathway was the pathway that resulted in the most stringent limit for total chromium after the phytotoxicity and animal grazing pathways were found to be inappropriate (see EPA's reanalysis of the exposure pathways for total chromium in land-applied sewage sludge in the docket for the October 25, 1995, proposal). Several comments were received on the proposal.

One commenter stated that a numerical value for total chromium in Appendix G—Section II for land-applied sewage sludge is not necessary as a condition for granting a removal credit for total chromium. The commenter believes that the Clean Water Act, as amended, provides EPA the authority to grant a removal credit without having a numerical value for the pollutant in Appendix G—Sections I or II. EPA disagrees with this comment. EPA's position is that a numerical value for the pollutant must be established in Appendix G—Sections I or II for the POTW to be able to grant a removal credit to the indirect discharger for that pollutant. As articulated in the preamble to EPA's recent pretreatment streamlining rule, a POTW or industrial user can currently petition the Agency to establish a Part 503 standard or an amendment to Part 403, Appendix G—Section II for a pollutant along with an analysis of the impact of the pollutant on the use or disposal of its sewage sludge. Upon promulgation of the Part 503 standard or listing of the pollutant in Part 403, Appendix G—Section II, the pollutant would be eligible for inclusion in an application for a removal credit.

With respect to the numerical limit for total chromium, several commenters took issue with some of the assumptions underlying the proposed numeric limit in Appendix G—Section II. Specifically, the commenters indicated that there are problems with the Agency's land application ground-water pathway exposure assessment, which was the basis for the proposed numerical value for total chromium in land-applied sewage sludge in Appendix G—Section II. In the commenters' views, the values for the land application site parameters and the pollutant-specific parameters used in the ground-water pathway analysis are too conservative. Moreover, the commenters believe that EPA's assessment erroneously relied on parameters associated with chromium

in its hexavalent form rather than in the trivalent form.

EPA disagrees that the values for the land application site parameters (i.e., soil type, depth to groundwater, and thickness of aquifer) used in the ground-water pathway exposure analysis are too conservative. Because food crops are grown in sandy soils and because sewage sludge is applied to sandy soils, the Agency assumed sand, which has a high pollutant transmission potential, as the soil type when evaluating the ground-water pathway. Likewise, it is not unreasonable to assume that there will be circumstances in which crops will be grown on land that has a depth to groundwater of one meter. Similarly, it is likely that in dryer climates the thickness of the aquifer below the application site could be as small as one meter. Given the potential for land application in such conditions, the values EPA used for the site parameters in the ground-water pathway analysis are reasonable.

EPA agrees, however, that the numerical values for pollutant-specific parameters used in the ground-water pathway analysis are inappropriate for modeling either trivalent chromium or total chromium. This is because the numerical value for the human health endpoint (i.e., maximum contaminant level) used in the ground-water pathway analysis is based on exposure to hexavalent chromium (see 56 FR 3537, January 30, 1991), and because the numerical value for the partition coefficient (KD value) used in the ground-water pathway analysis is what would be expected for hexavalent chromium. EPA concluded, therefore, that the 12,000 mg-chromium/kg-sewage sludge value proposed for total chromium in Appendix G—Section II on October 25, 1995, is for the hexavalent form of chromium in sewage sludge that is land-applied.

Given that the 12,000 mg/kg concentration is for hexavalent chromium only, EPA could either establish the concentration limit in Appendix G—Section II for hexavalent chromium, or determine an appropriate concentration for total chromium. EPA rejected the option of setting a concentration limit for hexavalent chromium only. It is extremely difficult to determine the concentration of hexavalent chromium in sewage sludge for two reasons. First, it is present in sewage sludge at very low levels relative to trivalent chromium levels. Second, hexavalent chromium's high chemical reactivity characteristics make it extremely difficult to quantify in analytical procedures. Therefore, EPA concluded that the chromium limit for land-applied sewage sludge on the list in Appendix G—Section II should be for total chromium.

To determine a limit for total chromium, which represents a mixture of both hexavalent and trivalent chromium, EPA had to determine concentrations for both hexavalent chromium and trivalent chromium that do not cause a reasonably anticipated adverse effect. As noted above, EPA already determined that if the hexavalent chromium concentration does not exceed 12,000 mg/kg, hexavalent chromium in sewage sludge that is land-applied will not have an adverse effect on public health and the environment. For trivalent chromium, formal ground-water modeling has not been performed. Therefore, EPA derived the concentration value for trivalent chromium for the ground-water pathway based on some assumptions.

EPA made two assumptions in using a simple model to determine the trivalent chromium concentration. First, the Agency assumed that all of the values for the land application site parameters in the ground-water model for hexavalent chromium are the same for trivalent chromium. That is, the soil type is sand, the depth to groundwater is one meter, and the thickness of the aquifer is one meter.

Second, EPA assumed that, with the exception of the oral reference dose (RfD), the pollutant-specific parameters for hexavalent chromium are the same for trivalent chromium, including the KD value of 59 l/kg. The RfD for hexavalent chromium used to derive the human health endpoint in the ground-water pathway is $5\times10_{-3}$ mg/kg-day. The RfD for trivalent chromium is 1 mg/kg-day—some 200 times greater. Because the ratio of the numerical values for the RfDs of trivalent to hexavalent chromium is 200, with all other land application site parameters and pollutant-specific parameters being equal for the two chromium valence species, the estimated allowable concentration value for trivalent chromium in sewage sludge is 200 times the allowable concentration for hexavalent chromium or 2,400,000 mg/kg. This is only a theoretical value because the actual concentration can never exceed one million milligrams per kilogram.

The above theoretical concentration for trivalent chromium is an extremely conservative estimate based on many comments that stated that the KD values for trivalent chromium are reported as high as several thousand l/kg. If KD values like these are used in the analysis, the estimated theoretical concentration for trivalent chromium would be higher.

As indicated in the Technical Support Document for Land Application of Sewage Sludge (EPA 822/R–93–001a, November 1992) on page 5–107, sewage sludge contains little, if any, hexavalent chromium because hexavalent chromium is reduced to trivalent chromium during sewage sludge treatment. Thus, EPA believes the concentration of hexavalent chromium in sewage sludge compared to the concentration of trivalent chromium is negligible. At most, hexavalent chromium should not exceed one percent (i.e., 10,000 mg/kg) of the total chromium in sewage sludge.

EPA is today establishing the total chromium concentration in Appendix G—Section II for land-applied sewage sludge at 100,000 mg/kg. The Agency concluded that, although trivalent chromium is the prevalent form of chromium in sewage sludge, it is the hexavalent form of chromium that the total chromium concentration for land-applied sewage sludge must limit. Two commenters recommended a concentration of 100,000 mg/kg as appropriate to protect ground water from total chromium in land-applied sewage sludge. This concentration is consistent with the total chromium concentration limit established for granting a removal credit for sewage sludge placed in a lined active sewage sludge unit. Because the percentage of hexavalent chromium in total chromium is expected to be less than one percent, there is virtually no potential that the hexavalent chromium concentration in land-applied sewage sludge will exceed the allowable concentration for hexavalent chromium (i.e, 12,000 mg/kg) in the 100,000 mg/kg total chromium concentration limit.

A total chromium concentration of 100,000 mg/kg in land-applied total chromium also ensures that the total chromium limit from other pathways in the part 503 land application risk assessment is not exceeded. For example, the total chromium limit for the animal grazing pathway is 190,000 mg/kg, which is almost twice the total chromium concentration in Appendix G—Section II in today's rulemaking.

Finally, it is important to note that the value for total chromium the Agency is adopting today in Appendix G—Section II for land-applied sewage sludge is 1–2 orders of magnitude greater than the highest concentration of total chromium ever measured in sewage sludge based on the results of the 1989 National Sewage Sludge Survey. This too should ensure that the granting of a removal credit for total chromium will not

adversely affect public health and environmental when sewage sludge is applied to the land.

VII. Regulatory Requirements

A. Executive Order 12866, Regulatory Planning and Review

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

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

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

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

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

It has been determined that this final rule is not a ''significant'' regulatory action under the terms of Executive Order 12866 and is not subject, therefore, to OMB review. Further, because the effect of today's rule is to modify current requirements and provide additional flexibility to the regulated community in complying with the part 503 requirements, and to allow a removal credit for chromium in land applied sewage sludge under part 403, costs to the regulated community should be reduced or at least remain unchanged.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act, EPA generally is required to conduct a regulatory flexibility analysis describing the impact of the regulatory action on small entities as part of rulemaking. However, under section 605(b) of the RFA, if EPA certifies that the rule will not have a significant economic impact on a substantial number of small entities, EPA is not required to prepare a regulatory flexibility analysis. Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities.

This action to amend the part 503 regulation provides added flexibility in complying with the part 503 requirements and technical clarification for some of the requirements. For example, the permitting authority has been given the discretion to reduce the frequency of monitoring for some of the pollutants subject to the rule. Today's action also makes the incineration requirements self-implementing by specifying how an incinerator owner/operator is to determine pollutant limits applicable to sewage sludge to be combusted. The incineration amendments include requirements to provide notice to the permitting authority prior to performance testing and to report information that was previously obtained by the permitting authority during the permitting process. These requirements involve minimal additional cost, because the requirements to develop the information needed to calculate the pollutant limits are not new. Only the need to provide prior notice of testing and to report the results are new, and these requirements involve little expense.

In addition, this action amends the part 403 regulation to establish a total chromium in sewage sludge concentration to allow a wastewater treatment works to issue a removal credit for chromium in land applied sewage sludge. This relieves the wastewater treatment works from having to perform a site-specific evaluation and calculation to establish a total chromium concentration in sewage sludge in order to issue a pre-treatment removal credit for chromium to an industrial discharger. As such, the amendments impose no significant new requirements on the regulated community, including small entities.

Accordingly, I certify that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, this final regulation does not require a regulatory flexibility analysis.

C. 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. 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 30 days after it is published in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. § 804(2). This rule will be effective September 3, 1999.

D. Paperwork Reduction Act

The information collection requirements for existing 40 CFR part 503 were approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* OMB approved the information collection requirements for the existing regulation (part 503) and assigned OMB Control Nos. 2040–0004 and 2040–0086. Today's action amending part 503 reduces information collection requirements in part 503 by allowing the permitting authority to reduce the frequency of monitoring for certain part 503 pollutants.

However, today's action also adds a new notice requirement in § 503.43(e). The information collection request for this new provision is currently under development. EPA expects to publish a proposed Information Collection Request (ICR) for these requirements in the **Federal Register** for comment within the next 60 days. The ICR will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* after public comment. The information requirements will be published in the **Federal Register** again for public comment when EPA submits them to OMB for review and approval. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. Unfunded Mandate Reform Act

Title II of the Unfunded Mandate 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 today's amendments 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. The final amendments either clarify existing regulatory requirements or provide additional flexibility to the regulated community in complying with current part 503 requirements and allow for the issuance of removal credits under part 403.

For example, EPA is making a number of changes to reduce the reporting and recordkeeping burden of the current requirements. These include an amendment to authorize the permitting authority to reduce the frequency of monitoring of sewage sludge for pollutants and certain pathogen density requirements. In addition, the amendments modify the provision to certify that compliance with certain requirements was achieved. Under today's amendment, a person certifies to the accuracy of the submitted information and not, as is the case at present, to compliance with regulatory requirements.

Today's amendments also delete the language from the current regulation that requires the permitting authority to specify certain factors used to calculate site-specific pollutant limits for sewage sludge incinerators and to specify how to install, calibrate, operate, and maintain incinerator continuous emission monitors. Instead, the rule contains the information needed by the incinerator owner/operator to make the site-specific calculations and properly monitor emissions of total hydrocarbons. These self-implementing provisions contain a one-time requirement for the owner/operator to provide notice and report calculations which were previously obtained from the permitting authority. In addition, today's amendments contain technical changes that correct inaccurate cross-references and add omitted reporting dates and inadvertently omitted phrases. Therefore, to the extent that today's final regulation reduces the costs of complying with the current part 503 requirements and allow for the issuance of removal credits under part 403, the final regulation will lessen the regulatory burden on State, local, and tribal governments and the private sector.

As noted above, there are minimal costs or reduced costs associated with the other changes in today's final amendments. Thus, today's amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that today's amendments contain no regulatory requirements that might significantly or uniquely affect small governments. The final amendments do not significantly affect small governments because, as explained above, the amendments provide additional flexibility in complying with existing regulatory requirements, provide for self-implementation, or clarify those requirements. The final amendments also do not uniquely affect small governments because the changes are applicable to facilities operated by small governments to the same extent they are to other sewage sludge preparers and users or disposers. Thus this rule is not subject to the requirements of section 203 of UMRA.

F. Executive Order 12875, Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate on a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

EPA has concluded that this rule will create a mandate on State, local, and tribal governments and that the Federal government will not provide the funds necessary to pay the direct costs incurred by the State, local and/or tribal governments in complying with the mandate. However, the mandate created by these amendments to parts 503 and 403 will have only a minimal impact on these governments as described in sections VII A and E of this preamble.

In developing this rule, EPA consulted with State, local, and tribal governments to enable them to provide meaningful and timely input in the development of this rule. Over the past three years in the development of this rule, EPA on numerous occasions has had communication with State, local, and tribal governments on this rule. EPA has solicited and received suggestions for improving its implementation. This outreach effort culminated in the formation of a National Biosolids (Sewage Sludge) Partnership which serves as an accessible forum for these exchanges to take place. The representatives of these governments have expressed their approval of this communications process.

The concerns of these governments as this rule was developed centered around their need to have greater flexibility in complying with certain provisions of the original part 503 rule. EPA recognized these governments' concerns by providing an option for the permitting authority to allow for a reduction in the frequency of monitoring of certain part 503 pollutants and allowing for increased flexibility in complying with certain pathogen and vector attraction reduction requirements in the part 503 rule. EPA's conclusion is that the incorporation of these provisions of increased flexibility into the part 503 rule still results in adequate protection of public health and the environment from pollutants in land applied sewage sludge.

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

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments and it does not impose substantial direct compliance costs on them. The amendments clarify existing part 503 requirements and provide the regulated community additional flexibility in complying with the regulatory requirements and make other requirements self-implementing. In addition, the amendment to part 403 allows for the issuance of a removal credit for chromium when sewage sludge is land applied, thereby reducing a regulatory burden to the private sector. As explained in sections VII A and E in this preamble, today's changes do not impose substantial direct costs. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

H. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule initiated after April 21, 1997, or proposed after April 21, 1998, 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, 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.

Because this rule was proposed on October 25, 1995, it is not subject to EO 13045. Also as explained in the section on EO 12866, today's final rule is not an economically significant rule. In addition, EPA does not have reason to believe that today's amendments pose any environmental health or safety risks presenting a disproportionate risk to children. However, EPA reviewed the impact of this rule on children's health in light of the Agency's Policy on Evaluating Health Risks to Children.

Today's amendments to part 503 do not alter any of the existing part 503 pollutant limits, which are based on the results of the risk assessments undertaken for the part 503 rule as published on February 19, 1993 (58 FR 9248). Today's amendment to part 403 establishes a limit for total chromium in land-applied sewage sludge for the purpose of granting a removal credit. That limit is based on the results of the ground-water pathway analysis. A child is protected in this case because the limit based on the ground-water pathway results is more stringent than the limit based on the results of the child ingestion pathway.

I. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (''NTTAA''), the Agency is required to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. Where available and potentially applicable voluntary concensus standards are not used by EPA, the Act requires the Agency to provide Congress, through OMB, an explanation of the reasons for not using such standards.

Today's final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

List of Subjects

40 CFR Part 403

Environmental protection, Incineration, Land application, Pollutants, Removal credits, Sewage sludge, Surface disposal.

40 CFR Part 503

Environmental protection, Frequency of monitoring, Incineration, Land application, Management practices, Pathogens, Pollutants, Reporting and recordkeeping requirements, Surface disposal, Vector attraction reduction.

Dated: July 15, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40 of the Code of Federal Regulations is amended as set forth below:

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for part 403 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Appendix G to part 403 is amended by revising section II to read as follows:

Appendix G to Part 403—Pollutants Eligible for a Removal Credit

* * * * *

II. ADDITIONAL POLLUTANTS ELIGIBLE FOR A REMOVAL CREDIT

[Milligrams per kilogram—dry weight basis]

Pollutant	Use or disposal practice			
	LA	Surface disposal		I
		Unlined [1]	Lined [2]	
Arsenic	.....	.....	[3] 100	.....

II. ADDITIONAL POLLUTANTS ELIGIBLE FOR A REMOVAL CREDIT—Continued

[Milligrams per kilogram—dry weight basis]

Pollutant	Use or disposal practice			
	LA	Surface disposal	Lined [2]	I
		Unlined [1]		
Aldrin/Dieldrin (Total)	2.7	.....	.....	.....
Benzene	[3] 16	140	3400	.....
Benzo(a)pyrene	15	[3] 100	[3] 100	.....
Bis(2-ethylhexyl)phthalate	.....	[3] 100	[3] 100	.....
Cadmium	.....	[3] 100	[3] 100	.....
Chlordane	86	[3] 100	[3] 100	.....
Chromium (total)	[3] 100	.....	[3] 100	.....
Copper	.....	[3] 46	100	1400
DDD, DDE, DDT (Total)	1.2	2000	2000	.....
2,4 Dichlorophenoxy-acetic acid	.....	7	7	.....
Fluoride	730	.....	.....	.....
Heptachlor	7.4	.....	.....	.....
Hexachlorobenzene	29	.....	.....	.....
Hexachlorobutadiene	600	.....	.....	.....
Iron	[3] 78	.....	.....	.....
Lead	.....	[3] 100	[3] 100	.....
Lindane	84	[3] 28	[3] 28	.....
Malathion	.....	0.63	0.63	.....
Mercury	.....	[3] 100	[3] 100	.....
Molybdenum	.....	40	40	.....
Nickel	.....	.....	[3] 100	.....
N-Nitrosodimethylamine	2.1	0.088	0.088	.....
Pentachlorophenol	30	.....	.....	.....
Phenol	.....	82	82	.....
Polychlorinated biphenyls	4.6	<50	<50	.....
Selenium	.....	4.8	4.8	4.8
Toxaphene	10	[3] 26	[3] 26	.....
Trichloroethylene	[3] 10	9500	[3] 10	.....
Zinc	.....	4500	4500	4500

[1] Active sewage sludge unit without a liner and leachate collection system.
[2] Active sewage sludge unit with a liner and leachate collection system.
[3] Value expressed in grams per kilogram—dry weight basis.
Key: LA—land application.
I—incineration.

PART 503—STANDARDS FOR THE USE OR DISPOSAL OF SEWAGE SLUDGE

1. The authority citation for part 503 continues to read as follows:

Authority: Sections 405(d) and (e) of the Clean Water Act, as amended by Pub. L. 95–217, Sec. 54(d), 91 Stat. 1591 (33 U.S.C. 1345 (d) and (e)); and Pub. L. 100–4, Title IV, Sec. 406(a), (b), 101 Stat., 71, 72 (33 U.S.C. 1251 *et seq.*)

2. Section 503.2 is amended by adding a new paragraph (d) to read as follows:

§ 503.2 Compliance period.

* * * * *

(d) Unless otherwise specified in subpart E, compliance with the requirements in §§ 503.41(c) through (r), 503.43(c), (d) and (e), 503.45(a)(1), (b) through (f), 503.46(a)(1), (a)(3), and (c), and 503.47(f) that were revised on September 3, 1999 shall be achieved as expeditiously as practicable, but in no case later than September 5, 2000. When new pollution control facilities must be constructed to comply with the revised requirements in subpart E, compliance with the revised requirements shall be achieved as expeditiously as practicable but no later than September 4, 2001.

3. Section 503.10 is amended by revising paragraphs (b)(1), (c)(1), (d), (e), (f), and (g) to read as follows:

§ 503.10 Applicability.

* * * * *

(b)(1) Bulk sewage sludge. The general requirements in § 503.12 and the management practices in § 503.14 do not apply when bulk sewage sludge is applied to the land if the bulk sewage sludge meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8).

* * * * *

(c)(1) The general requirements in § 503.12 and the management practices in § 503.14 do not apply when a bulk material derived from sewage sludge is applied to the land if the derived bulk material meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8).

* * * * *

(d) The requirements in this subpart do not apply when a bulk material derived from sewage sludge is applied to the land if the sewage sludge from which the bulk material is derived meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8).

(e) Sewage sludge sold or given away in a bag or other container for

application to the land. The general requirements in § 503.12 and the management practices in § 503.14 do not apply when sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge sold or given away in a bag or other container for application to the land meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8).

(f) The general requirements in § 503.12 and the management practices in § 503.14 do not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the derived material meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8).

(g) The requirements in this subpart do not apply when a material derived from sewage sludge is sold or given away in a bag or other container for application to the land if the sewage sludge from which the material is derived meets the ceiling concentrations in Table 1 of § 503.13 and the pollutant concentrations in Table 3 of § 503.13; the Class A pathogen requirements in § 503.32(a); and one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8).

4. Section 503.16 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 503.16 Frequency of monitoring.

(a) *Sewage sludge.* (1) The frequency of monitoring for the pollutants listed in Table 1, Table 2, Table 3 and Table 4 of § 503.13; the pathogen density requirements in § 503.32(a) and § 503.32(b)(2); and the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(4) and § 503.33 (b)(7) through (b)(8) shall be the frequency in Table 1 of § 503.16.

TABLE 1 OF § 503.16—FREQUENCY OF MONITORING—LAND APPLICATION

Amount of sewage sludge [1] (metric tons per 365 day period)	Frequency
Greater than zero but less than 290	Once per year.
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year).
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year).
Equal to or greater than 15,000	Once per month (12 times per year).

[1] Either the amount of bulk sewage sludge applied to the land or the amount of sewage sludge prepared for sale or give-away in a bag or other container for application to the land (dry weight basis).

(2) After the sewage sludge has been monitored for two years at the frequency in Table 1 of § 503.16, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in § 503.32(a)(5)(ii) and (a)(5)(iii).

* * * * *

5. Section 503.17 is amended by revising paragraphs (a)(1)(ii), (a)(2)(ii), (a)(3)(i)(B), (a)(3)(ii)(A), (a)(4)(i)(B), (a)(4)(ii)(A), (a)(5)(i)(B), (a)(5)(ii)(C), (a)(5)(ii)(F), (a)(5)(ii)(H), (a)(5)(ii)(J), (a)(5)(ii)(L), (a)(6)(iii), (b)(3), (b)(6), and (b)(7), and by adding a new paragraph (a)(4)(ii)(E) to read as follows:

§ 503.17 Recordkeeping.

(a) *Sewage sludge.* (1) * * *

(ii) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the Class A pathogen requirements in § 503.32(a) and the vector attraction reduction requirement in [insert one of the vector attraction reduction requirements in § 503.33(b)(1) through § 503.33(b)(8)] was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(2) * * *

(ii) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the Class A pathogen requirements in § 503.32(a) and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8)) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(3) * * *

(i) * * *

(B) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the Class A pathogen requirements in § 503.32(a) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(ii) * * *

(A) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.14 and the vector attraction reduction requirement in (insert either § 503.33(b)(9) or (b)(10)) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(4) * * *

(i) * * *

(B) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the Class B pathogen requirements in § 503.32(b) and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8)if one of those requirements is met) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(ii) * * *

(A) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine

compliance with the management practices in § 503.14, the site restrictions in § 503.32(b)(5), and the vector attraction reduction requirement in (insert either § 503.33(b)(9) or (b)(10) if one of those requirements is met) was prepared for each site on which bulk sewage sludge is applied under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(E) The date bulk sewage sludge is applied to each site.

(5) * * *

(i) * * *

(B) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements in (insert either § 503.32(a) or § 503.32(b)) and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in § 503.33(b)(1) through (b)(8) if one of those requirements is met) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(ii) * * *

(C) The date bulk sewage sludge is applied to each site.

* * * * *

(F) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the requirement to obtain information in § 503.12(e)(2) was prepared for each site on which bulk sewage sludge was applied under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(H) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.14 was prepared for each site on which bulk sewage sludge was applied under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(J) The following certification statement when the bulk sewage sludge meets the Class B pathogen requirements in § 503.32(b):

I certify, under penalty of law, that the information that will be used to determine compliance with the site restrictions in § 503.32(b)(5) for each site on which Class B sewage sludge was applied was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(L) The following certification statement when the vector attraction reduction requirement in either § 503.33(b)(9) or (b)(10) is met:

I certify, under penalty of law, that the information that will be used to determine compliance with the vector attraction reduction requirement in (insert either § 503.33(b)(9) or § 503.33(b)(10)) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(6) * * *

(iii) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the management practice in § 503.14(e), the Class A pathogen requirement in § 503.32(a), and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in § 503.33(b)(1) through § 503.33(b)(8)) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(b) * * *

(3) The date domestic septage is applied to each site.

* * * * *

(6) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements (insert either § 503.32(c)(1) or § 503.32(c)(2)) and the vector attraction reduction requirement in [insert § 503.33(b)(9), 503.33(b)(10), or § 503.33(b)(12)] was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

(7) A description of how the pathogen requirements in either § 503.32(c)(1) or (c)(2) are met.

* * * * *

6. Section 503.18 is amended by revising paragraph (a)(2) to read as follows:

§ 503.18 Reporting.

(a) * * *

(2) The information in § 503.17(a)(5)(ii)(A) through (a)(5)(ii)(G) on February 19th of each year when 90 percent or more of any of the cumulative pollutant loading rates in Table 2 of § 503.13 is reached at a land application site.

* * * * *

7. Section 503.21 is amended by revising paragraph (c) to read as follows:

§ 503.21 Special definitions.

* * * * *

(c) *Contaminate an aquifer* means to introduce a substance that causes the maximum contaminant level for nitrate in 40 CFR 141.62(b) to be exceeded in the ground water or that causes the existing concentration of nitrate in ground water to increase when the existing concentration of nitrate in the ground water exceeds the maximum contaminant level for nitrate in 40 CFR 141.62(b).

* * * * *

8. Section 503.22 is amended by revising paragraph (b) to read as follows:

§ 503.22 General requirements.

* * * * *

(b) An active sewage sludge unit located within 60 meters of a fault that has displacement in Holocene time; located in an unstable area; or located in a wetland, except as provided in a permit issued pursuant to either section 402 or 404 of the CWA, shall close by March 22, 1994, unless, in the case of an active sewage sludge unit located within 60 meters of a fault that has displacement in Holocene time, otherwise specified by the permitting authority.

* * * * *

9. Section 503.26 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 503.26 Frequency of monitoring.

(a) *Sewage sludge (other than domestic septage).* (1) The frequency of

monitoring for the pollutants in Tables 1 and 2 of § 503.23; the pathogen density requirements in § 503.32(a) and in § 503.32(b)(2); and the vector attraction reduction requirements in § 503.33(b)(1) through (b)(4) and § 503.33(b)(7) through (b)(8) for sewage sludge placed on an active sewage sludge unit shall be the frequency in Table 1 of § 503.26.

TABLE 1 OF § 503.26.—FREQUENCY OF MONITORING—SURFACE DISPOSAL

Amount of sewage sludge [1] (metric tons per 365 day period)	Frequency
Greater than zero but less than 290	Once per year.
Equal to or greater than 290 but less than 1,500	Once per quarter (four times per year).
Equal to or greater than 1,500 but less than 15,000	Once per 60 days (six times per year).
Equal to or greater than 15,000	Once per month (12 times per year).

[1] Amount of sewage sludge placed on an active sewage sludge unit (dry weight basis).

(2) After the sewage sludge has been monitored for two years at the frequency in Table 1 of this section, the permitting authority may reduce the frequency of monitoring for pollutant concentrations and for the pathogen density requirements in § 503.32(a)(5)(ii) and (a)(5)(iii).

* * * * *

10. Section 503.27 is amended by revising paragraphs (a)(1)(ii), (a)(2)(ii), (b)(1)(i), and (b)(2)(i) to read as follows:

§ 503.27 Recordkeeping.

(a) * * *

(1) * * *

(ii) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the pathogen requirements in (insert § 503.32(a), § 503.32(b)(2), § 503.32(b)(3), or § 503.32(b)(4) when one of those requirements is met) and the vector attraction reduction requirement in (insert one of the vector attraction reduction requirements in § 503.33 (b)(1) through (b)(8) if one of those requirements is met) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(2) * * *

(ii) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.24 and the vector attraction reduction requirement in (insert one of the requirements in § 503.33(b)(9) through § 503.33(b)(11) if one of those requirements is met) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.''

* * * * *

(b) * * *

(1) * * *

(i) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the vector attraction reduction requirements in § 503.33(b)(12) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine and imprisonment.

* * * * *

(2) * * *

(i) The following certification statement:

I certify, under penalty of law, that the information that will be used to determine compliance with the management practices in § 503.24 and the vector attraction reduction requirements in (insert § 503.33(b)(9) through § 503.33(b)(11) if one of those requirements is met) was prepared under my direction and supervision in accordance with the system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification including the possibility of fine or imprisonment.

* * * * *

11. Section 503.31 is amended by revising paragraph (g) to read as follows:

§ 503.31 Special definitions.

* * * * *

(g) *pH* means the logarithm of the reciprocal of the hydrogen ion concentration measured at 25° Centigrade or measured at another temperature and then converted to an equivalent value at 25° Centigrade.

* * * * *

12. Section 503.32 is amended by revising paragraphs (b)(2)(i) and (b)(5)(v) to read as follows:

§ 503.32 Pathogens.

* * * * *

(b) * * *

(2) * * *

(i) Seven representative samples of the sewage sludge that is used or disposed shall be collected.

* * * * *

(5) * * *

(v) Animals shall not be grazed on the land for 30 days after application of sewage sludge.

* * * * *

13. Section 503.33 is amended by revising paragraph (b)(10)(i) to read as follows:

§ 503.33 Vector attraction reduction.

* * * * *

(b) * * *

(10)(i) Sewage sludge applied to the land surface or placed on an active sewage sludge unit shall be incorporated into the soil within six hours after application to or placement on the land, unless otherwise specified by the permitting authority.

* * * * *

14. Section 503.41 is amended by redesignating paragraphs (c), (d), (e) (f), (g), (h), (i),(j), (k), (l), (m), (n), and (o) as paragraphs (d), (e), (f), (g), (h), (j), (l), (m), (n), (o), (p), (q), and (r), respectively, and by adding new paragraphs (c), (i), and (k) to read as follows:

§ 503.41 Special definitions.

* * * * *

(c) *Average daily concentration* is the arithmetic mean of the concentration of a pollutant in milligrams per kilogram of sewage sludge (dry weight basis) in the samples collected and analyzed in a month.

(i) *Incinerator operating combustion temperature* is the arithmetic mean of the temperature readings in the hottest zone of the furnace recorded in a day (24 hours) when the temperature is averaged and recorded at least hourly during the hours the incinerator operates in a day.

(k) *Performance test combustion temperature* is the arithmetic mean of

the average combustion temperature in the hottest zone of the furnace for each of the runs in a performance test.

15. Section 503.43 is amended by revising paragraphs (c) and (d), and by adding a new paragraph (e) to read as follows:

§ 503.43 Pollutant limits.

* * * * *

(c) *Pollutant limit—lead.* (1) The average daily concentration for lead in sewage sludge fed to a sewage sludge incinerator shall not exceed the concentration calculated using Equation (4).

$$C = \frac{0.1 \times NAAQS \times 86{,}400}{DF \times (1 - CE) \times SF} \qquad \text{Eq. (4)}$$

Where:

C = Average daily concentration of lead in sewage sludge.

NAAQS = National Ambient Air Quality Standard for lead in micrograms per cubic meter.

DF = Dispersion factor in micrograms per cubic meter per gram per second.

CE = Sewage sludge incinerator control efficiency for lead in hundredths.

SF = Sewage sludge feed rate in metric tons per day (dry weight basis).

(2) The dispersion factor (DF) in equation (4) shall be determined from an air dispersion model in accordance with § 503.43(e).

(i) When the sewage sludge stack height is 65 meters or less, the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (4).

(ii) When the sewage sludge incinerator stack height exceeds 65 meters, the creditable stack height shall be determined in accordance with 40 CFR 51.100(ii) and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (4).

(3) The control efficiency (CE) for equation (4) shall be determined from a performance test of the sewage sludge incinerator in accordance with § 503.43(e).

(d) *Pollutant limit—arsenic, cadmium, chromium, and nickel.* (1) The average daily concentration for arsenic, cadmium, chromium, and nickel in sewage sludge fed to a sewage sludge incinerator each shall not exceed the concentration calculated using equation (5).

$$C = \frac{RSC \times 86{,}400}{DF \times (1 - CE) \times SF} \qquad \text{Eq. (5)}$$

Where:

C = Average daily concentration of arsenic, cadmium, chromium, or nickel in sewage sludge.

CE = Sewage sludge incinerator control efficiency for arsenic, cadmium, chromium, or nickel in hundredths.

DF = Dispersion factor in micrograms per cubic meter per gram per second.

RSC = Risk specific concentration for arsenic, cadmium, chromium, or nickel in micrograms per cubic meter.

SF = Sewage sludge feed rate in metric tons per day (dry weight basis).

(2) The risk specific concentrations for arsenic, cadmium, and nickel used in equation (5) shall be obtained from Table 1 of § 503.43.

TABLE 1 OF § 503.43.—RISK SPECIFIC CONCENTRATION FOR ARSENIC, CADMIUM, AND NICKEL

Pollutant	Risk specific concentration (micrograms per cubic meter)
Arsenic	0.023
Cadmium	0.057
Nickel	2.0

(3) The risk specific concentration for chromium used in equation (5) shall be obtained from Table 2 of § 503.43 or shall be calculated using equation (6).

TABLE 2 OF § 503.43.—RISK SPECIFIC CONCENTRATION FOR CHROMIUM

Type of Incinerator	Risk specific concentration (micrograms per cubic meter)
Fluidized bed with wet scrubber	0.65
Fluidized bed with wet scrubber and wet electrostatic precipitator	0.23
Other types with wet scrubber	0.064
Other types with wet scrubber and wet electrostatic precipitator	0.016

$$RSC = \frac{0.0085}{r} \qquad \text{Eq. (6)}$$

Where:

RSC=risk specific concentration for chromium in micrograms per cubic meter used in equation (5).

r=decimal fraction of the hexavalent chromium concentration in the total chromium concentration measured in the exit gas from the sewage sludge incinerator stack in hundredths.

(4) The dispersion factor (DF) in equation (5) shall be determined from an air dispersion model in accordance with § 503.43(e).

(i) When the sewage sludge incinerator stack height is equal to or less than 65 meters, the actual sewage sludge incinerator stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (5).

(ii) When the sewage sludge incinerator stack height is greater than 65 meters, the creditable stack height shall be determined in accordance with 40 CFR 51.100(ii) and the creditable stack height shall be used in the air dispersion model to determine the dispersion factor (DF) for equation (5).

(5) The control efficiency (CE) for equation (5) shall be determined from a performance test of the sewage sludge incinerator in accordance with § 503.43(e).

(e) *Air dispersion modeling and performance testing.* (1) The air dispersion model used to determine the dispersion factor in § 503.43 (c)(2) and (d)(4) shall be appropriate for the geographical, physical, and population characteristics at the sewage sludge incinerator site. The performance test used to determine the control efficiencies in § 503.43 (c)(3) and (d)(5) shall be appropriate for the type of sewage sludge incinerator.

(2) For air dispersion modeling initiated after September 3, 1999, the modeling results shall be submitted to the permitting authority 30 days after completion of the modeling. In addition to the modeling results, the submission shall include a description of the air dispersion model and the values used for the model parameters.

(3) The following procedures, at a minimum, shall apply in conducting performance tests to determine the control efficiencies in § 503.43(c)(3) and (d)(5) after September 3, 1999:

(i) The performance test shall be conducted under representative sewage sludge incinerator conditions at the highest expected sewage sludge feed rate within the design capacity of the sewage sludge incinerator.

(ii) The permitting authority shall be notified at least 30 days prior to any performance test so the permitting authority may have the opportunity to observe the test. The notice shall include a test protocol with incinerator operating conditions and a list of test methods to be used.

(iii) Each performance test shall consist of three separate runs using the applicable test method. The control efficiency for a pollutant shall be the arithmetic mean of the control

efficiencies for the pollutant from the three runs.

(4) The pollutant limits in § 503.43 (c) and (d) of this section shall be submitted to the permitting authority no later than 30 days after completion of the air dispersion modeling and performance test.

(5) Significant changes in geographic or physical characteristics at the incinerator site or in incinerator operating conditions require new air dispersion modeling or performance testing to determine a new dispersion factor or a new control efficiency that will be used to calculate revised pollutant limits.

16. Section 503.45 is amended by revising paragraphs (a)(1), (b), (c), (d), (e), and (f), and by adding a new paragraph (h) to read as follows:

§ 503.45 Management practices.

(a)(1) An instrument that continuously measures and records the total hydrocarbons concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

* * * * *

(b) An instrument that continuously measures and records the oxygen concentration in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

(c) An instrument that continuously measures and records information used to determine the moisture content in the sewage sludge incinerator stack exit gas shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

(d) An instrument that continuously measures and records combustion temperatures shall be installed, calibrated, operated, and maintained for a sewage sludge incinerator.

(e) Operation of a sewage sludge incinerator shall not cause the operating combustion temperature for the sewage sludge incinerator to exceed the performance test combustion temperature by more than 20 percent.

(f) An air pollution control device shall be appropriate for the type of sewage sludge incinerator and the operating parameters for the air pollution control device shall be adequate to indicate proper performance of the air pollution control device. For sewage sludge incinerators subject to the requirements in subpart O of 40 CFR part 60, operation of the air pollution control device shall not violate the requirements for the air pollution control device in subpart O of 40 CFR part 60. For all other sewage sludge incinerators, operation of the air pollution control device shall not cause a significant exceedance of the average value for the air pollution control device operating parameters from the performance test required by § 503.43 (c)(3) and (d)(5).

* * * * *

(h) The instruments required in § 503.45(a)–(d) shall be appropriate for the type of sewage sludge incinerator.

17. Section 503.46 is amended by revising paragraphs (a)(1), (a)(3), and (c) to read as follows:

§ 503.46 Frequency of monitoring.

(a) Sewage sludge.

(1) The frequency of monitoring for beryllium shall be as required in subpart C of 40 CFR part 61, and for mercury as required in subpart E of 40 CFR part 61.

* * * * *

(3) After the sewage sludge has been monitored for two years at the frequency in Table 1 of § 503.46, the permitting authority may reduce the frequency of monitoring for arsenic, cadmium, chromium, lead, and nickel.

* * * * *

(c) Air pollution control device operating parameters.

For sewage sludge incinerators subject to the requirements in subpart O of 40 CFR part 60, the frequency of monitoring for the appropriate air pollution control device operating parameters shall be the frequency of monitoring in subpart O of 40 CFR part 60. For all other sewage sludge incinerators, the appropriate air pollution control device operating parameters shall be at least daily.

18. Section 503.47 is amended by revising paragraph (f) to read as follows:

§ 503.47 Recordkeeping.

* * * * *

(f) The operating combustion temperatures for the sewage sludge incinerator.

* * * * *

19. Appendix B to 40 CFR part 503 is amended by revising the description No. 6 under B. Processes to Further Reduce Pathogens (PFRP) to read as follows:

Appendix B to Part 503—Pathogen Treatment Processes

* * * * *

B. * * *

(6) Gamma ray irradiation—Sewage sludge is irradiated with gamma rays from certain isotopes, such as ^{60}Cobalt and ^{137}Cesium, at dosages of at least 1.0 megarad at room temperature (ca. 20° Celsius).

* * * * *

[FR Doc. 99–18604 Filed 8–3–99; 8:45 am]

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federal register

Wednesday
August 4, 1999

Part V

Department of Agriculture

Cooperative State Research, Education, and Extension Service

7 CFR Part 3419

Matching Funds Requirement for Formula Funds for Agricultural Research and Extension Activities at 1890 Land-Grant Institutions, including Tuskegee University, and at the 1862 Land-Grant Institutions in Insular Areas; Proposed Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

7 CFR Part 3419

RIN Number: AA24

Matching Funds Requirement for Formula Funds for Agricultural Research and Extension Activities at 1890 Land-Grant Institutions, Including Tuskegee University, and at the 1862 Land-Grant Institutions in Insular Areas

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) proposes to add a new part 3419 to Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of implementing new statutory matching requirements applicable to Federal agricultural research and extension formula funds for 1890 land-grant institutions, including Tuskegee University, and to the 1862 land-grant institutions in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands.

DATES: Written comments are invited from interested individuals and organizations. To be considered in the formulation of the final rule, comments must be received on or before September 3, 1999.

ADDRESSES: Address all comments to CSREES–USDA; Office of Extramural Programs; Policy and Program Liaison Staff; CSREES/USDA; Mail Stop 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2299. Comments may be hand-delivered to CSREES–USDA; Office of Extramural Programs; Policy and Program Liaison Staff; Room 302 Aerospace Center; 901 D Street, S.W.; Washington, D.C. 20024. Comments may be mailed or sent electronically to oep@reeusda.gov.

FOR FURTHER INFORMATION CONTACT: Dr. Edward M. Wilson, Deputy Administrator; Plant and Animal Systems; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail Stop 2220; 1400 Independence Avenue, SW; Washington, DC 20250–2220; at 202–401–4329, 202–401–4888 (fax) or via electronic mail at ewilson@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Background and Purpose

This document proposes to add a new part 3419 to Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of implementing the new matching requirements for agricultural research and extension formula funds authorized for the 1890 land-grant institutions and Tuskegee University. Section 226 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA), Pub. L. 105–185, amends Subtitle G of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) by adding a new section 1449. This section requires matching funds from non-Federal sources for formula funds authorized under sections 1444 and 1445 of NARETPA for research and extension activities at the 1890 land-grant institutions and Tuskegee University.

This proposed rule will also implement the new matching requirements for the 1862 land-grant institutions in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands. Section 753(d) and (e) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999, enacted in Division A, section 101(a) of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Pub. L. 105–277, 112 Stat. 2681–33 (1999 Agriculture Appropriations Act), amended section 3(d) of the Hatch Act of 1887 and section 3(e) of the Smith-Lever Act to subject the 1862 land-grant institutions in the Commonwealth of Puerto Rico and the insular areas to the same matching requirements as those applicable to an eligible institution under section 1449 of NARETPA. The amendments made by section 753 apply by operation of law to American Samoa, Micronesia, and Northern Marianas by virtue of section 1361(a) of Pub. L. 96–374, as amended by 9(c) of Pub. L. 99–396, which provides that any provision of law related to land-grant institutions in the Virgin Islands or Guam applies to the land-grant institutions in American Samoa, the Northern Marianas, and the former Trust Territory of the Pacific Islands, the land-grant institution of which is the College of Micronesia.

Section 1449 requires that the State make available matching funds to an 1890 institution out of non-Federal funds. CSREES has determined that this does not necessarily limit the source of matching funds to those directly provided by the State as a part of its direct budget or appropriations process. Accordingly, CSREES has defined ''non-Federal sources'' to include direct State appropriations and any funds generated by the 1890 institution or by the 1862 institution in the Commonwealth of Puerto Rico or in an insular area and made available to the institution under other authority (other than authority to charge tuition and fees paid by students) provided by the State. This would include, for example, gift acceptance or user fee authority.

Classification

This rule has been reviewed under Executive Order 12866 and has been determined to be nonsignificant as it will not create a serious inconsistency or otherwise interfere with an action planned by another agency; will not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or the rights and obligations of the recipients thereof; and will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in this executive order. This rule will not have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Regulatory Flexibility Act

The Department certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. No. 96–534 (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required for this proposed rule.

Catalog of Federal Domestic Assistance

The programs affected by this proposed rule are listed in the Catalog of Federal Domestic Assistance under No. 10.205, Payments to 1890 Land-Grant Institutions and Tuskegee University, No. 10.500, Cooperative Extension Service, and No. 10.203, Payments to Agricultural Experiment Stations Under the Hatch Act.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and recordkeeping requirements that will be imposed in the implementation of this proposed rule have been submitted to

OMB for approval. These requirements would not become effective prior to OMB approval.

Title: Section 1449 Matching Funds Requirement for Research and Extension Activities at Eligible Institutions.

SUMMARY: The purpose of this collection of information is to implement the requirements of section 226 of AREERA, which added section 1449 to NARETPA, and section 753 of the 1999 Agriculture Appropriations Act. These provisions establish new matching requirements for the agricultural research and extension formula funds authorized for the 1890 land-grant institutions, including Tuskegee University, and to the 1862 land-grant institutions in the Commonwealth of Puerto Rico and insular areas.

Need for the Information: This information is needed by CSREES to determine if the matching requirements under section 1449 of NARETPA have been met by the 1890 land-grant institutions, including Tuskegee University, and by the 1862 land-grant institutions in insular areas. CSREES intends to require the eligible institutions to complete Form CSREES–2103, ''Section 1449 Matching Funds Requirement for Research and Extension Activities at Eligible Institutions,'' annually.

Respondents: Respondents will be the 17 1890 land-grant institutions and the six 1862 land-grant institutions in the Commonwealth of Puerto Rico and the insular areas, which will provide information to USDA on the amount and source of non-Federal funds made available by the States, the Commonwealth of Puerto Rico, and the insular governments to the eligible institutions for agricultural research, extension, and qualifying educational activities to meet the matching requirements of section 1449 of NARETPA.

Estimate of Burden: The estimated burden on the respondents for Form CSREES–2103, ''Section 1449 Matching Funds Requirement for Research and Extension Activities at Eligible Institutions,'' is estimated at 3.9 hours per response.

Estimated Number of Respondents: 23.

Estimated Annual Number of Responses: 117.

Estimated Total Annual Burden on Respondents: 456.3 hours.

Frequency of Responses: Annually.

Copies of this information collection can be obtained from Ellen Danus, Policy and Program Liaison Staff, Office of Extramural Programs, CSREES, USDA, (202) 401–4325. Email: oep@reeusda.gov.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: CSREES–USDA; Office of Extramural Programs; Policy and Program Liaison Staff; Mail Stop 2299; 1400 Independence Avenue, SW; Washington, DC 20250–2299 by October 4, 1999 or to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20502. Reference should be made to the volume, page, and date of this **Federal Register** publication.

List of Subjects in 7 CFR Part 3419

Agricultural extension, Agricultural research, Colleges and universities.

For reasons set forth in the preamble, it is proposed to amend Title 7, Subtitle B, Chapter XXXIV, of the Code of Federal Regulations by adding part 3419 to read as follows:

PART 3419—MATCHING FUNDS REQUIREMENT FOR AGRICULTURAL RESEARCH AND EXTENSION FORMULA FUNDS AT 1890 LAND-GRANT INSTITUTIONS, INCLUDING TUSKEGEE UNIVERSITY, AND AT 1862 LAND-GRANT INSTITUTIONS IN INSULAR AREAS

Sec.

3419.1 Definitions.
3419.2 Matching funds.
3419.3 Determination of non-Federal sources of funds.
3419.4 Limited waiver authority.
3419.5 Use of Matching Funds.
3419.6 Redistribution of funds.

Authority: 5 U.S.C. 301, 7 U.S.C. 3222d; Sec. 753, Pub. L. 105–277, 112 Stat. 2681–33

§ 3419.1 Definitions.

As used in this part:

Eligible institution means a college or university eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 *et seq.*) (commonly known as the Second Morrill Act), including Tuskegee University, or a college or university designated under the Act of July 2, 1862 (7 U.S.C. 301, *et seq.*)(commonly known as the First Morrill Act) and located in the Commonwealth of Puerto Rico and the insular areas of American Samoa, Guam, Micronesia, Northern Marianas, and the Virgin Islands.

Formula funds means agricultural research funds provided to the eligible institutions under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA), as amended, or under section 3 of the Hatch Act of 1887, 7 U.S.C. 361c, and agricultural extension funds provided to the eligible institutions under section 1444 of NARETPA or under sections 3(b) and (c) of the Smith-Lever Act, 7 U.S.C. 343(b) and (c).

Matching funds means funds from non-Federal sources made available by the State to the eligible institutions:

(1) For programs or activities that fall within the purposes of agricultural research and cooperative extension under sections 1444 and 1445 of NARETPA, the Hatch Act of 1887, and the Smith-Lever Act; or

(2) For qualifying educational activities. Matching funds means cash contributions and excludes in-kind matching contributions.

Non-Federal sources means funds made available by the State to the eligible institution either through direct appropriation or under any authority (other than authority to charge tuition and fees paid by students) provided by a State to an eligible institution to raise revenue, such as gift acceptance authority or user fees.

Qualifying educational activities means programs that address food and agricultural sciences components of an eligible institution.

Secretary means the Secretary of Agriculture and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

State means the government of any one of the fifty States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of Northern Marianas, the Virgin Islands of the United States, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia.

§ 3419.2 Matching funds.

The distribution of formula funds shall be subject to the following matching requirements:

(a) For fiscal year 2000, matching funds shall equal not less than 30

percent of the formula funds to be distributed to the eligible institution;

(b) For fiscal year 2001, matching funds shall equal not less than 45 percent of the formula funds to be distributed to the eligible institution; and

(c) For fiscal year 2002 and each fiscal year thereafter, the matching funds shall equal not less than 50 percent of the formula funds to be distributed to the eligible institution.

§ 3419.3 Determination of non-Federal sources of funds.

(a) Each eligible institution shall submit by September 30, 1999, a report describing for fiscal year 1999:

(1) The sources of non-Federal funds made available to the eligible institutions for agricultural research, extension, and qualified educational activity to meet the matching requirements of section 1449 of NARETPA, as amended; and

(2) The amount of funds generally available from each source.

(b) This report for the fiscal year ending September 30, 1999, may also include a request for a waiver of the matching funds requirement for fiscal year 2000. For fiscal year 2000 and thereafter, this report must be submitted by July 1.

§ 3419.4 Limited waiver authority.

(a) The Secretary may waive the matching funds requirement for fiscal year 2000 for an eligible institution of a State if the Secretary determines that, based on the report received under § 3419.3, the State will be unlikely to satisfy the matching requirement. The criteria to waive the match in fiscal year 2000 may include:

(1) Natural disaster, flood, fire, tornado, hurricane, or drought;

(2) State and/or institution facing a financial crisis; or

(3) Demonstration of a good faith effort to obtain funds.

(b) Approval or disapproval of the request for a waiver will be based on the report submitted under § 3419.3. The Secretary may not waive the matching requirement for any fiscal year other than fiscal year 2000.

§ 3419.5 Use of matching funds.

The required matching funds for the formula programs shall be used by an eligible institution for agricultural research and extension activities that have been approved in the plan of work required under sections 1444(d) and 1445(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, section 7 of the Hatch Act of 1887, section 4 of the Smith-Lever Act, or for approved qualifying education activities.

§ 3419.6 Redistribution of funds.

All formula funds not matched and reported under § 3419.3 by July 1 of each fiscal year will be reapportioned to the other eligible institutions who have satisfied their current fiscal year requirement for matching funds for the formula funds. Unmatched research and extension funds will be reapportioned in accordance with the research and extension statutory distribution formulas applicable to the 1890 and 1862 land-grant institutions, respectively. Any redistribution of funds shall be subject to the same matching requirement under § 3419.2.

Done at Washington, D.C., this 29th day of July 1999.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 99–19955 Filed 8–3–99; 8:45 am]

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