8–25–99
Vol. 64 No. 164
Pages 46257–46558

federal register

Wednesday
August 25, 1999

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

RIN 3206–AI71

Absence and Leave; Use of Restored Annual Leave

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations to aid agencies and employees involved in Year 2000 (Y2K) computer conversion efforts. The regulations provide that excess annual leave forfeited by employees who are unable to schedule and use their leave as a result of Y2K computer conversion efforts will be deemed to have been scheduled in advance and therefore eligible for restoration.

EFFECTIVE DATE: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: Sharon Herzberg, (202) 606–2858, FAX (202) 606–0824, or email to payleave@opm.gov.

SUPPLEMENTARY INFORMATION: On June 14, 1999, the Office of Personnel Management (OPM) published proposed regulations (64 FR 31735) that would provide relief to Federal employees involved in Year 2000 (Y2K) computer conversion efforts. Many of these employees would have faced the possible forfeiture of ''use or lose'' annual leave because they must remain on the job until the Y2K computer conversions have been implemented and thoroughly tested. Under the normal rules, agencies would be faced with the administrative burden of scheduling, canceling, and restoring such leave for these employees at a time when all available attention and energy should be focused on Y2K conversion efforts. Therefore, OPM issued proposed regulations to simplify the procedures for restoring annual leave forfeited as a result of the Y2K exigency. Section 630.310(a) of title 5, Code of Federal Regulations, as added by these final regulations, deems the Y2K computer conversion project an exigency of the public business and establishes January 31, 2000, as the Governmentwide termination date for the Y2K exigency. In addition, under § 630.310(b), annual leave forfeited as a result of the Y2K exigency is deemed to have been scheduled in advance for the purpose of satisfying the requirements in 5 U.S.C. 6304(d) and 5 CFR 630.308.

The 30-day comment period closed on July 14, 1999. During the comment period, OPM received six comments, five from agencies and one from an individual. The agency that initially requested this regulatory action expressed its gratitude to OPM for taking the lead in protecting employees involved in Y2K conversion efforts and its satisfaction with the proposed regulations, which they found well-thought out and comprehensive. The other four agencies that commented also fully supported OPM's proposed regulations.

The individual strongly objected to OPM's proposed regulations, believing that our regulations are not consistent with the statute at 5 U.S.C. 6304(d)(1)(B), which requires that annual leave lost as the result of an exigency of the public business may be restored when it was scheduled in advance. We believe it is necessary to consider the intent of Congress and what has happened since the enactment of the law. In this case, we believe the intent of Congress was to have employees use their annual leave. However, when the statutes outlining procedures for restoration of excess annual leave were enacted, Congress could not have foreseen the consequences of the law in emergency situations, such as the Y2K computer conversion problem.

Obviously, Congress believes there are situations in which this law needs to be more flexible. For example, legislation was enacted in 1993 to consider closure of DOD installations as ''an exigency of the public business'' and to exempt affected employees from the advance scheduling requirement in 5 U.S.C. 6304(d). Congress has set a precedent for permitting the restoration of annual leave without advance scheduling. While we cannot exempt employees who have been determined to be necessary for Y2K conversion from the statutory requirements, we believe we can provide that any leave lost as a result of the Y2K exigency can, by regulation, be deemed to have been scheduled in advance and therefore eligible for restoration.

The individual questioned the need for the proposed regulations, stating that the Y2K conversion is not sufficient reason to exempt employees from the scheduling requirements. We strongly disagree. OPM recognizes that the Y2K conversion is a major effort that has required and is continuing to require employees to perform not just their regularly scheduled work, but overtime work on nights and weekends as well. Further, we believe forcing employees and agencies to go through the charade of scheduling and canceling annual leave that both parties know cannot be taken places an administrative burden on agencies already dealing with other problems caused by the Y2K conversion.

The commenter feels that employees should have to show they made a ''good faith effort'' by attempting to schedule annual leave, pointing out that employees who forfeited leave as a result of Government furloughs in 1996 were required to have scheduled leave in advance to qualify for restoration. However, during the furlough period in 1996, employees were prevented from using leave only briefly, at the end of the leave year. The Y2K exigency has prevented and will continue to prevent employees from using leave throughout the 1999 leave year. When there is no possibility that an employee can be away from the workplace, we believe requiring efforts to schedule and cancel leave flies in the face of OPM's commitment to provide agencies with the human resources management tools they need to address Y2K computer conversion problems.

The commenter also objects to the extension of time limits for using previously restored leave because of the preference given to employees in the Y2K situation over those affected by extended exigencies not related to the Y2K conversion effort. Extended exigencies are already recognized as unique situations and have special time limits under 5 CFR 530.309. The Y2K

conversion effort does not qualify for these special time limits because it does not meet the definition of ''extended exigency'' in 5 CFR 630.309, i.e., an exigency lasting more that 3 years. OPM has the authority to set time limits for using restored annual leave (5 U.S.C. 6304(d)(2)), and there is precedent for extending the time for using previously restored leave. In regulations published on December 7, 1994, OPM provided new time limits for using previously restored leave for employees at Department of Defense installations undergoing closure or realignment. Those employees, like employees involved in Y2K conversion, needed to be at work and also needed to use their previously restored leave or it would have been forfeited with no possibility of further restoration. We believe the situation experienced by employees involved in the Y2K conversion effort is similar enough to the experiences of DOD employees involved in base closure and realignment to justify extending the time limits for using previously restored leave.

Finally, the commenter objects to the budgetary implications of OPM's regulations, saying that the restoration of forfeited leave has cost implications for agencies at a time when many are faced with serious downsizing and budget cuts. Employees earn annual leave as a part of their total compensation. When a work situation prevents an employee from scheduling annual leave, an agency is required to make every effort to help the employee reschedule that leave. If this cannot be done because of circumstances beyond the control of the employee and the agency, and the employee forfeits annual leave in excess of the amount allowable, the employee must be able to have that leave restored for use at a later date. We do not believe the regulations will increase costs for agencies because employees would not have forfeited large amounts of annual leave at the end of leave year 1999. Most, if not all, affected employees would have gone through the conventions of scheduling leave in order to qualify for restoration of forfeited leave. OPM's regulations merely simplify the procedures for restoring forfeited annual leave and reduce the administrative burden on agencies. In addition, denial of restoration of forfeited annual leave should never be based on projected budgetary savings, but rather on failure to meet the requirements of 5 U.S.C. 6304(d)(1).

An agency requested clarification of § 630.310(e), which deals with employees who transfer from positions deemed necessary for Y2K conversion efforts to other positions during the latter portion of leave year 1999. The agency asked whether this section applies to reassignments within an agency, transfers to positions at other agencies, or both. The regulation applies to *any* employee who moves from a position deemed essential to Y2K conversion efforts to a position not deemed essential for those purposes. The agency also asked which agency would then be responsible for exempting the employee from the scheduling requirement. If a transfer involves two agencies, the gaining agency will be responsible for determining whether the employee ''was unable to comply with the advance scheduling requirement due to circumstances beyond his or her control'' and therefore should be exempt from the scheduling requirements and able to have the forfeited leave restored.

One agency requested that the proposed date of the exigency be changed from January 31, 2000, to March 31, 2000, the end of the first quarter in Y2K. OPM considered several ending dates in drafting the proposed regulations. Lengthening the period of the exigency would have no bearing on the employee's inability to use sufficient annual leave during the 1999 leave year to avoid forfeiture. We realize that there may continue to be computer problems associated with Y2K after January 31, 2000. However, we are confident that employees will have sufficient time in the year 2000 to schedule and use their annual leave to avoid forfeiture. In addition, a change in the ending date of the exigency would have no effect on the time limits for using any restored leave. For these reasons, the termination date of the exigency remains January 31, 2000.

Another agency requested that OPM consider extending the policy established by these final regulations to other situations, as well. Such as extension would require the issuance of further proposed regulations for comment. Since we do not wish to delay the publication of the final Y2K leave restoration regulations, we will consider this suggestion as we continue to review the Federal leave program.

We believe no changes are necessary in the proposed regulations. Therefore, we are adopting as final the proposed rule to provide that excess annual leave forfeited by employees who are unable to schedule and use their leave as a result of Y2K computer conversion efforts will be deemed to have been scheduled in advance and therefore eligible for restoration.

Waiver of Delay in Effective Date

Pursuant to 5 U.S.C. 553(d)(3), we find that good cause exists to make this rule effective in less than 30 days in order to give agencies ample time to plan and implement procedures prior to the end of the leave year. An immediate effective date is necessary to provide agencies with an additional human resources management tool to address Y2K computer conversion problems.

Regulatory Flexibility Act

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

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 630 of title 5 of the Code of Federal Regulations as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for part 630 continues to read as follows:

Authority: 5 U.S.C. 6311; § 630.301 also issued under Pub. L. 103–356, 108 Stat. 3410; § 630.303 also issued under 5 U.S.C. 6133(a); §§ 630.306 and 630.308 also issued under 5 U.S.C. 6304(d)(3), Pub. L. 102–484, 106 Stat. 2722, and Pub. L. 103–337, 108 Stat. 2663; subpart D also issued under Pub. L. 103–329, 108 Stat. 2423; § 630.501 and subpart F also issued under E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G also issued under 5 U.S.C. 6305; subpart H also issued under 5 U.S.C. 6326; subpart I also issued under 5 U.S.C. 6332, Pub. L. 100–566, 102 Stat. 2834, and Pub. L. 103–103, 107 Stat. 1022; subpart J also issued under 5 U.S.C. 6362, Pub. L. 100–566, and Pub. L. 103–103; subpart K also issued under Pub. L. 102–25, 105 Stat. 92; and subpart L also issued under 5 U.S.C. 6387 and Pub. L. 103–3, 107 Stat. 23.

Subpart C—Annual Leave

2. In § 630.308, paragraph (a) is revised to read as follows:

§ 630.308 Scheduling of annual leave.

(a) Except as provided in paragraph (b) of this section and § 630.310, before annual leave forfeited under section 6304 of title 5, United States Code, may be considered for restoration under that section, use of the annual leave must have been scheduled in writing before

the start of the third biweekly pay period prior to the end of the leave year.

* * * * *

3. A new § 630.310 is added to read as follows:

§ 630.310 Scheduling of annual leave by employees determined necessary for Year 2000 computer conversion efforts.

(a) Year 2000 computer conversion efforts are deemed to be an exigency of the public business for the purpose of restoring annual leave forfeited under 5 U.S.C. 6304. This exigency terminates on January 31, 2000.

(b) For any employee who forfeits annual leave under 5 U.S.C. 6304 at the beginning of leave year 2000 because the agency determined the employee's services were required during the Year 2000 computer conversion exigency, the forfeited annual leave is deemed to have been scheduled in advance for the purpose of 5 U.S.C. 6304(d)(1)(B) and § 630.208.

(c) Annual leave restored under 5 U.S.C. 6304(d) because of the Year 2000 computer conversion exigency must be scheduled and used not later than the end of leave year 2002.

(d) The time limits established under paragraphs (a) and (b) of § 630.308 for using previously restored annual leave do not apply for the period during which an employee's services were determined necessary for the completion of Year 2000 computer conversion efforts. On January 31, 2000, a new time limit will be established under paragraph (c) of this section for all annual leave restored to such an employee.

(e) An employee whose services were determined necessary during the Year 2000 computer conversion exigency for a portion of leave year 1999, but who subsequently moves to a position not involving Year 2000 computer conversion efforts, must make a reasonable effort to comply with the scheduling requirement in § 630.308(a). The head of the agency or his or her designee may exempt such an employee from the advance scheduling requirement in § 630.308(a) if coverage under paragraphs (a) and (b) of this section terminated during leave year 1999 and the employee can demonstrate that he or she was unable to comply with the advance scheduling requirement due to circumstances beyond his or her control.

[FR Doc. 99–22081 Filed 8–24–99; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–179–AD; Amendment 39–11267; AD 99–18–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–700 and –800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737–700 and –800 series airplanes, that currently requires revising the Airplane Flight Manual (AFM) to prohibit operation of the airplane under certain conditions; repetitive inspections of the tab mast fitting of the elevator tab assemblies to detect cracking; an elevator tab freeplay check; and corrective actions, if necessary. That AD also provides for optional terminating action for certain repetitive inspections, and requires installing an additional fastener on the elevator tab mast fitting, which terminates the AFM revision and extends certain repetitive inspection intervals. This amendment continues to require certain actions, and revises and adds certain other requirements. This amendment is prompted by a report of a severe vibration incident on a Boeing Model 737–800 series airplane; inspection revealed fracturing of the elevator tab mast fitting and excessive freeplay in the elevator tab. The actions specified in this AD are intended to prevent loss of controllability of the airplane due to excessive freeplay in the elevator tab or a free tab.

DATES: Effective September 9, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 9, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 25, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–179–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gregory L. Schneider, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2028; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: On June 22, 1999, the FAA issued AD 99–13–51, amendment 39–11213 (64 FR 34976, June 30, 1999), applicable to certain Boeing Model 737–700 and –800 series airplanes, to require revising the Airplane Flight Manual (AFM) to prohibit operation of the airplane under certain conditions; repetitive inspections of the tab mast fitting of the elevator tab assemblies to detect cracking; an elevator tab freeplay check; and corrective actions, if necessary. That AD also provides for optional terminating action for certain repetitive inspections. In addition, that AD requires installing an additional fastener on the elevator tab mast fitting, which terminates the AFM revision and extends certain repetitive inspections. That action was prompted by a report of a severe vibration incident on a Boeing Model 737–800 series airplane; inspection revealed fracturing of the elevator tab mast fitting and excessive freeplay in the elevator tab. The actions required by that AD are intended to prevent reduced controllability of the airplane due to excessive freeplay in the elevator tab or a free tab.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, the FAA has reviewed and approved the following new service information:

- Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999, describes procedures similar to those described in the original issue of that alert service bulletin, as cited in AD 99–13–51. However, Revision 1 adds a close visual inspection (detailed visual inspection) of the elevator tab mast fitting and revises certain part numbers and references due to typographical errors in the original issue of the alert service bulletin.
- Boeing Service Bulletin 737–55–1063, dated July 1, 1999, describes procedures for replacing a cracked elevator tab mast fitting with a new, improved fitting. Such replacement eliminates the need for repetitive

inspections of the elevator tab mast fittings.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, this AD supersedes AD 99–13–51 to continue to require revising the AFM to prohibit operation of the airplane under certain conditions; repetitive inspections of the tab mast fitting of the elevator tab assemblies to detect cracking; an elevator tab freeplay check; and corrective actions, if necessary. This AD also continues to provide for optional terminating action only for certain repetitive inspections; and installing an additional fastener on the elevator tab mast fitting, which terminates the AFM revision and extends certain repetitive inspection intervals. This amendment also provides optional terminating action for the requirements of this AD.

It should be noted that, except as otherwise provided for in the AFM emergency procedures, this AD prohibits the deployment of the spoilers at speeds in excess of 310 knots indicated airspeed (IAS) with speed brakes extended. This AD also prohibits the operation of the airplane above FL 390. The FAA recognizes that under emergency circumstances, as specified in the AFM, it might become necessary to deploy spoilers in excess of 310 knots IAS. In that event, this AD requires accomplishment of the high frequency eddy current (HFEC) and detailed visual inspections of the elevator tab mast fittings and of the check of the tabs for freeplay, prior to further flight after landing.

Interim Action

This is considered to be interim action. The FAA is currently considering requiring the currently optional terminating action (replacement of the elevator tab mast fitting with a new, improved fitting). However, the planned compliance time for the replacement is sufficiently long so that notice and opportunity for prior public comment will be practicable.

Determination of Rule's Effective Date

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–179–AD.'' The postcard will be date stamped and returned to the commenter.

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.

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

A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11213 (64 FR 34976, June 30, 1999), and by adding a new airworthiness directive (AD), amendment 39–11267, to read as follows:

99–18–01 Boeing: Amendment 39–11267. Docket 99–NM–179–AD. Supersedes AD 99–13–51, Amendment 39–11213.

Applicability: Model 737–700 and –800 series airplanes having line numbers 1 through 190, 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 (j) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of controllability of the airplane due to excessive freeplay in the elevator tab or a free tab, accomplish the following:

Airplane Flight Manual (AFM) Revision Required by AD 99–13–51

(a) Within 24 clock hours after July 6, 1999 (the effective date of AD 99–13–51, amendment 39–11213), revise the Limitations Section of the FAA-approved

AFM to include the following information. This may be accomplished by inserting a copy of this AD into the AFM.

''Do not operate the airplane at speeds in excess of 310 knots indicated airspeed (IAS) with speed brakes extended. Do not operate the airplane above FL 390.''

Action in Event of Speed Brake Deployment

(b) In the event of deployment of the speed brakes at speeds in excess of 310 knots IAS, prior to further flight after landing, accomplish the requirements of paragraph (c) of this AD.

Inspection and Check Required by AD 99–13–51

(c) Within 10 days after July 6, 1999, perform a high frequency eddy current (HFEC) inspection of the elevator tab mast fitting of the left and right elevator tab assembly to detect cracking, and a one-time elevator tab freeplay check to detect freeplay of the elevator tab, in accordance with Boeing Alert Service Bulletin 737–55A1068, dated June 9, 1999, or Revision 1, dated June 11, 1999.

(1) If no cracking is found in the elevator tab mast fitting, repeat the HFEC inspection thereafter at intervals not to exceed 15 days, until accomplishment of the actions required by paragraph (g) of this AD. After the effective date of this AD, only the HFEC and detailed visual inspection required by paragraph (f) of this AD shall be accomplished.

(2) If any cracking is found in the elevator tab mast fitting, prior to further flight, accomplish the requirements of paragraph (h) of this AD.

(3) If any freeplay is found that is outside the limits specified in the alert service bulletin, prior to further flight, perform corrective actions in accordance with the alert service bulletin.

Note 2: Boeing Alert Service Bulletin 737–55A1068, dated June 9, 1999, references Boeing Model 737–600/–700/–800 Maintenance Manual (AMM), Subjects 27–09–91, 27–31–00, and 51–21–99; 737 Nondestructive Test (NDT) Manual D6–37239, Part 6, Subject 55–00–00; 737 Structural Repair Manual (SRM) Subject 51–20–81; and Operations Manual Service Bulletin D6–27370-TBC (''Elevator Tab Operational Limitations''), dated June 10, 1999; as additional sources of service information to accomplish certain requirements of this AD.

New AFM Revision

(d) Within 24 clock hours after the effective date of this AD, revise the Limitations Section of the FAA-approved AFM to include the following information. This may be accomplished by inserting a copy of this AD into the AFM. Following accomplishment of this AFM revision, remove the AFM revision required by paragraph (a) of this AD from the Limitations Section of the FAA-approved AFM.

''Except as otherwise provided for in the AFM emergency procedures, do not operate the airplane at speeds in excess of 310 knots indicated airspeed (IAS) with speed brakes extended. Do not operate the airplane above FL 390.''

Action in Event of Speed Brake Deployment

(e) In the event of deployment of the speed brakes at speeds in excess of 310 knots IAS, prior to further flight after landing, accomplish the requirements of paragraph (f) of this AD.

Inspections and Check

Note 3: Accomplishment of the initial HFEC inspection and check required by paragraph (c) of this AD, prior to the effective date of this AD, in accordance with Boeing Alert Service Bulletin 737–55A1068, dated June 9, 1999, is considered acceptable for compliance with the HFEC inspection, detailed visual inspection, and one-time freeplay check required by paragraph (f) of this AD.

(f) Within 10 days after the effective date of this AD, perform an HFEC inspection and a detailed visual inspection of the elevator tab mast fittings of the left and right elevator tab assemblies to detect cracking, and a one-time elevator tab freeplay check to detect freeplay of the elevator tabs, in accordance with Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999. Accomplishment of these actions terminates the inspections and checks required by paragraph (c) of this AD.

(1) If no cracking is found in any elevator tab mast fitting, repeat the HFEC and detailed visual inspections thereafter at intervals not to exceed 15 days, until accomplishment of the actions required by paragraph (g) of this AD.

(2) If any cracking is found in any elevator tab mast fitting, prior to further flight, accomplish the replacement action required by paragraph (h) of this AD.

(3) If any freeplay is found in any elevator tab, which is outside the limits specified in the alert service bulletin, prior to further flight, perform corrective actions in accordance with the alert service bulletin.

Note 4: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Note 5: Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999, references Boeing Model 737–600/–700/–800 Maintenance Manual (AMM), Subjects 27–09–91, 27–31–00, 27–31–34, and 51–21–99; 737 Nondestructive Test (NDT) Manual D6–37239, Part 6, Subject 51–00–00; 737 Structural Repair Manual (SRM) Subjects 51–20–01, 51–20–07, and 51–21–99; and 737–600/–700/–800 Operations Manual Service Bulletin ''Elevator Tab Operational Limitations''; as additional sources of service information to accomplish certain requirements of this AD.

Time-Limited Modification

(g) Within 90 days after July 6, 1999, install an additional high-strength fastener on the elevator tab mast fitting in accordance with Boeing Alert Service Bulletin 737–55A1068, dated June 9, 1999, or Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999. Accomplishment of this modification constitutes terminating action for the requirements of paragraphs (b), (c), and (e) of this AD. Following accomplishment of the installation, the AFM revision required by paragraphs (a) and (d) of this AD may be removed from the AFM. Following accomplishment of the installation, repeat the HFEC and detailed visual inspection required by paragraph (f) of this AD thereafter at intervals not to exceed 90 days, until accomplishment of paragraph (h) of this AD.

Optional Terminating Action

(h) Replacement of the elevator tab mast fittings with new, improved tab mast fittings, in accordance with Boeing Service Bulletin 737–55–1063, dated July 1, 1999, constitutes terminating action for the requirements of this AD.

Spares

(i) As of the effective date of this AD, no person shall install an elevator tab mast fitting, part number (P/N) 183A8400–1 or 183A8400–2, on any airplane.

Alternative Methods of Compliance

(j) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, 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, Seattle ACO.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(l) Except as provided by paragraphs (a), (b), (e), and (f) of this AD, the actions shall be done in accordance with the following service information, as applicable:

(1) The incorporation by reference of Boeing Alert Service Bulletin 737–55A1068, Revision 1, dated June 11, 1999, and Boeing Service Bulletin 737–55–1063, dated July 1, 1999, as applicable, was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 737–55A1068, dated June 9, 1999, was approved previously by the Director of the **Federal Register** as of July 6, 1999 (64 FR 34976, June 30, 1999).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may

be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(m) This amendment becomes effective on September 9, 1999.

Issued in Renton, Washington, on August 18, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–21954 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AWA–4]

RIN 2120–AA66

Modification of the Orlando Class B Airspace Area, Orlando, FL; and Modification of the Orlando Sanford Airport Class D Airspace Area, Sanford, FL; Correction

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects the graphic of the Orlando Class B airspace area, Orlando, FL; and the Orlando Sanford Airport Class D airspace area, Sanford, FL, which was published on August 5, 1999. This action is necessary to correct the graphic published in the final rule by deleting the word ''Proposed.''

EFFECTIVE DATE: 0901 UTC, September 9, 1999.

FOR FURTHER INFORMATION CONTACT: Sheri Edgett Baron, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION: On August 5, 1999, Airspace Docket No. 95–AWA–4, FR Doc. 99–20022, was published modifying the Orlando Class B airspace area, Orlando, FL; and modifying the Orlando Sanford Airport Class D airspace area, Sanford, FL (64 FR 42585). The rule included a graphic depicting the Orlando Class B airspace area as ''Proposed.'' This action deletes the word ''Proposed,'' on the graphic, thereby correcting this error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the graphic for the Orlando Class B airspace area as published in the **Federal Register** on August 5, 1999 (64 FR 42585); FR Doc. 99–20022, and incorporated by reference in 14 CFR 71.1, is corrected as follows:

§ 71.1 [Corrected]

On page 42590, correct the existing graphic depicting the Orlando proposed Class B airspace area to read as set forth at the end of this document.

Issued in Washington, DC, on August 16, 1999.

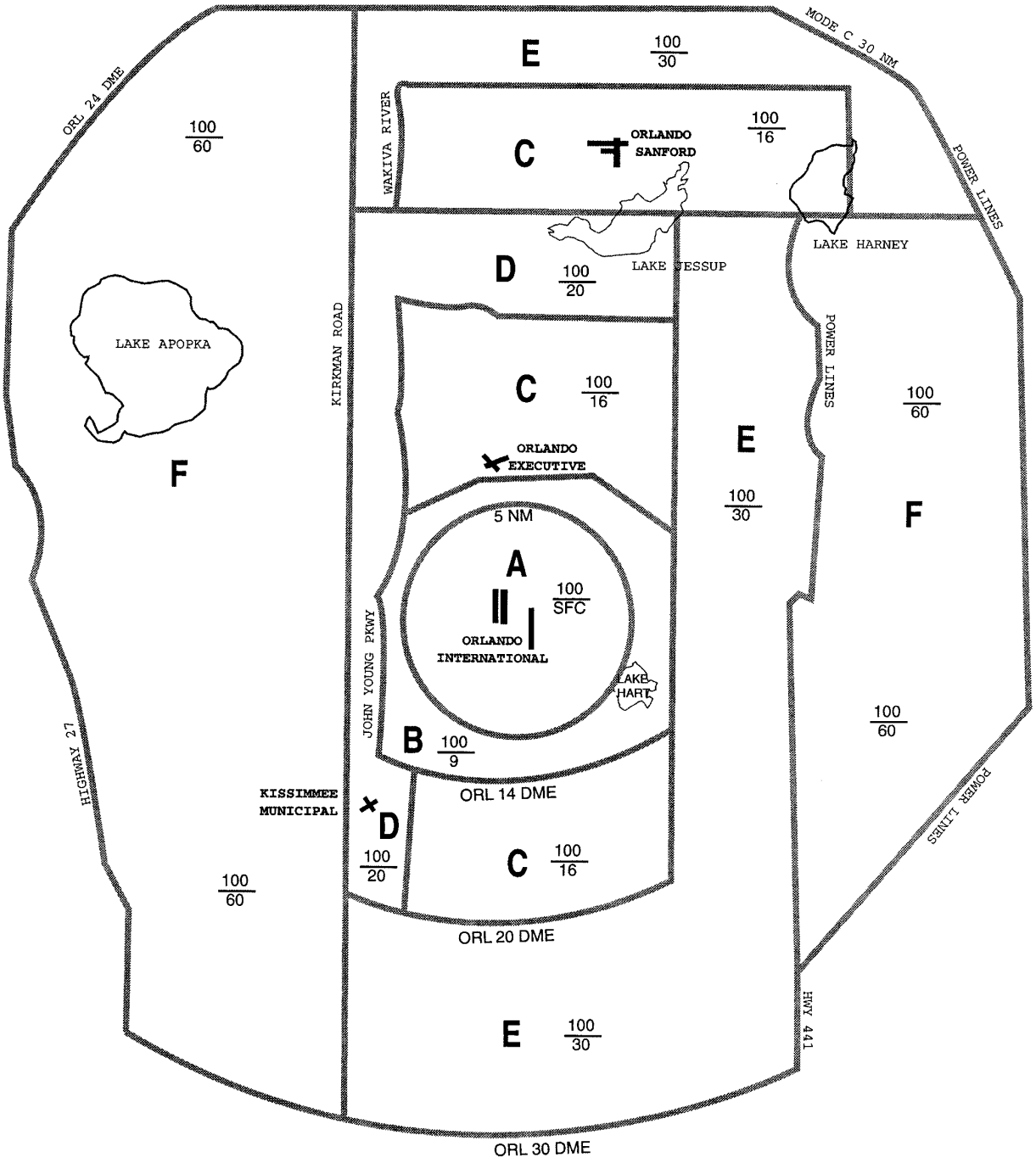
Nancy B. Kalinowski,

Deputy Director for Air Traffic Airspace Management.

BILLING CODE 4910–13–P

ORLANDO
CLASS B AIRSPACE

NOT TO BE USED FOR NAVIGATION



PREPARED BY THE
FEDERAL AVITION ADMINISTRATION
AIR TRAFFIC GRAPHICS (ATX-10)

03439

[FR Doc. 99–21786 Filed 8–24–99; 8:45 am]
BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–30]

Modification of Class E Airspace; Mankato, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Mankato, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 270° helicopter point in space approach, has been developed for Immanuel-St. Joseph's Hosptial. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies the existing controlled airspace for Mankato, MN, to the southwest in order to include the point in space approach serving Immanuel-St. Joseph's Hospital.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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:

History

On Tuesday, May 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Mankato, MN (64 FR 25221). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the en route and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Mankato, MN, to accommodate aircraft executing the proposed GPS SIAP 270° helicopter point in space approach for Immanuel-St. Joseph's Hospital by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, 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.

* * * * *

AGL MN E5 Mankato, MN [Revised]

Mankato Municipal Airport, MN

(Lat. 44°13′18″N., long. 093°55′07″W.)

Immanuel-St. Joseph's Hospital, MN

Point In Space Coordinates

(Lat. 44°09′48″N., long. 093°57′40″W.)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of Mankato Municipal Airport and within 2.0 miles each side of the 047° bearing from the airport extending from the 7.0-mile radius to 8.0 miles northeast of the airport, and within a 6.0-mile radius of the point in space serving Immanuel-St. Joseph's Hospital.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22063 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–29]

Modification of Class E Airspace; La Crosse, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at La Crosse, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 330° helicopter point in space approach, has been developed for Saint Francis Medical Center. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies the existing controlled airspace for La Crosse, WI, to the southeast in order to include the point in space approach serving Saint Francis Medical Center.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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:

History

On Tuesday, May 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at La Crosse, WI (64 FR 25220). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of

the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at La Crosse, WI, to accommodate aircraft executing the proposed GPS SIAP 330° helicopter point in space approach for Saint Francis Medical Center by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, 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.

* * * * *

AGL WI E5 La Crosse, WI [Revised]

La Crosse Municipal Airport, WI
(Lat. 43°52′46″N., long. 091°15′24″W.)
La Crosse VOR/DME
(Lat. 43°52′34″N., long. 091°15′22″W.)
Saint Francis Medical Center, WI
Point In Space Coordinates
(Lat. 43°47′39″N., long. 091°14′00″W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of La Crosse Municipal Airport and within 3.2 miles each side of the La Crosse VOR/DME 187° radial extending from the 6.9-mile radius to 12.3 miles south of the airport, and within a 6.0-mile radius of the point in space serving Saint Francis Medical Center.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22064 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–28]

Modification of Class E Airspace; Eau Claire, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Eau Claire, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 065° helicopter point in space approach, has been developed for Luther Hospital Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action modifies the existing controlled airspace for Eau Claire, WI, to the southwest in order to include the point in space approach serving Luther Hospital.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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:

History

On Tuesday, May 11, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Eau Claire, WI (64 FR 25222). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Eau Claire, WI, to accommodate aircraft executing the proposed GPS SIAP 065° helicopter point in space approach for Luther Hospital by modifying existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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

a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Com., 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Eau Claire, WI [Revised]

Chippewa Valley Regional Airport, WI
(Lat. 44° 51′ 55″N., long. 091° 29′ 06″W.)
Eau Claire VORTAC
(Lat. 44° 53′ 52″N., long. 091° 28′ 43″W.)
Luther Hospital, WI
Point In Space Coordinates
(Lat. 44° 48′ 24″N., long. 091° 31′ 51″W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Chippewa Valley Regional Airport and within 1.9 miles each side of the southwest localizer course extending from the 6.7-mile radius to 13.2 miles southwest of the airport, and within 3.1 miles each side of the Eau Claire VORTAC 004° radial extending from the 6.7-mile radius to 9.6 miles north of the airport, and within 6.0-mile radius of the point in space serving Luther Hospital.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christoper R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22065 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–33]

Modification of Class E Airspace; Minneapolis, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Minneapolis, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 26 has been developed for Anoka County-Blaine Airport (Janes Field). Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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

SUPPLEMENTARY INFORMATION:

History

On Tuesday, May 25, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Minneapolis, MN (64 FR 28122). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Minneapolis, MN, to accommodate aircraft executing the proposed GPS Rwy 26 SIAP at Anoka County-Blaine Airport (Janes Field) by modifying the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. the incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, 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.

* * * * *

AGL MN E5 Minneapolis MN [Revised]

Minneapolis-St. Paul International Airport
(Wold-Chamberlain) Airport DME

(Lat. 44° 52′ 29″N., long. 93° 12′ 23″W.)
Minneapolis, Anoka County-Blaine Airport (Janes Field), MN
(Lat. 45° 08′ 42″N., long. 93° 12′ 41″W.)
St. Paul, Lake Elmo Airport, MN
(Lat. 44° 59′ 51″N., long. 92° 51′ 20″W.)
Minneapolis, Airlake Airport, MN
(Lat. 44° 37′ 40″N., long. 93° 13′ 41″W.)
Farmington VOTAC
(Lat. 44° 37′ 51″N., long. 93° 10′ 55″W.)

That airspace extending upward from 700 feet above the surface within a 20.0-mile radius of the Minneapolis-St. Paul International Airport (Wold-Chamberlain) Airport DME antenna, and within a 6.5-mile radius of the Anoka County-Blaine Airport (Janes Field), and within a 6.3-mile radius of Lake Elmo Airport, and within a 6.4-mile radius of the Airlake Airport and within 3.3 miles each side of the 084° bearing from the Farmington VORTAC extending from the 6.4-mile radius to 14.8 miles east of the Airlake Airport.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22066 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–31]

Modification of Class E Airspace; Sheridan, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Sheridan, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 05, and a GPS SIAP to Rwy 23, have been developed for Sheridan Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, September 9, 1999.

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:

History

On Monday, May 17, 1999, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Sheridan, IN (64 FR 26712). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace area 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 designation listed in this document will be published subsequently in the Order.

The Rule

The amendment to 14 CFR part 71 modifies Class E airspace at Sheridan, IN, to accommodate aircraft executing the proposed GPS Rwy 05 SIAP, and the GPS Rwy 23 SIAP, at Sheridan Airport by modifying the existing controlled airspace. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, 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.

* * * * *

AGL IN E5 Sheridan, IN [Revised]

Sheridan Airport, IN
(Lat. 40°10′41″N., long. 86°13′02″W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Sheridan Airport, excluding that airspace within the Indianapolis Terry Airport, IN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on August 9, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–22067 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Parts 2, 3 and 4

Rules of Practice Amendments

AGENCY: Federal Trade Commission (FTC).

ACTION: Final rules with request for comments.

SUMMARY: To streamline the process of providing effective relief where parties consent to the entry of a cease and desist order, the FTC is amending its Rules of Practice to shorten the period for public comment on consent settlements from 60 days to 30 days. The amended rules also provide for more effective interim relief in cases involving mergers or acquisitions, by providing that hold-separate or asset-

maintenance orders will be made immediately effective when the Commission accepts the consent agreement or settlement proposal for public comment.

DATES: These rule amendments are effective on August 25, 1999. Agreements that have been executed by any or all respondents before the effective date will not be affected by these amendments without the consent of the parties.

Comments must be received on or before September 24, 1999.

ADDRESSES: Written comment on these rule revisions must be submitted in 20 copies to the Office of the Secretary, Room 159, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Individuals filing comments need not submit multiple copies.

FOR FURTHER INFORMATION CONTACT: Christian S. White, Assistant General Counsel for Legal Counsel, (202) 326–2476, Office of the General Counsel, FTC, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: The Commission considers it important to solicit public comment on consent agreements. Nonetheless, the current comment period of 60 days unduly delays implementation of consent orders and the benefits to the public of addressing the conduct alleged to be unlawful in the Commission's complaint. Neither the Administrative Procedure Act, 5 U.S.C. 551, nor the FTC Act, 15 U.S.C. 41–58, requires agencies to offer a public comment period on administrative settlements.[1] Accordingly, the Commission has decided to shorten the comment period to 30 days, as it was before 1974. The 30-day comment period will begin on the date the Commission issues a press release announcing that the Commission has accepted the agreement and placed it on the public record for comment. Press releases are ordinarily posted on the Commission's Web site the day they are released. The Commission believes that the shorter period generally will be sufficient to allow thoughtful public comment. The Commission may lengthen or shorten the 30-day comment period in the public interest. The Commission also retains discretion to make an order final after acceptance but before the comment period starts but it contemplates doing so only in exceptional cases where, for example, it believes that the allegedly unlawful conduct to be prohibited threatens substantial and imminent public harm. If, in such cases, the Commission, after the comment period, believes that modifications to the order would be appropriate, it will (absent agreement by respondents to the modifications) initiate a proceeding to reopen and modify the order pursuant to Rule 3.72(b) or issue a new administrative complaint to commence a new administrative proceeding in accordance with Rule 3.11.

With regard to competition cases involving planned mergers and acquisitions, when staff negotiates a hold-separate or asset-maintenance agreement, the Commission will issue the agreement as an immediately effective order when it accepts the consent agreement for comment. Although it is the Commission's view that hold-separate agreements, as currently structured, are immediately enforceable, treating such agreements as final Commission orders will make clear that violations are punishable by civil penalties.[2]

These changes require amending Rules 2.32, 2.34 and 3.25. Technical conforming changes also are being made to Rule 4.9 respecting the Commission's public record. The Commission believes these amendments will improve the protection of consumers and competition by accelerating the effectiveness of Commission consent orders and by increasing incentives to preserve the status quo pending final resolution of planned and allegedly anticompetitive mergers and acquisitions.

These rule revisions relate solely to agency practice and, therefore, are not subject to the notice and comment requirements of the Administrative Procedure Act, 5 U.S.C. 553(a)(2), or to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601(2). The revisions do not involve the collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Although the revisions are effective as stated in the previous section, the Commission welcomes comment on them and will consider further revision as appropriate.

List of Subjects

16 CFR Part 2

Administrative practice and procedure, Consent agreements, Investigations.

16 CFR Part 3

Administrative practice and procedure, Consent agreements.

16 CFR Part 4

Administrative practice and procedure, Public record.

For the reasons set forth in the preamble, the Federal Trade Commission amends title 16, chapter I, subchapter A, of the Code of Federal Regulations as follows:

PART 2—NONADJUDICATIVE PROCEDURES

1. Revise the authority citation for part 2 to read:

Authority: 15 U.S.C. 46.

Subpart C—Consent Order Procedure

2. Revise § 2.32 to read as follows:

§ 2.32 Agreement.

Every agreement in settlement of a Commission complaint shall contain, in addition to an appropriate proposed order, either an admission of the proposed findings of fact and conclusions of law submitted simultaneously by the Commission's staff or an admission of all jurisdictional facts and an express waiver of the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law. Every agreement also shall waive further procedural steps and all rights to seek judicial review or otherwise to challenge or contest the validity of the order. In addition, where appropriate, every agreement in settlement of a Commission complaint challenging the lawfulness of a proposed merger or acquisition shall also contain a hold-separate or asset-maintenance order. The agreement may state that the signing thereof is for settlement purposes only and does not constitute an admission by any party that the law has been violated as alleged in the complaint. Every agreement shall provide that:

(a) The complaint may be used in construing the terms of the order;

(b) No agreement, understanding, representation, or interpretation not

[1] Although public comment periods on consent agreements are not required, the Commission has followed this practice for many years. The Commission's procedure for considering administrative consent orders has existed in one form or another since at least 1939. The procedure did not include a public comment period until 1967, when the Commission promulgated Rule 2.34, providing for a comment period of 30 days. 32 FR 8448–49 (June 13, 1967). In 1974, the Commission extended the comment period from 30 to 60 days. The Commission added a companion provision, Rule 3.25, in 1975 to establish an identical comment procedure for consent agreements in Part 3 matters. 40 FR 15235–36 (April 4, 1975).

[2] The amendment to § 2.34 specifies that any hold-separate or asset-maintenance orders will be accompanied by an administrative complaint, but that the complaint will neither initiate an adjudicatory proceeding nor trigger the application of the prohibitions on ex parte communications in § 4.7.

contained in the order or the aforementioned agreement may be used to vary or to contradict the terms of the order;

(c) The order will have the same force and effect and may be altered, modified or set aside in the same manner provided by statute for Commission orders issued on a litigated or stipulated record;

(d) Except as provided by order of the Commission, any order issued pursuant to the agreement will become final upon service;

(e) The agreement will not become a part of the public record unless and until it is accepted by the Commission; and

(f) If the Commission accepts the agreement, further proceedings will be governed by § 2.34.

3. Revise § 2.34 to read as follows:

§ 2.34 Disposition.

(a) *Acceptance of proposed consent agreement.* The Commission may accept or refuse to accept a proposed consent agreement. Except as otherwise provided in paragraph (c) of this section, acceptance does not constitute final approval, but it serves as the basis for further actions leading to final disposition of the matter.

(b) *Effectiveness of hold-separate or asset-maintenance order.* Following acceptance of a consent agreement, the Commission will, if it deems a hold-separate or asset-maintenance order appropriate, issue a complaint and such an order as agreed to by the parties. Such order will be final upon service. The issuance of a complaint under this paragraph will neither commence an adjudicatory proceeding subject to part 3 of this chapter nor subject the consent agreement proceeding to the prohibitions specified in § 4.7 of this chapter.

(c) *Public comment.* Promptly after its acceptance of the consent agreement, the Commission will place the order contained in the consent agreement, the complaint, and the consent agreement on the public record for a period of 30 days, or such other period as the Commission may specify, for the receipt of comments or views from any interested person. At the same time, the Commission will place on the public record an explanation of the provisions of the order and the relief to be obtained thereby and any other information that it believes may help interested persons understand the order. The Commission also will publish the explanation in the **Federal Register**. The Commission retains the discretion to issue a complaint and a Final Decision and Order, incorporating the order contained in a consent agreement, in appropriate cases before seeking public comment. Unless directed otherwise by the Commission, such Decision and Order will be final upon service.

(d) *Comment on initial compliance report.* If respondents have filed an initial report of compliance pursuant to § 2.33, the Commission will place that report on the public record, except for portions, if any, granted confidential treatment pursuant to § 4.9(c) of this chapter, with the complaint, the order, and the consent agreement.

(e) *Action following comment period.* (1) Following the comment period, on the basis of comments received or otherwise, the Commission may either withdraw its acceptance of the agreement and so notify respondents, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint in such form as the circumstances may require and its decision in disposition of the proceeding.

(2) The Commission, following the comment period, may determine, on the basis of the comments or otherwise, that a Final Decision and Order that was issued in advance of the comment period should be modified. Absent agreement by respondents to the modifications, the Commission may initiate a proceeding to reopen and modify the decision and order in accordance with § 3.72(b) of this chapter or commence a new administrative proceeding by issuing a complaint in accordance with § 3.11 of this chapter.

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

4. Revise the authority citation for part 3 to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

Subpart C—Prehearing Procedures; Motions; Interlocutory Appeals; Summary Decisions

5. Amend § 3.25 by revising paragraph (f) to read as follows:

§ 3.25 Consent agreement settlements.

* * * * *

(f) After some or all of allegations in a matter have been withdrawn from adjudication, the Commission may accept the proposed consent agreement, reject it and return the matter or affected portions thereof to adjudication for further proceedings or take such other action as it may deem appropriate. If the agreement is accepted, it will be disposed of as provided in § 2.34 of this chapter, except that if, following the public comment period provided for in § 2.34, the Commission decides, based on comments received or otherwise, to withdraw its acceptance of such an agreement, it will so notify the parties and will return to adjudication any portions of the matter previously withdrawn from adjudication for further proceedings or take such other action it considers appropriate.

* * * * *

PART 4—MISCELLANEOUS RULES

6. Revise the authority citation for part 4 to read as follows:

Authority: 15 U.S.C. 46, unless otherwise noted.

7. Amend § 4.9 by revising paragraph (b)(6) to read as follows:

§ 4.9 The public record.

* * * * *

(b) * * *

(6) *Consent Agreements (16 CFR 2.31 through 2.34, 3.25).* (i) Agreements containing orders, after acceptance by the Commission pursuant to §§ 2.34 and 3.25(f) of this chapter;

(ii) Comments and other materials filed or placed on the public record under §§ 2.34 and 3.25(f) concerning proposed consent agreements and related orders; and

(iii) Decisions and orders issued and served under §§ 2.34 and 3.25(f), including separate statements of Commissioners.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

Statement of Commissioner Orson Swindle Concerning Amendments to Commission Rules 2.32, 2.34, 3.25, and 4.9

I have voted for the amendments to the Commission's Rules of Practice that would shorten the public comment period on consent agreements and would make hold-separate and asset-maintenance agreements immediately effective. In my judgment, shortening the comment period to 30 days achieves a sensible balance between forestalling violations of Commission orders and affording the public sufficient time to comment on Commission settlements. I also see obvious benefits from issuing hold-separate and asset-maintenance agreements as immediately enforceable orders.

Nevertheless, I would have preferred to subject these rule revisions to advance public comment, rather than—as the Commission has done—issuing them as final rules with a request for comments after the fact. Whatever my judgment (and that of my colleagues) concerning whether the revisions are prudent and in the public interest, I would have thought we would also try to appraise the judgment of the public—those for whom we in government work, and to whom we are ultimately accountable—before issuing a

final rule that halves the comment period on consent agreements.[1]

One might respond to my concern with the argument that since the public comment period itself is for the benefit of the Commission and not of the public, any decision to shorten or eliminate the period should be in the hands of the sole beneficiary of the public comment mechanism—the Commission. To argue thus, however, would be to disregard a core element of our system of government: the public's stake in the decisions reached by government agencies, and our responsibility to take the public's views into account. Although I would not have voted to shorten the comment period to 30 days if I believed that such an action would nullify the public's role, getting public comment beforehand on this very issue would have been valuable.

Instead, the Commission has decided to allow 30 days for public comment after these final rules have been published in the **Federal Register**. I fear that this is not an adequate surrogate for the advance comment that we should have solicited. Once something such as an order or a rule revision is issued ''in final,'' it is often a *fait accompli* that is unlikely to be undone even in the face of inexorable logic.[2] We should have invited public participation before taking these steps.

[FR Doc. 99–22015 Filed 8–24–99; 8:45 am]

BILLING CODE 6750–01–P

[1] The Administrative Procedure Act (''APA'') generally requires that agencies engage in notice-and-comment procedures before issuing a final rule, 5 U.S.C. 553(c), but rules of agency procedure or practice are exempt from this requirement. 5 U.S.C. 553(b)(A). Nevertheless, ''[a]lthough the APA provides this exemption for rules of agency procedure or practice, agency rulemakers should consider providing notice and an opportunity for comment where possible if the rules will affect the public.'' Administrative Conference of the United States, *A Guide to Federal Agency Rulemaking* 51 (2d ed. 1991) (emphasis added); see also American Bar Ass'n, Government and Public Sector Lawyers Division and Section of Administrative Law and Regulatory Practice, *A Guide to Federal Agency Rulemaking* 54–55 (3d ed. 1998). Although I do not believe that the Commission must put every change in its procedural rules out for public comment, doing so is warranted here because the proposed change may significantly affect the public.

[2] The courts have recognized that seeking comment after making a rule change is not usually a substitute for obtaining comment before such a change is made: ''[A]n agency is not likely to be receptive to suggested changes once the agency ''put[s] its credibility on the line in the form of ''final'' rules. People naturally tend to be more close-minded and defensive once they have made a ''final'' determination.''' Air Transport Ass'n of America v. Dept. of Transp., 900 F.2d 369, 379 (D.C. Cir. 1990) (quoting National Tour Brokers Ass'n v. United States, 591 F.2d 896, 902 (D.C. Cir. 1978)), cert. denied, 498 U.S. 1023 (1991).

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 9 and 171

Review of Exchange disciplinary, Access Denial or Other Adverse Actions; Review of NFA Decisions; Corrections

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rules; technical corrections.

SUMMARY: On October 26, 1995, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** (60 FR 54801) final regulations amending its Rules Relating to Review of Exchange Disciplinary, Access Denial or Other Adverse Actions (''Rules''), to reflect changes in office titles, personnel titles and address. The Commission has determined to make certain technical corrections to the Rules to clarify its delegation of authority.

In addition, the Commission has determined to make a similar technical correction to its Rules relating to Review of NFA Decisions, to clarify its delegation of authority.

EFFECTIVE DATE: August 19, 1999.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Assistant General Counsel, Office of General Counsel, (202) 418–5120.

SUPPLEMENTARY INFORMATION: The Commission recently has undertaken a reexamination of its part 9 and part 171 Rules and has identified those rules that require amendment to effect technical or conforming changes.

I. Rules Being Amended

The following Commission rules are being amended.

A. 17 CFR 9.9

Commission Rule 9.9(b) delegates certain authority to the Deputy General Counsel for Opinions and Review. As adopted, the rule authorizes the Deputy General Counsel for Opinions and Review, or a person under his direction designated by him, to handle particular procedural and technical matters and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer a Deputy General Counsel for Opinions and Review. Consequently, references in rule 9.9 to ''the Deputy General Counsel for Opinions and Review'' have been changed to ''the General Counsel.

B. 17 CFR 171.50

Commission rule 171.50 delegates certain authority to the Deputy General Counsel for Opinions. As adopted, the rule authorizes the Deputy General Counsel for Opinions, or a person under his direction designated by him, to perform specific procedural and technical functions and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer a Deputy General Counsel for Opinions. Consequently, references in Rule 171.50 to ''the Deputy General Counsel for Opinions'' have been changed to '' the General Counsel.''

C. Administrative Procedure Act

The Commission has determined that the Administrative Procedure Act, 5 U.S.C. 553, does not require notice of proposed rulemaking and an opportunity for public participation in connection with these corrections. In this regard, the Commission notes that such notice and opportunity for comment is unnecessary because these technical corrections are related solely to agency organization, procedure and practice and make technical corrections. Accordingly, the Commission finds good cause to make these corrections effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(b)(B), 553(d)(3).

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(4) and 2(a)(11), the Commission corrects Chapter I of title 17 of the Code of Federal Regulations as follows:

List of Subjects in 17 CFR Parts 9 and 171

Administrative practice and procedure, Commodity exchanges, Commodity futures.

PART 9—RULES RELATING TO REVIEW OF EXCHANGE DISCIPLINARY, ACCESS DENIAL OR OTHER ADVERSE ACTIONS

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 4a, 6c, 7a, 12a, 16a.

2. Section 9.9 is amended by revising paragraphs (b)(1) introductory text, (b)(3) and (b)(4) to read as follows:

§ 9.9 Waiver of rules; delegation of authority.

* * * * *

(b) *Delegation of authority.* (1) The Commission hereby delegates, until the Commission orders otherwise, to the

General Counsel, or the General Counsel's designee, the authority:

* * * * *

(3) The General Counsel or the General Counsel's designee may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (b)(1) of this section.

(4) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel under this section.

PART 171—RULES RELATING TO REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS

1. The authority citation for part 171 continues to read as follows:

Authority: 7 U.S.C. 4a, 12a and 21.

2. Section 171.50 is amended by revising the heading and paragraphs (a) introductory text, (c) and (d) to read as follows:

§ 171.50 Delegation to the General Counsel.

(a) The Commission hereby delegates, until it orders otherwise, to the General Counsel or the General Counsel's designee, the authority:

* * * * *

(c) The General Counsel or the General Counsel's designee may submit to the Commission for its consideration any matter which has been delegated pursuant to paragraph (a) of this section.

(d) Nothing in this section will be deemed to prohibit the Commission, at its election, from exercising the authority delegated to the General Counsel under this section.

Issued in Washington, D.C. this 19th day of August 1999, by the Commodity Futures Trading Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 99–21918 Filed 8–24–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 177

[Docket No. 96F–0176]

Indirect Food Additives: Polymers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of Nylon 6/12 copolymer resins as nonfood-contact layers of laminated films and rigid multilaminate constructions with polypropylene outer layers intended for use in contact with food. This action is in response to a petition filed by Toray Industries (America) Inc.

DATES: The regulation is effective August 25, 1999; written objections and requests for a hearing by September 24, 1999.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vivian M. Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3167.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of August 27, 1996 (61 FR 44067), FDA announced that a food additive petition (FAP 6B4505) had been filed by Toray Industries (America) Inc., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposed to amend the food additive regulations in Part 177 Indirect Food Additives: Polymers (21 CFR part 177) to provide for the safe use of Nylon 6/12 copolymers for use as a non-food contact layer of laminated articles intended for use with food.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that: (1) The proposed use of the additive as a non-food contact layer of laminated films and rigid multilaminate constructions where the outer layers are made of polypropylene is safe, (2) the additive will achieve its intended technical effect, and (3) the regulations in §§ 177.1390 and 177.1500 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before September 24, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348, 379e.

2. Section 177.1390 is amended by revising paragraph (c)(1)(i)(*f*) to read as follows:

§ 177.1390 Laminate structures for use at temperatures of 250 °F and above.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(*f*) Nylon 6/12 resins (CAS Reg. No. 25191–04–2) complying with item 13.3 of the table in § 177.1500(b), for use as nonfood-contact layers of laminated films and in rigid multilaminate constructions with polypropylene outer layers. Laminate structures with authorized food-contact materials yield no more than 0.15 milligrams of *epsilon*-caprolactam and 0.04 milligrams of *omega*-laurolactam per square inch when extracted with 95 percent ethanol at 121 °C (250 °F) for 2 hours.

* * * * *

3. Section 177.1500 is amended in the table in paragraph (b) by adding item ''13.3'' in numerical order to read as follows:

§ 177.1500 Nylon resins.

* * * * *

(b) * * *

Nylon resins	Specific gravity	Melting point (degrees Fahrenheit)	Solubility in boiling 4.2*N* HCl	Viscosity No. (mL/g)	Maximum extractable fraction in selected solvents (expressed in percent by weight of resin)			
					Water	95 percent ethyl alcohol	Ethyl acetate	Benzene
*	*	*	*	*	*	*	*	*
13.3 Nylon 6/12 resins with residual *epsilon*-caprolactam not to exceed 0.8 percent by weight and residual *omega*-laurolactam not to exceed 0.1 percent by weight. For use only as specified in § 177.1390 of this chapter.	1.13± 0.15	400–420	Dissolves in 1 h.		1.0	1.5	0.5	0.5
*	*	*	*	*	*	*	*	*

* * * * *

Dated: August 9, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–21963 Filed 8–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–070]

RIN 2115–AE46

Special Local Regulations for Marine Events; Mears Point Marina and Red Eyes Dock Bar Fireworks Display, Chester River, Kent Narrows, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary special local regulations are being adopted for the Mears Point Marina and Red Eyes Dock Bar Fireworks Display, to be held September 5, 1999, over the waters of the Chester River, Kent Narrows, Maryland. These regulations are needed to protect spectator craft and other vessels transiting the event area from the dangers associated with the event. This action is intended to enhance the safety of life and property during the event.

DATES: This temporary final rule is effective from 8:30 p.m. to 9:30 p.m. EDT (Eastern Daylight Time) on September 5, 1999 and September 6, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6204.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R. Houck, Marine Events Coordinator Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore Maryland, 21226–1791, telephone number (410) 576–2674.

SUPPLEMENTARY INFORMATION:

Regulatory History

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(B), the Coast Guard finds that good cause exists for not publishing a NPRM. In keeping with the requirements of 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this regulation effective less than 30 days after publication in the **Federal Register.** The Coast Guard received confirmation of this request for special local regulations on July 16, 1999. There was not sufficient time to publish a proposed rule in advance of the event. Publishing a NPRM and delaying the effective date of the regulation would be contrary to the public interest, because immediate action is necessary to protect spectators and other vessel traffic from the potential hazards associated with this event.

Background and Purpose

The Mears Point Marina and Red Eyes Dock Bar will sponsor a Labor Day Celebration fireworks display, to be held over the waters of the Chester River, Kent Narrows, Maryland. The event will consist of pyrotechnic displays fired

from a barge positioned north of Kent Narrows, Maryland. A large fleet of spectator vessels is anticipated. Due to the need for vessel control during the fireworks display, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Chester River. The temporary special local regulations will be in effect from 8:30 p.m. to 9:30 p.m. EDT on September 5, 1999 and will restrict general navigation in the regulated area during the event. If the event is postponed due to weather conditions, the temporary special local regulations will be effective from 8:30 p.m. to 9:30 p.m. on September 6, 1999. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the fireworks display to enhance the safety of spectators and transiting vessels.

Regulatory Evaluation

This temporary final 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 temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the regulated area will only be in effect for a short period of time and extensive advisories will be made to the affected maritime community so that they may adjust their schedules accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this temporary final rule will have a significant economic impact on 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.

Because this temporary final rule will only be in effect for a short period of time and extensive advisories will be made to the affected maritime community so that they may adjust their schedules accordingly, the Coast Guard expects the impact of this temporary final rule to be minimal.

Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this temporary final 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.

Environment

The Coast Guard considered the environmental impact of this temporary final rule and concluded that, under figure 2–1, paragraph (34)(h) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a marine event are excluded under that authority.

List of Subjects in 33 CFR Part 100

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

Regulation

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 and 33 CFR 100.35.

2. A temporary section, § 100.35–T05–070 is added to read as follows:

§ 100.35–T05–070 Mears Point Marina and Red Eyes Dock Bar Fireworks Display, Chester River, Kent Narrows, Maryland.

(a) *Definitions*—(1) *Regulated Area.* The waters of the Chester River enclosed within the arc of a circle with a radius of 150 yards and with its center located at latitude 38°58.6′ North, longitude 076°14.3′ West. All coordinates reference Datum NAD 1983.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(b) *Special Local Regulations.* (1) All persons and/or vessels not authorized as official patrol vessels are considered spectators. The ''official patrol'' consists of any Coast Guard, public, state, county or local law enforcement vessels assigned and/or approved by Commander, Coast Guard Activities Baltimore.

(2) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(3) The operator of any vessel in this area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any official patrol, including any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(c) *Effective dates.* This section is effective from 8:30 p.m. to 9:30 p.m. EDT (Eastern Daylight Time) on September 5, 1999. If the event is postponed due to weather conditions, the regulated area is effective from 8:30 p.m. to 9:30 p.m. EDT on September 6, 1999.

Dated: August 13, 1999.

Roger T. Rufe, Jr.,

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

[FR Doc. 99–22058 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–99–071]

RIN 2115–AE46

Special Local Regulations for Marine Events; Patapsco River, Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations at 33 CFR 100.515 during a fireworks display to be held September 11, 1999, on the Patapsco River at Baltimore, Maryland. These special local regulations are

necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the fireworks display. The effect will be to restrict general navigation in the regulated areas for the safety of spectators and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.515 is effective from 5:30 p.m. EDT (Eastern Daylight Time) to 11 p.m. EDT on September 11, 1999.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R.O. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, (410) 576–2674.

SUPPLEMENTARY INFORMATION: The City of Baltimore will sponsor a fireworks display on September 11, 1999 on the Patapsco River, Baltimore, Maryland. The fireworks display will be launched from a barge positioned with the regulated area. In order ensure the safety of participants and transiting vessels, 33 CFR 100.515 will be in effect for the duration of the event. Under provisions of 33 CFR 100.515, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: August 13, 1999.

Roger T. Rufe, Jr.,

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

[FR Doc. 99–22057 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–148]

RIN 2115–AE47

Drawbridge Operation Regulations: Danvers River, MA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the operating rules for the Beverly Salem SR1A Bridge, mile 0.0, across the Danvers River between Beverly and Salem, Massachusetts. The Beverly Salem SR1A Bridge has been replaced with a fixed bridge. Notice and public procedure have been omitted from this action because the bridge the regulations formerly governed no longer exists.

DATES: This final rule is effective August 25, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Discussion

The Beverly Salem SR1A Bridge, mile 0.0, across the Danvers River has been replaced with a fixed bridge. The operating regulations listed at 33 CFR 117.595(b) are now unnecessary and will be removed by this action because the bridge they formerly governed no longer exists. Paragraph (a)(1) is also being removed from § 117.595 because it is now listed at § 117.31 of this chapter and paragraph (a)(4) is being removed because it is redundant. The Essex County Kernwood Bridge is no longer owned and operated by Essex County. It is presently owned and operated by the Massachusetts Highway Department. Its locally known as the Kernwood Bridge. Its name will be changed in the regulations to remove Essex County and call it just the Kernwood Bridge.

Good Cause

The Coast Guard has determined that good cause exists under the Administrative Procedure Act (5 U.S.C. 553) to forego notice and comment for this rulemaking because notice and comment are unnecessary. Notice and comment are unnecessary because the bridge governed in § 117.595(b) no longer exists. The other changes to remove § 117.595(a)(1), which is included in § 117.31, and to change the bridge name to Kernwood Bridge are simply administrative changes for clarity.

The Coast Guard, for the reasons just stated, has also determined that good cause exists for this rule to be effective upon publication in the **Federal Register**.

Regulatory Evaluation

This final 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 not been reviewed 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 final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the bridge governed by the regulations no longer exists.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on 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 less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule in accordance with 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.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Section 2.B.2., Figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this final rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations has been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this final rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.595 is revised to read as follows:

§ 117.595 Danvers River.

(a) The requirements in this paragraph apply to all bridges across the Danvers River:

(1) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high, designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

(2) Trains and locomotives shall be controlled so that any delay in opening the draw span shall not exceed ten minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping.

(b) The draw of the Massachusetts Bay Transportation Authority (MBTA)/ AMTRAK Bridge, at mile 0.05, between Salem and Beverly, shall open on signal; except that, from midnight to 5 a.m., daily, and on December 25 and January 1, the draw shall open as soon as possible, but not more than one hour after notice is given to the drawtenders either at the bridge during the time the drawtenders are on duty or by calling the number posted at the bridge.

(c) The Kernwood Bridge, at mile 1.0, shall open on signal; except that, from May 1 through September 30, midnight to 5 a.m., from October 1 through April 30, 7 p.m. to 5 a.m., and all day on December 25 and January 1, the draw shall open as soon as possible, but not more than one hour after notice is given to the drawtenders either at the bridge during the time the drawtenders are on duty or by calling the number posted at the bridge.

Dated: August 11, 1999.

R.M. Larrabee,

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

[FR Doc. 99–22051 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–080]

RIN 2115–AE47

Drawbridge Operation Regulations: Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the operating rules for the Ponquoque Point Bridge, mile 78.0, across Shinnecock Bay in New York. The Ponquoque Point Bridge has been replaced with a fixed bridge and the operating regulations are no longer necessary. Notice and public procedure have been omitted from this action because the bridge the regulations formerly governed no longer exists.

DATES: This final rule is effective August 25, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the First Coast Guard District Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Background

The Ponquoque Point Bridge, mile 78.0, across Shinnecock Bay has been replaced with a fixed bridge and the operating regulations are now unnecessary.

The Coast Guard has determined that good cause exists under the Administrative Procedure Act (5 U.S.C. 553) to forego notice and comment for this rulemaking because notice and comment are unnecessary. Notice and comment are unnecessary because the bridge the regulations governed no longer exists.

The Coast Guard, for the reason just stated, has also determined that good cause exists for this rule to be effective upon publication in the **Federal Register**.

Regulatory Evaluation

This final 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 not been reviewed 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 final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the bridge formerly governed by the regulations no longer exists.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this final rule will have a significant economic impact on 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 less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule in accordance with 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.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Section 2.B.2., Figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this final rule is categorically excluded

from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this final rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATIONS REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.799(d) is revised to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(d) The draws of the West Bay Bridge, mile 0.1, across Quantuck Canal, Beach Lane Bridge, mile 1.1, across Quantuck Canal, Quoque Bridge, mile 1.1, across Quoque Canal, and the Smith Point Bridge, mile 6.1, across Narrow Bay, shall open on signal, from October 1 through April 30, from 8 a.m. to 4 p.m., and from May 1 through September 30, from 6 a.m. to 10 p.m. At all other times during these periods, the draws shall open as soon as possible but no more than one hour after a request to open is received.

* * * * *

Dated: August 11, 1999.

R.M. Larrabee,

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

[FR Doc. 99–22054 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01 99–145]

RIN 2115–AA97

Safety Zone: Salvage of Sunken Fishing Vessel CAPE FEAR, Buzzards Bay, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone within a five hundred (500) yard radius of the site of the sunken fishing vessel CAPE FEAR in the entrance to Buzzards Bay, Massachusetts during oil removal and salvage operations. Once the vessel is salvaged and brought to the surface, a temporary moving safety zone extending 1,000 yards ahead and astern, and 500 yards on either side is established around the fishing vessel CAPE FEAR while it is towed into and safely moored in the port of Fairhaven, MA. This safety zone is needed to protect personnel and their resources on-scene during oil pollution abatement and salvage operations, the maritime community from hazards associated with ongoing oil pollution abatement and salvage operations, any spectators or vessels in the vicinity, and to ensure the safe transit and mooring of the fishing vessel CAPE FEAR as it is towed into the port of Fairhaven, Ma. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP), Providence, RI.

EFFECTIVE DATE: This rule is effective from 12 midnight on Saturday, July 31, 1999, until 12 midnight on Tuesday, August 31, 1999.

FOR FURTHER INFORMATION CONTACT: LT David C. Barata, Waterways Management, Coast Guard Marine Safety Office, Providence, RI, at (401) 435–2300.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective less than 30 days after **Federal Register** publication. Due to the date that conclusive information for this event was received, there was insufficient time to draft and publish an NPRM. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to close a portion of Buzzards Bay to protect personnel and their resources on-scene during oil pollution abatement and the salvage operations, the maritime community from hazards associated with ongoing oil pollution abatement and salvage operations, any spectators or vessels in the vicinity, and to ensure the safe transit and mooring of the fishing vessel CAPE FEAR as it is towed into the port of Fairhaven, Ma.

Background and Purpose

This regulation established a safety zone in all waters within a five hundred (500) yard radius of the site of the sunken fishing vessel CAPE FEAR (O.N. D655734) in the entrance to Buzzards Bay at approximate position 41°23′ N, 071°01′ W during oil pollution abatement and salvage operations. After the vessel is salvaged and brought to the surface, a temporary moving safety zone will immediately be established on all waters extending 1,000 yards ahead and astern, and 500 yards on either side of the fishing vessel CAPE FEAR until it is towed into and safety moored in the port of Fairhaven, MA. This safety zone is needed to protect personnel and their resources on-scene during oil pollution abatement and salvage operations, the maritime community from hazards associated with ongoing oil pollution abatement and salvage operations, any spectators or vessels in the vicinity, and to ensure the safe transit and mooring of the fishing vessel CAPE FEAR as it is towed into the port of Fairhaven, MA. The public will be made aware of the change from a stationary to moving safety zone through a Broadcast Notice to Mariners made from U.S. Coast Guard Group Woods Hole. Entry into this zone is prohibited unless authorized by the Captain of the Port (COTP), Providence, RI.

Regulatory Evaluation

This temporary final 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 not been reviewed 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves a small area of Buzzards Bay. Although this regulation prevents traffic from transiting in the immediate area of the salvage site and prevents vessels from transiting near the fishing vessel CAPE FEAR as it is towed, the effect of this regulation will not be significant as all vessel traffic may safety pass around this safety zone and extensive maritime advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small

entities. ''Small entities'' may include (1) Small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed in the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under subsection 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call LT D.C. Barata, telephone (401) 435–2300.

The Ombudsman of Regulatory Enforcement for Small Business and Agriculture and 10 Regional Fairness Boards were established to receive comments from small businesses about enforcement by Federal agencies. The Ombudsman will annually evaluate such enforcement and rate each agency's responsiveness to small business. If you wish to comment on enforcement by the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

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 action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected. No state, local, or tribal government entities will be effected by this rule, so this rule will not result in annual or aggregate cost of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

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

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

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

E.O. 12875, Enhancing the Intergovernmental Partnership. This final rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13405, Protection of Children from Environmental Health Risks and Safety Risks. This final rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–145 to read as follows:

§ 165.T01–145 Safety Zone: Salvage of Sunken Fishing Vessel CAPE FEAR, Buzzards Bay, MA.

(a) *Location.* The following area has been declared a safety zone: All waters within five hundred (500) yard radius of the site of the sunken fishing vessel CAPE FEAR (O.N. D655634) in the entrance to Buzzards Bay at approximate position 41°–23′N, 071°–01′W during oil pollution abatement and salvage operations. After the vessel is salvaged and brought to the surface, a temporary moving safety zone will immediately be established on all waters extending 1,000 yards ahead and astern, and 500 yards on either side of the fishing vessel CAPE FEAR until is towed into and safety moored in the port of Fairhaven, MA.

(b) *Effective date.* This section is effective from 12:00 midnight on Saturday, July 31, 1999, until 12:00 midnight on Tuesday, August 31, 1999.

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

(2) All persons and vessels shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(3) The general regulations covering safety zones in § 165.23 of this part apply.

Dated: July 29, 1999.

Peter A. Popko,

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

[FR Doc. 99–22056 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 20

Global Direct—Canada Publications Mail

AGENCY: Postal Service.

ACTION: Interim rule and request for comment.

SUMMARY: Global Direct—Canada Publications Mail is an international mail service that is available on the basis of a service agreement between the Postal Service and a qualifying mailer. Under this service, a mailer may enter newspaper and periodical items that meet the applicable eligibility, makeup, and preparation requirements for

Canada Post's domestic Publications Mail. The Postal Service transports the items to Canada for entry into that country's domestic mail system. The mailer is responsible for ensuring that the items meet Canada Post's requirements.

DATES: The interim regulations are effective August 25, 1999. Comments must be received on or before September 24, 1999.

ADDRESSES: Written comments should be sent to the Manager, Pricing, Costing, and Classification, International Business Unit, U.S. Postal Service, Room 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday, in the International Business Unit, 10th Floor, 901 D Street SW, Washington DC.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (202) 314–7256.

SUPPLEMENTARY INFORMATION: In cooperation with Canada Post Corporation (CPC), the Postal Service is introducing Global Direct—Canada Publications Mail. This international mail service is primarily intended for publishers seeking easier access to the Canadian domestic postal system.

To qualify, a mailer must agree to mail a minimum of 10,000 pieces or 250 pounds of mail per mailing for delivery to Canadian addresses. All mail must conform to the applicable eligibility, makeup, and preparation requirements for Canadian domestic Publications Mail as specified by Canada Post. Specialized software for sorting and address accuracy that is recognized by Canada Post is required. Service is available from six Postal Service facilities.

Ancillary services for local business reply and the return of undeliverable mail are also available. Participating mailers must sign a service agreement with the Postal Service that defines the conditions of mailing under which they will enter Global Direct—Canada Publications Mail.

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding rulemaking (5 U.S.C. 553), interested parties are invited to submit written data, views, or comments regarding this interim rule to the address above.

The Postal Service is adopting the following interim amendments to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal service.

PART 20—[AMENDED]

1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Chapter 6 of the International Mail Manual is amended by adding new part 613, Global Direct—Canada Publications Mail, to read as follows:

CHAPTER 6—SPECIAL PROGRAMS

* * * * *

610 Global Direct Service

* * * * *

613 Global Direct-Canada Publications Mail

613.1 Description

Global Direct-Canada Publications Mail is an international mail service that is available on the basis of a service agreement between the Postal Service and a qualifying mailer. Under this service, a mailer must enter newspaper and periodical items that meet the applicable eligibility, makeup, and preparation requirements for Canada Post's domestic Publications Mail. The Postal Service transports the items to Canada for entry into that country's domestic mail system. The mailer is responsible for ensuring that the items meet Canada Post's makeup and preparation requirements.

613.2 Qualifying Mailers and Mailing Locations

613.21 Qualifying Mailers

Qualifying mailers must agree to mail a minimum of 10,000 items or 250, pounds per mailing for delivery to Canadian addresses. All tendered mailpieces must conform to the applicable eligibility, makeup, and preparation requirements for Canadian domestic mail, as specified by Canada Post. Specialized sortation software and address accuracy software that is recognized by Canada Post is required.

613.22 Mailing Locations

Mailings may be deposited only at the following offices as specified in the service agreement:

JOHN F KENNEDY AIRPORT MAIL CENTER, JOHN F KENNEDY INTERNATIONAL AIRPORT, BUILDING 250 JAMAICA NY 11430–9998

NEW JERSEY INTERNATIONAL BULK MAIL CENTER, US POSTAL SERVICE, 80 COUNTY RD, JERSEY CITY NJ 07097–9998

BUFFALO AUXILIARY SERVICE FACILITY, BUFFALO PROCESSING AND DISTRIBUTION CENTER, 1200 WILLIAM ST, BUFFALO NY 14240–9998

DETROIT BULK MAIL CENTER, US POSTAL SERVICE, 17500 OAKWOOD BLVD, ALLEN PARK MI 48101–9755

AMC O'HARE INTERNATIONAL ANNEX, US POSTAL SERVICE, 3333 MOUNT PROSPECT RD, FRANKLIN PARK IL 60131–1347

SEATTLE BULK MAIL CENTER, US POSTAL SERVICE, 34301 9TH AVE S, FEDERAL WAY WA 98003–6721

613.3 Postage

613.31 Rate

The rate of postage is determined by the weight and level of sortation of the items being mailed as specified below:

Letter carrier presort (LCP) first 7.04 oz. (0.44 lbs.)	Rate
Delivery Mode Direct	$0.265
Delivery Facility	0.295
City	0.348
DCF	0.400
FCP	0.453
Residue	0.475
Over 7.04 oz. (.44 lbs.) (200 grams) per additional pound	0.482
National Distribution Guide (NDG) First 3.52 oz. (0.22 lbs.)	0.354
Over 3.52 oz. (0.22 lbs.) (100 grams) per additional pound	0.721

613.32 Canada Post Size Definition

	Minimum	Maximum
Size:		
Per piece	5.5 in. × 3.35 in. × .007 in.	
Per bundle		Length + girth: 78.7 in. Greatest dimension: 23.6 in. Height: 7.8 in.
Per roll		Length + 2 × diameter: 41 in. Greatest dimension: 35.4 in.
Per folded newspaper		14.25 in. × 11 in. × 6.4 in.
Weight:		
Per piece		3 lbs.
Per bundle		55 lbs.

613.33 Postage Payment Method

Postage must be paid through an advance deposit account. Qualifying mailers must have the following information printed on one of the first five or last five pages of each newspaper or periodical issue:

a. The words ''Agreement Number 03429792'';

b. The Canadian address to which change of address information and the address blocks undeliverable copies should be sent. (The Postal Service will provide this address if the mailer does not have a Canadian return address.)

If the publication is mailed under cover, the information outlined above must be clearly visible on the outside of the envelope or, if clear-wrapped, on the front or back cover of the publication.

613.34 Postage Statement

Mailers must complete the total postage on PS Form 3651, Postage Statement—International Permit Imprint Mail or Bulk Letters to Canada with Permit Imprint or Postage Meter Affixed, and attach a completed worksheet, PS Form 3657–C, Postage Statement—Global Direct—Canada Publications Mail. Both of these forms are provided by the Postal Service at the following web site: www.usps.com. A set of separate postage statements must be prepared for each individual mailing.

613.4 Preparation Requirements

Mailers are responsible for ensuring that newspapers and periodicals tendered under the Global Direct-Canada Publications Mail service comply with Canada Post's domestic mail preparation requirements.

613.5 Ancillary Services

613.51 Business Reply Service

This service provides for the return of Canadian business reply mail through the Postal Service to a specified address in Canada. Detailed specifications for this service are contained in Publication 524, Global Direct Canada Admail Service Guide. The rates for this service are:

a. $0.45 for items weighing not more than 1.06 ounces (30 grams).

b. $0.65 for items weighing more than 1.06 ounces (30 grams) but not more than 1.76 ounces (50 grams).

613.52 Return of Undeliverable Mail

Only the address block of the publication will be returned. The rate for this service is $0.50 per address block returned.

613.6 Service Agreement

Before the first mailing, mailers must complete and submit PS Form 3681, Global Direct Service Agreement, 14 days prior to their planned mailing date. The Global Direct Service Agreement can be found in Publication 524, Global Direct Canada Admail Service Guide, or at the following web site: http://www.usps.com. Concurrent with the establishment of the agreement, instructions are issued to the designated post office of entry regarding the acceptance and verification of the prospective customer's mailpieces.

613.7 Advance Notification

Mailers who are interested in using Global Direct-Canada Publications Mail service must complete a PS Form 3682, Record of Mailing, five days prior to their planned mailing date. The Record of Mailing can be found in Publication 524, Global Direct Canada Admail Service Guide, or at the following web site: http://www.usps.com.

* * * * *

A transmittal letter changing the relevant pages in the International Mail Manual will be published and automatically transmitted to all subscribers. Notice of issuance of the transmittal will be published in the **Federal Register** as provided by 39 CFR 20.3.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–22110 Filed 8–24–99; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0032a; FRL–6410–7]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Colorado Springs Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of a Related Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 19, 1998, the Governor of Colorado submitted a request to redesignate the Colorado Springs ''moderate'' carbon monoxide (CO) nonattainment area to attainment for the CO National Ambient Air Quality Standard (NAAQS). The Governor also submitted a CO maintenance plan. In addition, on October 1, 1998, the Governor submitted revisions to Colorado's Regulation No. 13 ''Oxygenated Fuels Program''. In this action, EPA is approving the Colorado Springs CO redesignation request, the maintenance plan, and the revisions to Regulation No. 13.

DATES: This direct final rule is effective on October 25, 1999 without further notice, unless EPA receives adverse comments by September 24, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and,

United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

Copies of the State documents relevant to this action are available for public inspection at: Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado, 880246–1530.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P-AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466 Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean the Environmental Protection Agency.

I. What Is The Purpose of This Action?

In this action, we are approving a change in the legal designation of the Colorado Springs area from nonattainment for CO to attainment, we're approving the maintenance plan that is designed to keep the area in attainment for CO for the next 11 years, and we're also approving changes to the State's Regulation No. 13 for the implementation of the wintertime oxygenated fuels program.

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the Clean Air Act (CAA), we designated the Colorado Springs area as nonattainment for CO because the area had been designated as nonattainment before November 15, 1990. We originally designated Colorado Springs as nonattainment for CO under the provisions of the 1977 CAA Amendments (see 41 FR 28002, July 8, 1976). This designation was reaffirmed by the 1990 CAA Amendments and Colorado Springs was classified as a ''moderate'' CO nonattainment area with a design value of less than or equal to 12.7 parts per million (ppm). See 56 FR 56694, November 6, 1991. Further information regarding this classification and the accompanying requirements are described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.'' See 57 FR 13498, April 16, 1992.

Under the CAA, we can change designations if acceptable data are available and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of a nonattainment area to attainment unless:

(i) The Administrator determines that the area has attained the national ambient air quality standard;

(ii) The Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Before we can approve the redesignation request, we must decide that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur simultaneously with final approval of the redesignation request. That's why we are also approving the revisions to Regulation No. 13.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

The Colorado Air Quality Control Commission (AQCC) held a public hearing for the Carbon Monoxide (CO) Redesignation Request and Maintenance Plan for Colorado Springs on January 15, 1998. The AQCC adopted the redesignation request and maintenance plan directly after the hearing. This SIP revision became State effective March 30, 1998, and was submitted by the Governor to us on August 19, 1998.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's August 19, 1998, submittal became complete on February 19, 1999.

For the Regulation No. 13 revisions, two public hearings were held. On April 17, 1997, the AQCC held a public hearing to consider the changes to Regulation No. 13 that involved shortening of the oxygenated fuels season by one week and reducing the minimum oxygen content in fuels for the first and last weeks of the program. The AQCC adopted these changes directly after the April 17, 1997, public hearing and they became State effective on June 30, 1997.

On January 16, 1998, the AQCC held a public hearing to consider further changes to Regulation No. 13, in response to action by the Colorado General Assembly. The Colorado General Assembly approved the April 17, 1997, AQCC changes to Regulation No. 13; however, the General Assembly changed the implementation time frame from 1998–1999, as contained in the Regulation, to 1997–1998. (State Senate Bill SB(97)236, codified at § 25–7–133.5(2)(n), C.R.S.) The purpose of the January 16, 1998, public hearing was for the AQCC to change Regulation No. 13 to match the implementation time frame of SB(97)236. This change was adopted by the AQCC directly after the January 16, 1998, public hearing and became State effective on March 30, 1998. The Governor submitted both the April 17, 1997, and January 16, 1998, revisions to Regulation No. 13 to us on October 1, 1998.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's October 1, 1998, submittal became complete on April 1, 1999.

III. EPA's Evaluation of the Redesignation Request and Maintenance Plan

EPA has reviewed the State's redesignation request and maintenance plan and believes that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). The following are descriptions of how the section 107(d)(3)(E) requirements are being addressed.

(a). Redesignation Criterion: The Area Must Have Attained the Carbon Monoxide (CO) NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR 50.8, the national primary ambient air quality standard for carbon monoxide is 9 parts per million (10 milligrams per cubic meter) for an 8-hour average concentration not to be exceeded more than once per year. 40 CFR 50.8 continues by stating that the levels of CO in the ambient air shall be measured by a reference method based on 40 CFR part 50, Appendix C and designated in accordance with 40 CFR part 53 or an equivalent method designated in accordance with 40 CFR part 53. Attainment of the CO standard is not a momentary phenomenon based on short-term data. Instead, we consider an area to be in attainment if each of the CO ambient air quality monitors in the area doesn't have more than one exceedance of the CO standard over a one-year period. 40 CFR 50.8 and 40 CFR part 50, Appendix C. If any monitor in the area's CO monitoring network records more than one exceedance of the CO standard during a one-year calendar period, then the area is in violation of the CO NAAQS. In addition, our interpretation of the CAA and EPA national policy [1] has been that an area seeking redesignation to attainment must show attainment of the CO NAAQS for at least a continuous two-year calendar period. In addition, the area must also continue to show attainment through the date that we promulgate the redesignation in the **Federal Register**.

Colorado's CO redesignation request for the Colorado Springs area is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. As presented in Section 2 of the State's maintenance plan, ambient air quality monitoring data for consecutive calendar years 1988 through 1996 show a measured exceedance rate of the CO NAAQS of 1.0 or less per year, per monitor, in the Colorado Springs nonattainment area. Data are also available for calendar years 1997 and 1998 that also show no exceedances of the CO NAAQS. All of these data were collected and analyzed as required by EPA (see 40 CFR 50.8 and 40 CFR part 50, Appendix C) and have been archived by the State in our Aerometric Information and Retrieval System (AIRS) national database. Further information on CO monitoring is presented in Section 2 of the maintenance plan and in the State's Technical Support Document (TSD). We have evaluated the ambient air quality data and have determined that the Colorado Springs area has not violated the CO standard and continues to demonstrate attainment.

The Colorado Springs nonattainment area has quality-assured data showing no violations of the CO NAAQS for 1995 and 1996 which are the years the State used to support the redesignation request. In addition, data from the most recent consecutive two-calendar-year period (i.e., 1997 and 1998) also show no violations. Therefore, the Colorado Springs area has met the first component for redesignation: demonstration of attainment of the CO NAAQS. We note too that the State of Colorado has also committed, in the maintenance plan, to continue the necessary operation of the CO monitors in compliance with all applicable federal regulations and guidelines.

(b). Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

To be redesignated to attainment, section 107(d)(3)(E)(v) requires that an area must meet all applicable requirements under section 110 and part D of the CAA. We interpret section 107(d)(3)(E)(v) to mean that for a redesignation to be approved by us, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

1. CAA Section 110 Requirements

The Colorado Springs CO element of the Colorado SIP was adopted by the AQCC in June of 1982 and was approved by the EPA on December 12, 1983 (48 FR 55284). The 1982 SIP element's emission control plan was based on emission reductions from the Federal Motor Vehicle Control Program (FMVCP), Automobile Inspection and Readjustment Program, Improved Public Transit, Carpool Locator Service, and Traffic Flow Improvements. The anticipated date for attaining the 8-hour CO NAAQS was December 31, 1987.

Through a letter dated May 26, 1988, we notified the Governor of Colorado that the Colorado Springs area did not attain the CO NAAQS by the end of 1987. This letter stated that Colorado was to address deficiencies in the SIP and that the State would also have to address requirements in our forthcoming post-1987 policy for carbon monoxide. To partially address deficiencies in the Colorado Springs SIP element, the State included the Clean Air Campaign in the SIP, although no emissions reductions credits were assigned to this program. We approved the Clean Air Campaign into the SIP (see 54 FR 22893, May 30, 1989) for its underlying benefit to the area.

EPA did not finalize its post-1987 policy for carbon monoxide because the Clean Air Act (CAA) was amended on November 15, 1990. Under section 186 of the CAA, Colorado Springs was designated nonattainment for CO, was classified as ''moderate'' with a design value of less than 12.7 parts per million (ppm), and was required to attain the CO NAAQS by December 31, 1995. See 56 FR 56694, November 6, 1991. The new CAA requirements for moderate CO areas, such as Colorado Springs, required that the SIP be revised to include a 1990 base year emissions inventory (CAA section 187(a)(1)), corrections to existing motor vehicle inspection and maintenance(I/M) programs (CAA section 187(a)(4)), periodic emission inventories (CAA section 187(a)(5)), and the implementation of an oxygenated fuels program (CAA section 211(m)(1)).

How the State met these requirements and our approvals, are described as follows:

A. 1990 base year emissions inventory (CAA section 187(a)(1)): The Governor submitted a 1990 base year emissions inventory for Colorado Springs on December 31, 1992, with subsequent revisions being submitted on March 23, 1995. We approved this 1990 base year CO emissions inventory on December 23, 1996 (see 61 FR 67466).

B. Corrections to the Colorado Springs basic I/M program (CAA section 187(a)(4)): On January 14, 1994, and June 24, 1994, the Governor submitted revisions to the Colorado basic I/M program portion of its SIP which included the program in Colorado Springs. We approved these basic I/M program revisions on March 19, 1996 (see 61 FR 11149).

C. Periodic emissions inventories (CAA section 187(a)(5)): As the Governor did not submit a complete redesignation request and maintenance plan before September 30, 1995, a periodic emission inventory (for calendar year 1993) was required for Colorado Springs. On September 16, 1997, the Governor submitted a SIP revision for a 1993 periodic emission inventory for Colorado Springs. We

[1] Refer to EPA's September 4, 1992, John Calcagni policy memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

approved this revision on July 15, 1998 (see 63 FR 38087).

D. Oxygenated fuels program implementation (CAA section 211(m)): To address the oxygenated fuels requirements of the CAA, the Governor initially submitted a revision to Colorado's Regulation No. 13 on November 27, 1992. We approved this revision on July 24, 1994 (see 59 FR 37698). Regulation 13 was again revised, to shorten the oxygenated fuels program season, and the Governor submitted further revisions to Regulation No. 13 on September 29, 1995, and December 22, 1995. We approved these revisions on March 10, 1997 (see 62 FR 10690).

Based on the above actions by the State and us, EPA has determined that the SIP continues to satisfy the requirements of section 110(a)(2).

2. Part D Requirements

Before the Colorado Springs CO nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D of the CAA. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether the area is classified or nonclassifiable for CO.

The relevant Subpart 1 requirements are contained in sections 172(c) and 176. Our General Preamble (see 57 FR 13498, April 16, 1992) provides EPA's interpretations of the CAA requirements for moderate CO areas with design values of less than 12.7 ppm.

Under section 172(b), the applicable section 172(c) requirements, as determined by the Administrator, were due November 15, 1992, for the Colorado Springs nonattainment area. As the Colorado Springs CO redesignation request and maintenance plan were not submitted by the Governor until well after November 15, 1992, (i.e., actually, August 19, 1998), the General Preamble (see 57 FR 13529) provides that the applicable requirements of CAA section 172 were 172(c)(3) (emissions inventory), 172(c)(5)(new source review permitting program), 172(c)(7)(the section 110(a)(2) air quality monitoring requirements)), and contingency measures (CAA section 172(c)(9)). It is also worth noting that we interpreted the requirements of sections 172(c)(1) (reasonable available control measures—RACM), 172(c)(2) (reasonable further progress—RFP), and 172(c)(6)(other measures), as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment'', and the General Preamble, 57 FR at 13564, dated April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4)(identification of certain emissions increases) and 172(c)(8)(equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Section 176 of the CAA contains requirements related to conformity. Although EPA's regulations (see 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

The applicable requirements of CAA section 172 are discussed below.

A. Section 172(c)(3)—Emissions Inventory

Section 172(c)(3) of the CAA requires a comprehensive, accurate, current inventory of all actual emissions from all sources in the Colorado Springs nonattainment area. As stated above for CAA section 187(a)(1), the Governor submitted a 1990 base year emissions inventory for Colorado Springs on December 31, 1992, with subsequent revisions being submitted on March 23, 1995. We approved this 1990 base year CO emissions inventory on December 23, 1996 (see 61 FR 67466).

B. Section 172(c)(5) New Source Review (NSR)

The CAA requires all nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions will not result from any new or modified stationary major sources and a general offset rule. The State of Colorado has a fully-approved NSR program (59 FR 42500, August 18, 1994) that meets the requirements of CAA section 172(c)(5). The State also has a fully approved Prevention of Significant Deterioration (PSD) program (59 FR 42500, August 18, 1994) that will apply after the redesignation to attainment is approved by us.

C. Section 172(c)(7)—Compliance With CAA section 110(a)(2): Air Quality Monitoring Requirements

According to our interpretations presented in the General Preamble (57 FR 13498), CO nonattainment areas are to meet the ''applicable'' air quality monitoring requirements of section 110(a)(2) of the CAA as explicitly referenced by sections 172 (b) and (c) of the CAA. With respect to this requirement, the State indicates in Section 3 of the maintenance plan (''Attainment of the Carbon Monoxide Standard''), that ambient CO monitoring data have been properly collected and uploaded to EPA's Aerometric Information and Retrieval System (AIRS) for the Colorado Springs area. Air quality data through 1996 are included in Section 3 of the maintenance plan and in the State's TSD. We recently polled the AIRS database and verified that the State has also uploaded additional ambient CO data through 1998. The data in AIRS indicate that the Colorado Springs area has shown, and continues to show, attainment of the CO NAAQS. Information concerning CO monitoring in Colorado is included in the Monitoring Network Review (MNR) prepared by the State and submitted to EPA. Our personnel have concurred with Colorado's annual network reviews and have agreed that the Colorado Springs network remains adequate. Finally, in Section 8, D. of the maintenance plan, the State commits to the continued operation of the existing CO monitors, according to all applicable Federal regulations and guidelines, even after the Colorado Springs area is redesignated to attainment for CO.

D. Section 172(c)(9) Contingency Measures

According to our interpretations presented in the General Preamble (see 56 FR 13532), moderate CO nonattainment areas, such as Colorado Springs, were required to submit contingency measures to address the requirements of section 172(c)(9) of the CAA. These contingency measures were to become effective, without further action by the State or us, upon a determination by us that an area had failed to achieve reasonable further progress (RFP) or to attain the CO NAAQS by December 31, 1995. To address this CAA requirement, the Governor submitted contingency measures to EPA on February 18, 1994. We approved this submittal on December 23, 1997 (see 62 FR 67006).

(c). Redesignation Criterion: The Area Must Have a Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

As noted above, EPA previously approved SIP revisions based on the pre-1990 CAA as well as SIP revisions required under the 1990 amendments to the CAA. On April 8, 1999 (64 FR 17102) we approved a SIP revision that removed a bus acquisition program from the Colorado Springs CO SIP and instead substituted emission reductions from the oxygenated fuels program. The bus acquisition program was not implemented due to a lack of federal funding. In this action, we are approving revisions to Regulation No. 13 and the State's commitment to maintain an adequate monitoring network (contained in the maintenance plan.) Thus, we have fully approved the Colorado Springs CO SIP under section 110(k) of the CAA.

(d). Redesignation Criterion: The Area Must Show That the Improvement in Air Quality Is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

The CO emissions reductions for Colorado Springs, that are further described in Sections 5. and 6. of the August 19, 1998, Colorado Springs maintenance plan, were achieved primarily through the Federal Motor Vehicle Control Program (FMVCP), a decentralized basic motor vehicle inspection and maintenance (I/M) program, oxygenated fuels, and traffic flow improvements.

In general, the FMVCP provisions require vehicle manufacturers to meet more stringent vehicle emission limitations for new vehicles in future years. These emission limitations are phased in (as a percentage of new vehicles manufactured) over a period of years. As new, lower emitting vehicles replace older, higher emitting vehicles (''fleet turnover''), emission reductions are realized for a particular area such as Colorado Springs. For example, EPA promulgated lower hydrocarbon (HC) and CO exhaust emission standards in 1991, known as Tier I standards for new motor vehicles (light-duty vehicles and light-duty trucks) in response to the 1990 CAA amendments. These Tier I emissions standards were phased in with 40% of the 1994 model year fleet, 80% of the 1995 model year fleet, and 100% of the 1996 model year fleet.

As stated in Section 5. of the maintenance plan, significant additional emission reductions were realized from Colorado Springs's basic I/M program. Colorado's Regulation No. 11, ''Motor Vehicle Emissions Inspection Program'', contains a full description of the requirements for Colorado Springs's I/M program. We note that further improvements to the Colorado Springs area's basic I/M program were implemented in January, 1995, to meet the requirements of EPA's November 5, 1992, (57 FR 52950) I/M rule and were approved by us into the SIP on March 19, 1996 (61 FR 11149).

Oxygenated fuels are gasolines that are blended with additives that increase the level of oxygen in the fuel and, consequently, reduce CO tailpipe emissions. Colorado's Regulation 13, ''Oxygenated Fuels Program'', contains the oxygenated fuels provisions for the Colorado Springs nonattainment area. Regulation 13 requires all Colorado Springs-area gas stations to sell fuels containing a 2.7% minimum oxygen content (by weight) during the wintertime CO high pollution season. The use of oxygenated fuels has significantly reduced CO emissions and contributed to the area's attainment of the CO NAAQS.

Colorado Springs has also implemented traffic flow improvements to alleviate congestion and shorten travel distances. These improvements involved throat widening, channelization, signalization, widening of existing roadways, construction of new roadways, or restriction of access to roadways. The specific traffic flow improvements that were identified for necessary action in the 1982 Colorado Springs SIP revision, involved the construction of the Union Boulevard extension and traffic signalization. These particular improvements have been accomplished and are now part of the permanent transportation infrastructure.

We have evaluated the various State and Federal control measures, the original 1990 base year emission inventory (see 61 FR 67466, December 23, 1996), and the 1993 attainment year emission inventory, and have concluded that the improvement in air quality in the Colorado Springs nonattainment area has resulted from emission reductions that are permanent and enforceable.

(e). Redesignation Criterion: The Area Must Have a Fully Approved Maintenance Plan Under CAA Section 175A

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, we issued further maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992. In this **Federal Register** action, EPA is approving the maintenance plan for the Colorado Springs nonattainment area because we have determined, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with the documents referenced above. Our analysis of the pertinent maintenance plan requirements, with reference to the Governor's August 19, 1998, submittal, is provided as follows:

1. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble and the September 4, 1992, policy memorandum referenced above. Under our interpretations, areas seeking to redesignate to attainment for CO may demonstrate future maintenance of the CO NAAQS either by showing that future CO emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. For the Colorado Springs area, the State selected the emissions inventory approach for demonstrating maintenance of the CO NAAQS.

The maintenance plan that the Governor submitted on August 19, 1998, included comprehensive inventories of CO emissions for the Colorado Springs area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, and on-road mobile sources. The State selected 1993 as the year from which to develop the attainment year inventory and included interim-year projections out to 2010. More detailed descriptions of the 1993 attainment year inventory and the projected inventories are documented in the maintenance plan in Section 8 and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 1993 attainment year and the interim projected years are provided in Table I.–1 below.

TABLE I.—1 SUMMARY OF CO EMISSIONS IN TONS PER DAY FOR COLORADO SPRINGS:

	1993	1997	2002	2005	2010
Point Sources	4.54	4.80	5.20	5.40	5.78
Area Sources	69.49	70.40	71.50	72.20	73.31
Non-Road Mobile Sources	39.44	43.30	48.20	51.20	56.05
On-Road Mobile Sources	264.20	223.90	183.80	175.60	173.22
Total	377.67	342.40	308.70	304.40	308.36

2. Demonstration of Maintenance—Projected Inventories

As we noted above, total CO emissions were projected forward by the State for the years 1997, 2002, 2005, and 2010. The projected inventories show that CO emissions are not estimated to exceed the 1993 attainment level during the time period 1993 through 2010 and, therefore, the Colorado Springs area has satisfactorily demonstrated maintenance.

3. Monitoring Network and Verification of Continued Attainment

Continued attainment of the CO NAAQS in the Colorado Springs area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the maintenance plan. In Section 8 D. the State commits to continue the operation of the CO monitors in the Colorado Springs area and to annually review this monitoring network and make changes as appropriate. Also, in Section 8 E.1., the State commits to prepare a periodic emission inventory of CO emissions every three years after the maintenance plan is approved by EPA. With this action, we are approving these commitments as satisfying relevant requirements. Our approval renders the State's commitments federally enforceable.

4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. As stated in Section 8 E. of the maintenance plan, the contingency measures for the Colorado Springs area will be initially triggered by an exceedance of the CO NAAQS. Upon an exceedance of the CO NAAQS, the Pike's Peak Area Council of Governments (PPACG) will recommend for adoption appropriate local contingency measures to correct a potential violation of the CO NAAQS (i.e., a second non-overlapping 8-hour average ambient CO measurement that exceeds 9.4 ppm at a single monitoring site during a calendar year is a violation of the 8-hour CO NAAQS). This process will take approximately six months. The Colorado AQCC will review the local contingency measures and if the AQCC concurs, the AQCC may endorse or approve the local measures without adopting State requirements. If, however, the AQCC finds that locally adopted contingency measures are inadequate, the AQCC will adopt State enforceable measures as deemed necessary to prevent additional exceedances or a violation. The maintenance plan further states that contingency measures will be adopted and fully implemented within one year of a CO NAAQS violation. The potential contingency measures that are identified in Section 8.E.3. of the Colorado Springs maintenance plan include increasing the required 2.7 percent minimum oxygen content of gasoline to a level above the actual oxygen content of gasolines at the time of the violation, making improvements to Colorado Springs's I/M program, adopting of a motor vehicle enhanced inspection and maintenance program, establishing a high pollution day episodic woodburning curtailment program, adopting a mandatory Employer-Based Travel Reduction Program, adopting Employee Commute Options, re-implementing a carpool locator service, and adopting other measures that may be considered appropriate. A more complete description of the triggering mechanism and these contingency measures can be found in Section 8 E. of the maintenance plan.

Based on the above, we find that the contingency measures provided in the State's maintenance plan are sufficient and meet the requirements of section 175A(d) of the CAA.

5. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Colorado has committed to submit a revised maintenance plan SIP revision eight years after the approval of the redesignation. This provision for revising the maintenance plan is contained in Section 8 F. of the Colorado Springs maintenance plan.

IV. EPA's Evaluation of the Transportation Conformity Requirements

One key provision of our conformity regulation requires a demonstration that emissions from the transportation plan and Transportation Improvement

Program are consistent with the emissions budgets in the SIP (40 CFR sections 93.118 and 93.124). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area. The rule's requirements and EPA's policy on emissions budgets are found in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

Section 8 C. of the Colorado Springs maintenance plan describes an emissions budget for on-road mobile sources for the years 1998 through 2009 as being 264 tons per day (TPD) of CO and for the year 2010 as being 212 TPD of CO. The PPACG and the State derived the 264 TPD number for 1998 through 2009 from the 1993 attainment year inventory value for on-road mobile sources. We cannot approve this 264 TPD value as a budget for conformity purposes because the budget is not consistent with maintenance of the NAAQS.[2] The attainment year's mobile source budget of 264 tons per day does not provide for maintenance of the CO NAAQS when combined with the increasing emissions levels from non-mobile sources during the 1998–2009 period (i.e., use of the 264 ton budget for any year after 1993 would push total emissions over the maintenance plan's attainment year level of 377 tons per day). Thus, we are taking no action on language in section 8 C. of the maintenance plan that purports to establish an emissions budget for 1998 through 2009 of 264 TPD of CO. The effect of this is that PPACG and the State may not use 264 TPD as the budget for conformity purposes.

Our non-action on this budget is unlikely to have any practical consequences for conformity determinations. Because the most recent conformity determination for the PPACG 2020 Transportation Plan demonstrated conformity to the 212 ton per day budget for the years required to be analyzed under Section 93.118(b) of the conformity rule (e.g., 2010 and 2020), we do not believe that our determination that the 264 ton per day budget is unapprovable has any negative consequences for this existing conformity determination. And under Section 93.118(b) of the conformity rule, PPACG is unlikely to ever have to conduct a conformity analysis for any years in the 1998–2009 time frame in the future. However, if such an analysis becomes necessary, it must be conducted in accordance with EPA's conformity rule, in particular 40 CFR 93.118(b)(2)(i).

We are approving the 2010 budget of 212 TPD of CO. This budget is consistent with the maintenance demonstration. The PPACG and the State established the on-road mobile source emissions budget for 2010 and beyond by using the 2010 on-road mobile source emission figures and a portion of the ''safety margin.'' The safety margin is the amount by which the attainment year emissions from all source categories exceed the projected year emissions from all source categories. (Table 5 of the maintenance plan identifies the total 1993 attainment year emissions as 377.69 TPD of CO. Table 6 of the maintenance plan identifies the total 2010 maintenance year emissions as 308.36 TPD of CO.) The total 1993 attainment year emissions exceed the total 2010 maintenance year emissions by 69.33 TPD. Thus, 69.33 TPD constitutes the safety margin in 2010.) The PPACG and the State then used the 2010 on-road mobile sources emissions (173.22 TPD) and 56.2% of the safety margin (38.96 TPD) to arrive at a 2010 on-road mobile sources emissions budget of 212.18 TPD of CO. The State then rounded this budget to 212 TPD of CO. The 2010 budget will apply for 2010 and beyond. See 40 CFR 93.118(b)(2)(ii).

The emissions budget definition in the Colorado Ambient Air Quality Standards regulation (5 CCR 1001–14) conflicts with the language on page 8–14 of the maintenance plan and is internally inconsistent; it inadvertently applies both the invalid 264 TPD budget and the 212 TPD budget to the year 2010. Our interpretation, based on the language of the maintenance plan and our conformity rule, is that the maintenance plan's 212 TPD emission budget applies starting in 2010, superseding the incorrect language in 5 CCR 1001–14.

V. EPA's Evaluation of the Regulation No. 13 Revisions

Colorado's Regulation No. 13 is entitled ''Oxygenated Fuels Program.'' The purpose of this regulation is to reduce CO emissions from gasoline powered motor vehicles in Colorado's Front Range Area, which includes Colorado Springs, through the wintertime use of oxygenated gasolines. Section 211(m) of the CAA required the State to implement an oxygenated fuels program in the larger of the Consolidated Metropolitan Statistical Areas (CMSA) or Metropolitan Statistical Areas (MSA) in which the nonattainment areas are located. In Colorado these areas are the Colorado Springs MSA, Fort Collins-Loveland MSA, and the Denver-Boulder CMSA. Section 211(m) of the CAA states that the oxygenated fuels program must cover no less than a four month period each year unless EPA approves a shorter period. We can approve a shorter implementation period if a State submits a demonstration that, because of meteorological conditions, a reduced implementation period will still assure that there will be no exceedances of the CO NAAQS outside of this reduced period.

EPA previously approved a revision to Regulation No. 13 that shortened the oxygenated fuels season by the last two weeks in February. See 62 FR 10690, March 10, 1997. The State of Colorado is seeking EPA's approval of further revisions to Regulation No. 13 that would shorten the oxygenated fuels season by an additional week and reduce the required oxygen content of the fuels in two other weeks. Specifically, the revisions are as follows:

(a). The Oxygenated Gasoline Program Period, or ''control period'', would be reduced by one week. The control period formerly ran from November 1st through February 14th of each year; as amended, the control period would run from November 1st through February 7th of each year.

(b). The fuel oxygenate content requirements were reduced for the week of November 1st through November 7th of each year. The minimum oxygen content for this period became 2.0% by weight for all areas covered by the regulation and there was no maximum blending or 3.1% averaging requirements for the Denver-Boulder area.

(c). The maximum blending and 3.1% averaging requirements were revised so that they no longer apply to Denver-Boulder area for the week of February 1st through February 7th of each year.

[2] Pursuant to Section 93.118(e)(4) of the Transportation Conformity Rule (40 CFR Part 93, Subpart A), we previously reviewed the adequacy of the maintenance plan's carbon monoxide emissions budgets for purposes of conformity. In an April 29, 1999 letter, from Richard R. Long, Director, Air and Radiation Program, EPA Region VIII, to Margie Perkins, Director, Air Pollution Control Division, Colorado Department of Public Health and Environment, we determined that the emissions budget for 2010 and beyond (212 tons per day) was adequate for conformity purposes, and determined that the budget of 264 tons per year for the 1998–2009 period was inadequate. Although this action is consistent with our prior adequacy determination, it should be noted that, in taking final action on the maintenance plan, we are not bound by our prior adequacy determination. See 62 FR 43782, August 15, 1997.

To address the CAA section 211(m) requirement and allow a shortening of the oxygenated fuels season, the APCD developed a predictive model for assessing the relative probability of a CO exceedance during any given week of the oxygenated fuels season. The use of this model in 1995 allowed the AQCC to approve the first shortening of the oxygenated fuels program during the last two weeks of February by demonstrating that the shortening would not result in an appreciable increase in the possibility of future CO exceedances for those two weeks.

The APCD model uses a spreadsheet to adjust past monitored CO concentrations and project them into the future. Monitored CO concentrations, representing a twenty-year time period, are used in the spreadsheet database. The highest eight-hour average concentration for each monitored day of the data set are used. These known values are then adjusted by using the latest vehicle emission factor model (currently, MOBILE5) and local transportation traffic projections, in terms of vehicle miles traveled (VMT), to project CO concentrations into the future. After normalizing all data points, a statistical program is used to convert adjusted values to a predicted probability that any given week will have a CO exceedance. The use of twenty years worth of monitored data lets meteorological variability be minimized.

When we approved the first shortening of the oxygenated fuels season, we required the State to demonstrate, based on worst-case meteorology for Denver for the last 20 years (as indicated by daily peak 8-hour CO concentrations), at least a 95% probability that there would be no exceedances of the CO standard during the last two weeks of February as a result of the shortening of the control period. We believe, that to implement the statutory requirement of assuring no exceedances, it is reasonable to require a State to show a very high probability of no exceedances and that 95% is a reasonable threshold for the State's demonstration here. Given the limitations of statistical analysis and the problems associated with proving a negative, we believe that a higher threshold would be inappropriate.

For the 1998/1999 oxygenated fuels season revision, the State evaluated the probability of a carbon monoxide exceedance in the Denver area during the first week of November, 1998, and the first two weeks of February, 1999, based on four different levels of oxygenates in automotive fuels and all other elements of the Denver CO SIP being in place. The analysis was based on the measured daily peak carbon monoxide concentrations at the CAMP monitoring site in downtown Denver during the 20-year study period. The high concentrations at the CAMP site have generally been the highest measured at CO monitoring sites not only in the Denver-Boulder area, but the entire Front Range area. Also, of the Front Range CO monitoring sites, the CAMP site has shown the greatest number of exceedances of the CO NAAQS during the time periods being analyzed. The 20-year period is sufficiently long to provide statistically realistic estimates of worst-case atmospheric dispersion conditions. Carbon monoxide emissions in Denver are expected to decrease for the next several years, and are expected to remain below the 1998/1999 levels at least through 2010. Thus, the calculated probability of a CO NAAQS exceedance is at a maximum in 1998/1999 and will be lower at least through 2010.

In order to normalize the effects of emissions changes over the 20-year study period, measured concentrations were adjusted to reflect estimated changes in CO emissions between the measurement year and 1998/1999. The resulting analysis provided a distribution of concentrations that would have occurred at the CAMP site had the same historical meteorological conditions occurred at 1998/1999 emission rates, at four different levels of oxygenates (including 0%.) The State's analysis showed the following: (1) For the period of November 1st through the 7th of 1998, at a 2% oxygenate level, there's a 2.5% probability of a CO NAAQS exceedance; (2) for the period of February 1st through the 7th, of 1999, at a 2.7% oxygenate level, there's a 0.2% probability of a CO NAAQS exceedance; and (3) for the period of February 8th through the 14th, at a 0.0% oxygenate level, there's a 2.1% probability of a CO NAAQS exceedance.

The State's analysis also showed that for the Colorado Springs and Fort Collins-Loveland areas, the probability of an exceedance in either of those MSA areas is lower than it is for the Denver CMSA area. Compared to the Denver area, these two areas have experienced significantly fewer exceedances of the CO standard and significantly lower ''high'' concentrations over the relevant time frame. Thus, the probability of an exceedance in the Colorado Springs area and the Fort Collins-Loveland area, with the changes in oxygenate concentration embodied in Regulation No. 13, is less than the probability projected at the CAMP monitor. This probability is expected to further decrease in years after 1998/1999 due to fleet turnover.

The State also reviewed potential impacts of the Regulation No. 13 revisions on the Denver PM_{10} SIP attainment demonstration (APCD/Mobile Sources Program March 24, 1997, Interoffice Memorandum from Barbara MacRae to Kim Livo). Relying on EPA's consideration of the elimination of the oxygenated fuels program for the last two weeks of February (see 61 FR 64649, December 6, 1996), the State concluded that the increment of benefit due to the oxygenated fuels program is 0.46 ug/m^3. When this value is added to the seventh-highest modeled concentration of 148.7 ug/m^3 in the PM_{10} SIP's maintenance year, the resulting value is still below the 24-hour PM_{10} standard of 150 ug/m^3.

The highest modeled values for the first week of November and the second week of February are significantly lower than the 148.7 ug/m^3 value. The State has no modeled value for the first week of February because the State only modeled the 105 worst meteorological days and none of these worst days occurred during the first week of February. Based on the above, the State concluded that the revisions to Regulation No. 13 would be unlikely to jeopardize the PM_{10} SIP. We agree with the State's analysis regarding potential impacts to the Denver PM_{10} SIP, and do not believe that the reductions in oxygen content for the first week of November, and the first week of February, nor the removal of the oxygenated fuels program for the week of February 8th through the 14th, will impact the Denver PM_{10} SIP.

Based on above, we have determined that we can approve the revisions to Regulation No. 13 as meeting the requirements of section 211(m) of the CAA.

The revisions to Regulation No. 13 were adopted by the AQCC directly after a public hearing on April 17, 1997, and became State effective on June 30, 1997.

However, an issue arose after the AQCC's April 17, 1997, approval of these changes to Regulation No. 13.

Colorado State law requires that any revision to the Colorado SIP must first by approved by the Colorado General Assembly prior to being forwarded to the Governor for his approval and submittal to EPA. The Colorado General Assembly modified the AQCC's April 17, 1997, revisions to Regulation No. 13. The Colorado General Assembly changed the first year for implementation of the revised oxygenated fuels program from the wintertime season of 1998–1999 to

1997–1998. Further, the Colorado General Assembly required the AQCC to amend the Regulation No. 13 revisions and incorporate this new (1997–1998) implementation schedule.

To address the Colorado General Assembly requirements, the AQCC held a public hearing on January 16, 1998, and revised Regulation No. 13 so that the initial implementation of the changes to the oxygenated gasoline program, that the AQCC adopted on April 17, 1997, would occur in the wintertime season of 1997–1998. These January 16, 1998, amendments to Regulation No. 13 conformed to the language and requirements of Regulation No. 13 to section 25–7–133.5(2)(n), Colorado Revised Statutes.

EPA was initially concerned about the changes the Colorado General Assembly enacted to move up the implementation date of the revisions to Regulation No. 13, from 1998–1999 to 1997–1998, as the State's demonstration for the revised Regulation did not address this time frame. However, this issue became moot as the necessary State regulatory and legal changes to accomplish this earlier implementation schedule were not State effective until March 30, 1998. Therefore, the shortened control period could not be implemented until the wintertime season of 1998–1999, which was originally analyzed in the State's demonstration.

On October 1, 1998, the Governor submitted to EPA the revisions to Regulation No. 13 that were adopted on April 17, 1997 (effective June 30, 1997), and January 16, 1998 (effective March 30, 1998). It is EPA's understanding that the January 16, 1998, version of Regulation No. 13 replaces the April 17, 1997, version of the Regulation. Thus, although both versions of the regulation are acceptable to us, EPA is only approving the later (January 16, 1998) version of the regulation and is taking no action on the earlier version.

VI. Final Action

In this action, EPA is approving the Colorado Springs carbon monoxide redesignation request, maintenance plan, and the revisions to Regulation No. 13.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 25, 1999 without further notice unless the Agency receives adverse comments by September 24, 1999.

If EPA receives such comments, then we will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 25, 1999 and no further action will be taken on the proposed rule.

Administrative Requirements

(a) Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

(b) Executive Order 12875: Enhancing the 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, 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, 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 a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on state, local, or tribal governments. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

(c) 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 and 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 does not involve decisions intended to mitigate environmental health or safety risks.

(d) 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 affects 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 12084 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. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

(e) Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the

agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Redesignation of an area to attainment under sections 107(d)(3)(D) and (E) of the Clean Air Act does not impose any new requirements on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

(f) Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves a redesignation to attainment and pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

(g) 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 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 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).

(h) Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law, sections 13–25–126.5, 13–90–107, and 25–1–114.5, Colorado Revised Statutes (Colorado Senate Bill 94–139, effective June 1,1994), or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 21, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40, parts 52 and 81 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

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

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

Subpart G—COLORADO

2. Section 52.320 is amended by adding paragraph (c)(86) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(86) On October 1, 1998, the Governor of Colorado submitted revisions to Regulation No. 13 ''Oxygenated Fuels Program'' that shortened the effective time period of the oxygenated fuels program for Denver/Boulder, Colorado Springs, Fort Collins, and Longmont carbon monoxide nonattainment areas and also reduced the required oxygen content during certain periods.

(i) Incorporation by reference.

(A) Regulation No. 13 ''Oxygenated Fuels Program'', 5 CCR 1001–16, as adopted on January 16, 1998, effective March 30, 1998.

3. Section 52.349 is amended by adding paragraph (c) to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(c) Revisions to the Colorado State Implementation Plan, Carbon Monoxide Redesignation Request and Maintenance Plan for Colorado Springs, as adopted by the Colorado Air Quality Control Commission on January 15, 1998, State effective March 30, 1998, and submitted by the Governor on August 19, 1998.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.306, the table entitled ''Colorado-Carbon Monoxide'' is amended by revising the entry for ''Colorado Springs Area'' to read as follows:

§ 81.306 Colorado.

* * * * *

COLORADO—CARBON MONOXIDE

Designated Area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*	*	*	
Colorado Springs Area	October 25, 1999.	Attainment.		
Urban Transportation Planing Study Area as defined in 1989.				
Beginning near the Town of Palmer Lake, at the Northwest corner of the Study Area at a point on the El Paso/Douglas County line, also on the Pike National Forest boundary, then:				
east along the County line to Elbert Road; south on Elbert Road to Judge Orr Road; east on Judge Orr Road to Ellicott Highway; south on Ellicott Highway to Squirrel Creek Road; west on Squirrel Creek Road to Williams Creek; south along Williams Creek to the confluence of Williams and Fountain Creeks; south along Fountain Creek to the El Paso/Douglas County line; west on the County line to I–25; north on I–25 to Exit 132; west on McGrath to 35th; south on 35th to Specker; northwest on Specker to Titus Blvd.; west on Titus Blvd. to SH–115;				
south on SH–115 to Rock Creek;				
northwest along Rock Creek to the Pike National Forest boundary; north along the Forest boundary to Old Stage Road; southwest on Old Stage Road to Gold Camp Road; north on Gold Camp Road to High Drive; north on High Drive to Lower Gold Camp Road; north on Lower Gold Camp Road to the Pike National Forest boundary; west along the Forest boundary, following the boundary north, then east to US–24; northwest on US–24 to the Pikes Peak Toll Road; west on the Toll Road to the El Paso/Teller County line;				
north along the County line to Crystola Creek; west on Crystola Creek to County Road 282, north on Road 282 to US–24; northeast on US–24 to Trout Creek Road; northwest on Trout Creek Road to Trout Creek; north along Trout Creek to the confluence of Trout and Mule Creeks; north along Mule Creek to Long Gulch; east along Long Gulch to White Gulch; east along White Gulch to Rampart Range Road; southeast on Rampart Range Road to the Pike National Forest Boundary; north along the Forest boundary to the El Paso/Douglas County line, to the point of origin.				
El Paso County (part)				
Teller County (part)				
* * * *	*	*	*	

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 99–21933 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300908; FRL–6096–7]

RIN 2070–AB78

Desmedipham; Extension of Tolerances for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for residues of the herbicide desmedipham in or on red beet roots at 0.2 part per million (ppm) and red beet tops at 15 ppm for an additional 16-month period. These tolerances will expire and are revoked on December 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on garden (red) beets. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act 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 FIFRA section 18.

DATES: This regulation becomes effective August 25, 1999. Objections and requests for hearings must be received by EPA, on or before October 25, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300908], 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–300908], 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–300908]. 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: Steve Schaible, 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. 271, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–308–9362, schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of August 29, 1997 (62 FR 45741) (FRL–5738–5), which announced that on its own initiative under section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the residues of desmedipham in or on red beet roots at 0.2 ppm and red beet tops at 15 ppm, with an expiration date of August 31, 1998. EPA extended this expiration date to August 31, 1999 in a final rule published in the **Federal Register** of September 16, 1998 (63 FR 49469) (FRL–6026–4). EPA established the tolerances because 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 FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of desmedipham on red beets for this year's growing season due to the continued non-routine situation facing red beet growers in New York; the voluntary cancellation of diethatyl-ethyl in 1993 has left growers with no registered alternatives which provide adequate or dependable weed control. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of desmedipham on red beets for control of broadleaf weeds in red beets.

EPA assessed the potential risks presented by residues of desmedipham in or on red beets. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of August 29, 1997 (62 FR 45741). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are extended for an additional 16-month period. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although these tolerances will expire and are revoked on December 31, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on red beet roots and red beet tops after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation 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 25, 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.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300908] (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.

III. 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 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 under section 408(l)(6) of FFDCA, 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.

IV. 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: August 11, 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. 321(q), 346(a) and 371.

§ 180.353 [Amended]

2. In § 180.353, by amending the table in paragraph (b) by changing the date for the two commodities ''red beet roots'' and ''red beet tops'' from ''8/31/99'' to read ''12/31/00''.

[FR Doc. 99–21831 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300905; FRL–6094–7]

RIN 2070–AB78

Pyridate; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of pyridate (O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate), the metabolite 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of 6-chloro-3-phenyl-pyridazine-4-ol in or on peppermint tops (leaves and stems) and spearmint tops (leaves and stems). 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 peppermint and spearmint. This regulation establishes a maximum permissible level for residues of pyridate in these food commodities 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 tolerances will expire and are revoked on December 31, 2001.

DATES: This regulation is effective August 25, 1999. Objections and requests for hearings must be received by EPA on or before October 25, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300905], 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–300905], 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 (CM #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–300905]. 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: Barbara Madden, 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. 284, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6463, Madden.Barbara@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 tolerances for combined residues of the herbicide pyridate (O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate, the metabolite 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of 6-chloro-3-phenyl-pyridazine-4-ol, in or on peppermint tops (leaves and stems) and spearmint tops (leaves and stems) at 0.3 part per million (ppm). These tolerances will expire and are revoked on December 31, 2001. 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 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 Pyridate on Peppermint and Spearmint and FFDCA Tolerances

Redroot pigweed and kochia have become serious pest concerns for Idaho, Indiana, Montana, Oregon, Washington and Wisconsin mint growers. The lack of any post-emergence chemical weed control have created an emergency situation. Currently, terbacil is the only herbicide registered for post-emergence weed control in mint, but resistance of pigweed and kochia has been well documented. Not only will the presence of these weeds result in mint yield losses but mint oil quality is adversely effected as well. EPA has authorized under FIFRA section 18 the use of pyridate on peppermint and spearmint for control of redroot pigweed and kochia in Idaho, Indiana, Montana, Oregon, Washington and Wisconsin. After having reviewed the submission, EPA concurs that emergency conditions exist for these States.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of pyridate in or on peppermint and spearmint. 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 these tolerances will expire and are revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on peppermint and spearmint 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 these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether pyridate meets EPA's registration requirements for use on peppermint and spearmint or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of pyridate 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 Idaho, Indiana, Montana, Oregon, Washington and Wisconsin to use this pesticide on these crops 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 pyridate, 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 pyridate and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of pyridate (O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate), the metabolite 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of 6-chloro-3-phenyl-

pyridazine-4-ol on peppermint and spearmint at 0.3 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 caused by pyridate are discussed in this unit.

B. Toxicological Endpoint

1. *Acute toxicity*. An acute dietary reference dose (acute RfD) of 0.20 milligrams/kilograms/day (mg/kg/day) has been identified. The acute RfD is derived from the systemic no observable adverse effects level (NOAEL) of 20 mg/kg/day based on neurotoxic effects (ataxia and emesis) seen at the lowest observable adverse effects level (LOAEL) of 60 mg/kg/day in the 90–day feeding study in dogs and an uncertainty factor of 100 (10x for interspecies differences and 10x for intraspecies variations). EPA has determined that the 10x factor to account for enhanced susceptibility of infants and children, as required by FFDCA section 408(b)(2)(C), can be removed. The acute Population Adjusted Dose (aPAD) is a modification of the acute RfD to accommodate the FQPA Safety Factor. The aPAD is equal to the acute RfD divided by the FQPA Safety Factor. Therefore, since EPA has determined that the 10x factor to account for enhanced susceptibility of infants and children can be removed, the aPAD and acute RfD are the same (0.20 mg/kg/day).

2. *Short- and intermediate-term toxicity.* For short- and intermediate-term dermal and inhalation exposures, the systemic NOAEL of 20 mg/kg/day from the 90–day feeding study in dogs based on clinical signs of neurotoxicity at the LOAEL of 60 mg/kg/day was identified as the short- and intermediate-term endpoint to be used in risk assessments. Since an oral dose was selected for dermal risk assessments, the Agency has determined that a dermal penetration factor of 20% is appropriate. The same oral dose (20 mg/kg/day) was also selected for inhalation risk assessments. Therefore, for inhalation exposure the following are appropriate: (i) Converting inhalation exposure in mg/Liter (L) to mg/kg/day (route-to-route extrapolation using 100% inhalation absorption); (ii) combining the converted exposure with dermal exposure (using 20% dermal absorption) and (iii) comparing the combined total to the appropriate oral NOAEL chosen for the short- and intermediate-term exposure scenario (NOAEL = 20 mg/kg/day).

3. *Chronic toxicity*. EPA has established the chronic RfD for pyridate at 0.11 mg/kg/day. This chronic RfD is derived from a NOAEL of 10.8 mg/kg/day based on decreased body weight gain in males seen at 67.5 mg/kg/day (LOAEL) in a 2–year feeding study in rats and an uncertainty factor of 100 (10x for interspecies differences and 10x for intraspecies variations). EPA has determined that the 10x factor to account for enhanced susceptibility of infants and children, as required by FFDCA section 408(b)(2)(C), can be removed. The chronic Population Adjusted Dose (cPAD) is a modification of the chronic RfD to accommodate the FQPA Safety Factor. The cPAD is equal to the chronic RfD divided by the FQPA Safety Factor. Therefore since the EPA has determined that the 10x factor to account for enhanced susceptibility of infants and children can be removed, the cPAD and chronic RfD are the same (0.11 mg/kg/day).

For chronic dermal and inhalation exposures, the NOAEL of 10.8 mg/kg/day from a 2–year feeding study in rats based on decreased body weight gain at the LOAEL of 67.5 mg/kg/day, was identified as the chronic endpoint to be used in dermal and inhalation risk assessments. Since an oral dose was selected for dermal risk assessments, the Agency has determined that a dermal penetration rate of 20% is appropriate. The same oral dose (20 mg/kg/day) was also selected for chronic inhalation risk assessments. Therefore, for inhalation exposure the following are appropriate: (i) Converting inhalation exposure in mg/L to mg/kg/day (route-to-route extrapolation using 100% inhalation absorption); (ii) combining the converted exposure with dermal exposure (using 20% dermal absorption); and (iii) comparing the combined total to the appropriate oral NOAEL chosen for the chronic exposure scenario (NOAEL = 10.8 mg/kg/day).

4. *Carcinogenicity*. Pyridate has not been designated a cancer classification by the Agency to date. However, there is no evidence of a tumorigenic response in the 2–year rat feeding study and the mouse carcinogenicity study with pyridate.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.462) for the combined residues of pyridate (O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate, the metabolite 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of 6-chloro-3-phenyl-pyridazine-4-ol, in or on cabbage, corn, and peanuts. Risk assessments were conducted by EPA to assess dietary exposures and risks from pyridate as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–91 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. At the 95th percentile exposure level, assuming 100 percent crop treated (PCT) and tolerance level residues for all commodities, less than 1% of the aPAD was utilized for the U.S. Population and children (1–6 years old), the subgroup with the highest exposure. The results of this analysis indicate that the acute dietary risk associated with existing uses and the proposed use of pyridate is below the Agency's level of concern.

ii. *Chronic exposure and risk.* In conducting chronic dietary risk assessments, the following conservative assumptions have been made: (a) all of the crops having pyridate tolerances will contain pyridate residues and (b) those residues will be at the level of the tolerance. This results in an overestimation of human dietary exposure. Thus, in making safety determinations for the peppermint and spearmint tolerances, the Agency is taking into account these conservative exposure assumptions. The combined pyridate tolerances (currently published and the section 18 tolerances established by this action) result in a Theoretical Maximum Residue Contribution (TMRC) that is less than 1% of the RfD for the U.S. population and all population subgroups, including non-nursing infants, the subgroup with the highest exposure. The results of this analysis indicate that the chronic dietary risk associated with existing uses and the proposed use of pyridate is below the Agency's level of concern.

2. *From drinking water.* The Agency lacks sufficient water-related exposure data to complete a comprehensive

drinking water exposure analysis and risk assessment for pyridate. Because the Agency does not have comprehensive and reliable monitoring data, drinking water concentration estimates must be made by reliance on some sort of simulation or modeling. To date, there are no validated modeling approaches for reliably predicting pesticide levels in drinking water. The Agency is currently relying on Generic expected environmental concentration (GENEEC) and EPA's Pesticide Root Zone Model ($PRZM^3$)/EXAMS for surface water, which are used to produce estimates of pesticide concentrations in a farm pond and Screening Concentration in ground water (SCI-GROW), which predicts pesticide concentrations in ground water. None of these models include consideration of the impact processing of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern. Based on the GENEEC and SCI-GROW models, the acute drinking water concentration values are estimated to be 97 parts per billion (ppb) for surface water and 4.4 ppb for ground water. The chronic drinking water concentration values are estimated to be 25 ppb for surface water and 4.4 pbb for ground water.

In the absence of monitoring data for pesticides, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, drinking water, and residential uses. A DWLOC will vary depending on the toxic endpoint, with drinking water consumption, and body weights. Different populations will have different DWLOCs. DWLOCs are used in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. DWLOC values are not regulatory standards for drinking water. Since DWLOCs address total aggregate exposure to pyridate they are further discussed in the aggregate risk sections below.

3. *From non-dietary exposure.* Pyridate is not registered on any use sites which would result in non-dietary, non-occupational exposure. Therefore, EPA expects only dietary and occupational exposure from the use of pyridate.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether pyridate has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pyridate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pyridate has a common mechanism of toxicity with other substances. For more information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* Using the exposure assumptions of 100 PCT and tolerance level residues for all commodities, at the 95th percentile, less than 1% of the aPAD was utilized for the U.S. Population. The major identifiable subgroup with the highest aggregate exposure is children, 1–6 years old (discussed below). EPA generally has no concern for exposures below 100% of the aPAD. Despite the potential for exposure to pyridate in drinking water, after calculating a DWLOC (7,000 ppb) for the U.S. population and comparing it to conservative model estimates of acute concentrations of pyridate in surface and ground water (97 ppb and 4.4 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

2. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to pyridate from food will utilize less than 1% of the cPAD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants (discussed below). EPA generally has no concern for exposures below 100% of the cPAD because the cPAD 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 pyridate in drinking water, after calculating a DWLOC (3,800 ppb) for the U.S. population and comparing it to conservative model estimates of concentrations of pyridate in surface and ground water (25 ppb and 4.4 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *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 other indoor and outdoor non-occupational exposure. Since there are no non-dietary, non-occupational exposures expected from the use of this chemical, no short- and intermediate-term risk assessments were conducted.

4. *Aggregate cancer risk for U.S. population.* Pyridate has not been designated a cancer classification by the Agency to date. However, there is no evidence of a tumorigenic response in the 2–year rat feeding study and the mouse carcinogenicity study with pyridate. Therefore, no aggregate cancer risk assessments were conducted.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to pyridate residues.

E. 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 pyridate, 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 margin of exposure (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 interspecies and intraspecies 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.* In a prenatal developmental toxicity study in rats, the maternal NOAEL was 165 mg/kg/day and the LOAEL was 400 mg/kg/day based on mortality, significant decreases in mean body weight and food consumption as well as clinical signs (ventral body position, dyspnea, sedation, and loss of reaction to external stimuli). The developmental NOAEL was 165 mg/kg/day and the developmental LOAEL was 400 mg/kg/day, based on increased incidences of missing and/or unossified sternebrae and a dose-related decrease in mean fetal body weight.

In a prenatal developmental toxicity study in rabbits, the maternal NOAEL was 300 mg/kg/day and the LOAEL was 600 mg/kg/day, based on decreased body weight and body weight gain, decreased food consumption, increased incidence of dried feces, and increased abortions. For developmental toxicity, the NOAEL was equal to or greater than 600 mg/kg/day, the highest dose tested. A developmental LOAEL was not established.

iii. *Reproductive toxicity study.* In a 3–generation reproduction study in rats, the parental systemic NOAEL was 10.8 mg/kg/day and the LOAEL was 67.5 mg/kg/day based on depression of maternal body weight gain. The NOAEL for offspring was 10.8 mg/kg/day and the LOAEL was 67.5 mg/kg/day based on decreased pup weight gains (at postnatal day 14 and 21 in the first litters for both generations).

iv. *Prenatal and postnatal sensitivity.* The toxicological data base for evaluating prenatal and postnatal toxicity for pyridate is complete with respect to current data requirements. There are no prenatal or postnatal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2–generation rat reproductive toxicity study.

v. *Conclusion.* There is a complete toxicity database for pyridate and exposure data are complete or are estimated base on data that reasonably accounts for potential exposures.The Agency concludes that reliable data support use of a 100-fold margin of exposure/uncertainty factor, rather than the standard 1,000-fold margin/factor, to protect infants and children. Therefore, the 10x factor to account for enhanced susceptibility of infants and children, as required by FFDCA section 408(b)(2)(C), can be removed.

2. *Acute risk.* Using the exposure assumptions of 100 PCT and tolerance level residues for all commodities, at the 95th percentile, less than 1% of the aPAD was utilized for children 1–6 years old, the subgroup with the highest aggregate exposure. EPA generally has no concern for exposures below 100% of the aPAD. Despite the potential for exposure to pyridate in drinking water, after calculating a DWLOC (2,000 ppb) children 1–6 years old and comparing it to conservative model estimates of acute concentrations of pyridate in surface and ground water (97 ppb and 4.4 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the aPAD.

3. *Chronic risk.* Using the TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to pyridate from food will utilize less than 1% of the cPAD for infants and children. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD 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 pyridate in drinking water, after calculating a DWLOC (1,100 ppb) for non-nursing infants, the subgroup with the highest aggregate exposure and comparing it to conservative model estimates of concentrations of pyridate in surface and ground water (25 ppb and 4.4 pbb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

4. *Short- or intermediate-term risk.* There are no non-dietary, non-occupational exposures expected from the use of pyridate therefore, no short- and intermediate-term risk assessments were conducted.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to pyridate residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

The nature of the pyridate residue in plants and ruminants is adequately understood. The total toxic residue consists of pyridate (O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate), its metabolite 6-chloro-3-phenyl-pyridazine-4-ol, and conjugates of that metabolite, all expressed as pyridate.

B. Analytical Enforcement Methodology

A total residue method using ultraviolet detection/high pressure liquid chromatography (UV/HPLC) is available for residue data gathering and enforcement purposes. The method has been adequately validated by recovery data, has passed a successful method trial, and has been forwarded to FDA for publication in PAM-II. The limit of quantitation is 0.03 ppm. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5229.

C. Magnitude of Residues

Residues of pyridate, its metabolite 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of that metabolite all expressed as pyridate are not expected to exceed 0.3 ppm in/on peppermint, tops (leaves and stems) and spearmint, tops (leaves and stems). Secondary residues are not expected in animal commodities as no feed items are associated with this section 18 use.

D. International Residue Limits

There are no CODEX, Mexican, or Canadian MRLs established for pyridate in/on mint. Therefore, no compatibility problems exist for the proposed tolerances.

E. Rotational Crop Restrictions

A confined accumulation in rotational crops study with pyridate has previously been reviewed. Pyridate residues metabolize rapidly in soil. No crop rotation label restrictions are needed.

V. Conclusion

Therefore, the tolerance is established for combined residues of pyridate (O-(6-chloro-3-phenyl-4-pyridazinyl)-S-octyl-carbonothioate), the metabolite 6-chloro-3-phenyl-pyridazine-4-ol and conjugates of 6-chloro-3-phenyl-pyridazine-4-ol in or on peppermint

tops (leaves and stems) and spearmint tops (leaves and stems) at 0.3 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 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 25, 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, CM #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–300905] (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 Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, CM #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 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: August 11, 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. 321(q), 346a and 371.

2. In § 180.462, by adding paragraph (b) to read as follows:

§ 180.462 Pyridate; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance is established for the residue of the herbicide pyridate in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. This tolerance will expire and is revoked on the date specified in the following table:

Commodity	Parts per million	Expiration/revocation date
Peppermint, tops (leaves and stems).	0.3 ppm	12/31/01
Spearmint, tops (leaves and stems).	0.3 ppm	12/31/01

* * * * *

[FR Doc. 99–21832 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6427–2]

North Carolina: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: North Carolina has applied for Final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). North Carolina's revision consists of provisions promulgated between July 1, 1995 and June 30, 1997. The EPA has reviewed North Carolina's applications and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. EPA is authorizing the state program revision through this immediate final action. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as a proposal to authorize the revision should the Agency receive adverse comment. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize North Carolina's hazardous waste program revision will take effect as indicated in the Dates section.

DATES: This Final authorization for North Carolina will become effective without further notice on October 25, 1999, unless EPA receives adverse comment by September 24, 1999. Should EPA receive such comments the Agency will publish a timely withdrawal informing the public that the rule will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW Atlanta, GA, 30303–3104. Copies of the North Carolina program revision applications and the materials which EPA used in evaluating the revision are available for inspection and copying during normal business hours at the following addresses: North Carolina Department of Environment, Health and Natural Resources, P.O. Box

27687, Raleigh, North Carolina 29201, (919) 733–2178; and U.S. EPA Region 4, Atlanta Federal Center, Library, 61 Forsyth Street, SW, Atlanta, Georgia 30303; (404) 347–4216.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar at (404) 562–8440.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

B. North Carolina

North Carolina initially received final authorization on December 14, 1984, effective December 31, 1984 (49 FR 48694) to implement its base hazardous waste management program. North Carolina most recently received authorization for revisions to its program on October 23, 1998, effective December 22, 1998, (63 FR 56834). On December 28, 1998 and February 23, 1999, North Carolina submitted final complete program revision applications, seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed North Carolina's applications, and now makes an immediate final decision, subject to receipt of adverse written comment, that North Carolina's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant North Carolina Final Authorization for the program modifications contained in the revision.

North Carolina is today seeking authority to administer the following Federal requirements promulgated between July 1, 1995, through June 30, 1997.

Federal requirement	**Federal Register**	Analogous State authority [1]
Liquids in Landfills III Checklist 145 ...	60 FR 35703 7/11/95	NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(15), NCGS § 130A–295.03, NCGS § 150B–21.6, 15A NCAC 13A .0109(o), 15A NCAC 13A .0110(n).
RCRA Expanded Public Participation Checklist 148.	12/11/95 60 FR 63417	NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(14), NCGS § 130A–294(c)(15), NCGS § 130A–294(d), NCGS § 130A–294(f), NCGS § 130A–294(g), NCGS § 130A–294(o), NCGS § 150B–21.6, 15A NCAC 13A .0105(b), 15A NCAC 13A .0113(a), 15A NCAC 13A .0113(b), 15A NCAC 13A .0113(f), 15A NCAC 13A .0113(i).
Amendments to the Definition of Solid Waste; Amendment II Checklist 150.	3/26/96 61 FR 13103	NCGS § 130A–294(c)(1), NCGS § 130A–294(c)(15), NCGS § 150B–21.6, 15A NCAC 13A .0106(a).
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners Checklist 151.	4/8/96 61 FR 15566, 4/8/96 61 FR 15660, 4/30/96 61 FR 19117, 6/28/96 61 FR 33680, 7/10/96 61 FR 36419, 8/26/98 61 FR 43924, 2/19/97 62 FR 7502.	NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(15), NCGS § 130A–294(h)(2), NCGS § 150B–21.6, 15A NCAC 13A .0112(a), 15A NCAC 13A .0112(b), 15A NCAC 13A .0112(c), 15A NCAC 13A .0112(e).
Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D Checklist 153.	7/1/96 61 FR 34252	NCGS § 130A–294(c)(1), NCGS § 130A–294(c)(15), 15A NCAC 13A .0106(a).
Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers Checklist 154.	12/6/94 59 FR 62896, 5/9/95 60 FR 26828, 9/29/95 60 FR 50430, 11/13/95 60 FR 56952, 2/9/96 61 FR 4903, 6/5/96 61 FR 28508, 11/25/96 61 FR 59932.	NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(14), NCGS § 130A–294(c)(15), 15A NCAC 13A .0101(e), 15A NCAC 13A .0106(a), 15A NCAC 13A .0107(c), 15A NCAC 13A .0109(c), 15A NCAC 13A .0109(f), 15A NCAC 13A .0109(j), 15A NCAC 13A .0109(k), 15A NCAC 13A .0109(l)(1), 15A NCAC 13A .0109(u), 15A NCAC 13A .0109(v), 15A NCAC 13A .0109(w), 15A NCAC 13A .0109(x), 15A NCAC 13A .0110(a), 15A NCAC 13A .0110(b), 15A NCAC 13A .0110(e), 15A NCAC 13A .0110(i), 15A NCAC 13A .0110(j), 15A NCAC 13A .0110(k), 15A NCAC 13A .0110(s), 15A NCAC 13A .0110(t), 15A NCAC 13A .0110(u), 15A NCAC 13A .0110(w), 15A NCAC 13A .0113(a), 15A NCAC 13A .0113(b).
Land Disposal restrictions Phase III—Emergency Extension of the KO88 Capacity Variance Checklist 155.	1/14/97 62 FR 1992	NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(15), NCGS § 130A–294(h)(2), 15A NCAC 13A .0112(b).
Land Disposal restrictions Phase IV—Treatment Standards for Wood Preserving Waste, Paperwork Reduction and Streamlining Checklist 157.	5/12/97 62 FR 25998	NCGS § 130A–294(c)(1), NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(15), NCGS § 130A–294(h)(2), 15A NCAC 13A .0106(a), 15A NCAC 13A .0112(a), 15A NCAC 13A .0112(b), 15A NCAC 13A .0112(c), 15A NCAC 13A .0112(e).
Testing and Monitoring Activities Amendment III Checklist 158.	6/13/97 62 FR 32452	NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(11), NCGS § 130A–294(c)(15), 15A NCAC 13A .0101(e), 15A NCAC 13A .0109(v), 15A NCAC 13A .0109(w), 15A NCAC 13A .0109(z), 15A NCAC 13A .0110(s), 15A NCAC 13A .0110(t), 15A NCAC 13A .0111(d), 15A NCAC 13A .0111(e).
Conformance with the Carbamate Vacatur Checklist 159.	6/17/97 62 FR 32974	NCGS § 130A–294(c)(1), NCGS § 130A–294(c)(1)(a), NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(15), NCGS § 130A–294(h)(2), 15A NCAC 13A .0106(d), 15A NCAC 13A .0106(e), 15A NCAC 13A .0112(b), 15A NCAC 13A .0112(c).

[1] The North Carolina provisions are from the North Carolina Administrative Code, August 14, 1998, unless otherwise stated.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

North Carolina is not authorized to operate the federal program on Indian lands. This authority remains with EPA unless provided otherwise in a future statute or regulation.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial program revision and do not anticipate adverse comment. However in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to authorize the revision if we receive adverse comments. This authorization will become effective without further notice on October 25, 1999, unless EPA receives adverse comment by September 24, 1999. Should EPA receive such comments it will publish a timely withdrawal informing the public that the rule will not take effect. We will address all public comments in a subsequent final action based on the proposed rule. EPA may not provide additional opportunity for comment. Any parties interested in commenting must do so at this time.

The public may submit written comments on EPA's immediate final decision until September 24, 1999. Copies of North Carolina's applications for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document. The **ADDRESSES** section also indicates where to send written comments on this action.

C. Decision

I conclude that North Carolina's applications for program revision authorization meet all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants North Carolina Final Authorization to operate its hazardous waste program as revised. North Carolina now has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program applications, subject to the limitations of the HSWA. North Carolina also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize North Carolina's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, Subpart II until a later date.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 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 section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the North Carolina program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the 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 of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive

requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

Compliance With 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 with 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, 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.''

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from this action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

Compliance With Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks,'' applies to any rule that: (1) The Office of Management and Budget determines is ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

Compliance With 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 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 with 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.''

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. North Carolina is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in Indian country within the State.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 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 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.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 13, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–21825 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6428–6]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Louisiana has applied for Final authorization to revise its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization. The EPA reviewed Louisiana's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Louisiana's Hazardous Waste Program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant Louisiana final authorization for the program modifications contained in the revision.

DATES: This action is effective on October 25, 1999 without further notice, unless the EPA receives relevant adverse comments by September 24, 1999. If adverse comments are received, EPA will publish a timely withdrawal of the immediate final rule or identify the issues raised, respond to the comments, and affirm that the immediate final rule will take effect as scheduled.

ADDRESSES: Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533: or Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810, (504) 765–0617.

FOR FURTHER INFORMATION CONTACT: Alima Patterson at (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. What Is Resource Conservation and Recovery Act State Authorization?

RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), provides for authorization of State hazardous waste programs under subtitle C. Under RCRA section 3006, EPA may authorize a State to administer and enforce the RCRA hazardous waste program. See 40 CFR part 271. In fact, Congress designed RCRA so that the entire subtitle C program would eventually be administered by the States in lieu of the Federal Government. This is because the States are closer to, and more familiar with, the regulated community and therefore are in a better position to administer the programs and respond to local needs effectively.

After receiving authorization, the State administers the program in lieu of the Federal government, although EPA retains enforcement authority under RCRA sections 3008, 3013, and 7003. Authorized States are required to revise their programs when EPA promulgates Federal Standards that are more stringent or broader in scope than existing federal standards. States are not required to modify their programs to address Federal changes that are less stringent than the existing Federal program or that reduce the scope of the existing Federal program. These changes are optional and noted as such in the **Federal Register** (FR) document. However, EPA encourages States to adopt optional rules because they provide benefit to environmental protection.

B. Why Are Revisions to State Programs Necessary?

States that receives final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260–266, 268, 270, 273, and 279.

C. What Is the Effect of This Authorization?

This authorization should have little impact because the State's requirements are already effective. However, upon approval of the revisions, Louisiana will have authority to regulate the Land Disposal Restrictions (LDR). Currently, the LDR waste are administered by EPA. Louisiana will have authority to issue LDR permits and to ensure that all permits issued to hazardous waste LDR facilities protect of human health and the environment.

D. What Is the History of Louisiana's Final Authorization and Its Revisions?

The State of Louisiana initially received final authorization on February 7, 1985 (50 FR 3348), to implement its base Hazardous Waste Management program. Louisiana received authorization for revisions to its program on January 29, 1990 (54 FR 48889), October 25, 1991 (56 FR 41958), and technical corrections at (56 FR 51762), effective January 23, 1995 and another technical correction was made at (59 FR 55368–55371), (60 FR 18360), March 8, 1995; We authorized the following revisions: (59 FR 66200), October 17, 1995, (60 FR 53707) effective January 2, 1996, March 28, (61 FR 13777–13782) effective June 11, 1996, December 29, 1997, (62 FR 67572–67577) effective March 16, 1998 and October 23, 1998 (63 FR 56830–56891) effective December 22, 1998. On January 21, 1999, Louisiana submitted a final complete program revision application for additional program approval. In this application, Louisiana is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

In 1983, the Louisiana legislature adopted Act 97, which amended and reenacted Louisiana Revised Statutes 30:1051 *et seq.*, the Environmental Affairs Act. This Act created the Louisiana Department of Environmental Quality (LDEQ), which has lead agency jurisdictional authority for administering the RCRA Subtitle C program in the State. Also, the LDEQ is designated to facilitate communication between the EPA and the State. The State of Louisiana adopted the LDR regulations and they became effective May 1989. Louisiana amended the regulations May 1990, December 1990, July 1991, July 1992, September 1994, March 1995, December 1995, January 1996, May 1997, November 1997, February 1998, April 1998, June 1998, and September 1998.

E. What Revisions Are We Approving With Today's Action?

The State of Louisiana submitted a final complete program revision application, seeking authorization of their revisions in accordance with 40 CFR 271.21. Louisiana's revisions consist of regulations which specifically

govern LDR's. Louisiana requirements appear on the chart included in this document. The EPA is now making a final decision, subject to receipt of written comments that oppose this action, that Louisiana's revision of its hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Louisiana final authorization for the following program revisions:

Federal citation	State analog
1. Land Disposal restrictions (Solvents and Dioxins), [51 FR 40572] November 7, 1986. (Checklist 34).	Louisiana Revised Statutes (LRS) 30: § 2180 *et seq,* as amended June 14, 1991, effective June 14, 1991; Louisiana Hazardous Waste Regulations (LHWR) §§ 105, 105.D.3, 105.D.4.a, 105.H. 105.H.1, 109, as amended June 20, 1998, effective June 20, 1998; 109. Empty Container.1.a, as amended May 20, 1997, effective May 20, 1997, 109 Empty Container.2.b, as amended September 20, 1998, effective September 20, 1998; 110.A, as amended September 20, 1996, effective September 20, 1996; 111, as amended March 20, 1990, effective March 20, 1990; 311.E, as amended September 20, 1994, effective September 20, 1994, 317.C, as amended March 20, 1990, effective March 20, 1990, 319, as amended May 20, 1996, effective May 20, 1996, 501.D, as amended May 20, 1997, effective May 20, 1997, 517.V, as amended May 20, 1997, effective May 20, 1997, 1101.D, as amended April 20, 1998, effective April 20, 1998, 1103.C, as amended September 20, 1998, effective September 20, 1998, 1305.C, as amended September 20, 1998, effective September 20, 1998, 1519.A.1, as amended September 20, 1996, effective September 20, 1996, 1519.B.7, as amended September 20, 1998, effective September 20, 1998, 1519.B.8, as amended September 20, 1996, effective September 20, 1519.B.8.a, 1519.B.b, as amended September 20, 1996, effective September 20, 1996, 1519.B.8.c, 1519.B.8.c.i, as amended September 20, 1998, effective September 20, 1998, 1519.B.8.c.ii, 1519.B.c.ii.(a), 1519.B.8.c.ii(b), 1529.B.12, 1529.B.13, 1529.B.14, 1529.B.15, 1529.B.16, 1529, effective September 20, 1996, 1529.B.6, as amended September 20, 1998, effective September 20, 1998, 2201.C, 2201.D, 2201.G, 2201.G.1, 2201.G.2, as amended May 20, 1997, effective May 20, 1997, 2201.G.4, as amended April 20, 1998, effective April 20, 1998, 2201.G.5, as amended September 20, 1998, effective September 20, 1998, 2201.H, as amended May 20, 1997, effective May 20, 1997, 2203.A.Hallogenated Organic Compounds or HOCs, as amended January 20, 1996, effective January 20, 1996, 2203.A.Hazardous Constituent, 2203.A. Polychlorinated Biphenyls or PCBs, 2203.A.Land Disposal. 2205.A, as amended January 20, 1996, effective January 20, 1996, 2205.A.1, as amended September 20, 1998, effective September 20, 1998, 2205.A.2, 2205.A.3, as amended January 20, 1996, effective January 20, 1996, 2205.B, as amended September 20, 1998, effective September 20, 1998, 2205.C, 2205.D, 2205.E, 2205.F, as amended January 20, 1996, effective January 20, 1996, 2207.A, 2209.A, 2209.A.1, 2209.A.2, 2209.A.3, 2209.B. 2209.C, 2209.C.1, 2209.C.2, 2209.C.3, as amended September 20, 1998, effective September 20, 1998, 2211.A, 2211.B, 2211.B.1, 2211.B.2, 2211.B.3, 2211.C, as amended January 1996, effective January 20, 1996, 2213.A, 2213.A.1, 2213.A.2, 2213.A.3, 2213.B, 2213.B.1, 2213.B.2, 2213.C, 2213.C.1, 2213.C.2, 2213.D, 2213.D.1, 2213.D.2, 2213.D.3, 2213.E, 2213.F, 2213.G, 2213.G.1–2, 2213.G.3, 2215.B, 2215.C, 2215.D, 2215.E, 2215.F, 2215.G, 2215.G.1, 2215.G.2, 2215.G.3, 2215.H, 2215.I, 2223.A, 2223.B, 2223.C, 2227.A, as amended September 20, 1998, effective September 20, 1998, 2227.A.1, 2227.A.2, 2227.B, 2230.I.2.c, 2231.A, 2231.B, 2231.C, 2231.C.1, 2231.D, 2231.E, 2231.F, 2231.G, 2231.H, 2231.1.I, 2231.J, 2231.K, 2237.A, 2237.A.1, 2237.A.2, 2237.A.2.a, as amended January 20, 1996, effective January 20, 1996, 2237.a.2.b.i, 2237.A.2.b.i(a)-(d), 2237.A.2.b.ii-iii, 2237.A.2.c, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.d, as amended September 20, 1998, effective September 20, 1998, 2237.A.3, 2237.A.3.a, 2237.A.3.b, 2237.A.3.b.i, 2237.A.3.b.ii, 2237.A.3.b.iii, 2237.A.3.c, as amended January 20, 1996, effective January 20, 1996, 2237.A.4, as amended September 20, 1998, effective September 20, 1998, 2237.B, 2239.A, 2239.A.1, 2239.A.2, as amended January 20, 1996, 2239.A.3, 2239.A.4, 2239.A.5, 2239.A.6, 2239.A.7, 2239.B, 2239.C, 2239.E, 2239.F, as amended January 20, 1996, 2239.G, as amended September 20, 1998, effective September 20, 1998, 2239.H, 2239.I, 2239.I.1, 2239.1.2, 2239.I.2.a, 2239.I.2.b, 2229.I.2.d, 2239I.2.f, 2239.J, 2241.A, 2241.D.1, 2241.D.2, 2241.D.3, 2241.D.4, 2241.D.5, 2241.E, 2241.E.1, 2241.E.2,

Federal citation	State analog
	2241.E.3, 2241.E.4, 2241.E.5, 2241.F, 2241.F.1, 2241.1.a. 2241.F.b, 2241.F.c, 2241.1.D, 2241.F.1.e, 2241.F.1.f, 2241.F.1.g, 2241.F.1.h, 2241.1.i, 2241.F.2, 2241.F.3, 2241.F.4, 2241.F.5, 2241.F.5.a, 2241.F.5.b, 2241.F.5.c, 2241.G, 2241.H, 2241.H.1, 2241.H.2, 2241.I, 2241.J, 2241.K, as amended January 20, 1996, effective January 20, 1996, 2241.L, 2241.M, 2241.N, 2241.O, 2241.P, 2241.Q, 2245.A, 2245.B, 2245.B.1, 2245.B.2, 2245.B.3, 2245.B.4, 2245.C, 2245.C.1, 2245.C.1.a, 2245.C.1.b, 2245.C.1.c, 2245.C.1.d, 2245.C.2, 2245.D, 2245.D.1, 2245.D.2, 2245.D.3, 2245.D.4, 2245.D.7, 2245.E, 2245.E.1, 2245.E.2, 2245.E.3, 2245.F, 2245.H, 2247.A, 2247.A.1, 2247.A.2, 2247.A.3, 2247.B, 2247.B.1, 2247.B.2, 2247.B.3, 2247.B.4, 2247.C, 2247.C.1, 2247.C.2, 2247.D, 2247.E, 2247.F, 2247.F.1, 2247.F.2, Chapter 22 Table 2, Chapter 22 Table 5, as amended September 20, 1998, effective September 20, 1998, Chapter 39, as amended May 20, 1997, effective May 20, 1997, 3901, 3903, 3911, 3913, as amended October 20, 1994, effective October 20, 1994, 3915, 4105.B, as amended May 20, 1997, effective May 20, 1997, 4115.A, as amended January 20, 1996, effective January 20, 1996, 4139.A.2, 4301.E, as amended September 20, 1998, effective September 20, 1998, 4303.B, 4313.A, as amended March 20, 1995, effective March 20, 1995, 4313.E.6, 4313.E.7, 4313.E.6, as amended September 20, 1998, effective September 20, 1998, 4313.E.7.a, 4313.E.7.b, 4313.E.7.c, 4313.E.7.c.i, 4313.E.7.c.ii, 4313.E.c.ii(a), 4313.E.7.c.ii.(b), as amended March 20, 1995, effective March 20, 1995, 4357.B.10, 4357.B.11, 4357.B.12, 4357.B.13, 4357.B.14, 4357.B.15, 4357.B.16, 4357.B.5, 4901.A.1, as amended September 20, 1998, effective September 20, 1998, 4903.F, as amended September 20, 1996, effective September 20, 1996, and Chapter 49 Appendix B, as amended January 20, 1996, effective January 20, 1996. LAC 33:V.319, which refers to LAC 33:I Chapter 5 is more stringent than 40 CFR 260.1(b)(1) and 40 CFR 260.2(b) Federal equivalent(because the regulations in LAC 33:I Chapter 5 require more specific information than that of the Federal regulations. LAC 33:V.3901, 3903, 3911, 3913 and 3915 are more stringent than 40 CFR 261.5(b), (c),(e),(f)(2), and (g)(2) Federal equivalent(s) because the small quantity generators are regulated more stringent in Louisiana than in the above mentioned Federal citations. LAC 33:V.2239.A.1–4 are more stringent than 40 CFR 268.5(a)(1–4) Federal equivalent because Louisiana additionally requires one compacted clay or other LDEQ approved liner in addition to the Federal requirements. LAC 33:V.2239.C is more stringent than 40 CFR 268.5(c) Federal equivalent because the State citation additionally specifies that failure to segregate waste streams shall not constituent justification for a case-by-case extension for those wastes which are separable and treatable. LAC 33:V.2239.H is more stringent than 40 CFR 268.5(g) Federal equivalent because the State citation has a specific time interval whereas the Federal citation has a discretionary period. LAC 33:V.2241.A is more stringent than Federal equivalent 40 CFR 268.6(a) because there is no exemption granted to the generator for land disposal of waste streams. Pertaining to only the notification section of this citation, LAC 33:V. 2241.I is more stringent than 40 CFR 268.6(f)(2)-(3) Federal equivalent because it requires a 24 hour notice to the administrative authority once it determined that the hazardous constituents have migrated from the unit. LAC 33:V.2241.N is more stringent than 40 CFR 268.6(k) Federal equivalent because the State term of a petition granted is no longer than what is specified under the final operating permit or up to 5 years from the date of approval if the unit is operating under interim status. The EPA allows for 10 years from the above said date. The State requires exemption to be reviewed at least once every 3 years. LAC 33:V.2241.O is more stringent than 40 CFR 268.6(l) Federal equivalent because it requires additional conditions. LAC 33:V.2241.Q is more stringent than 40 CFR 268.6(n) Federal equivalent because Louisiana sets limits at 50ppm, while EPA's limit is 500ppm. Federal citation 40 CFR 268.1(e)(1) was referenced to LAC 33:V. Chapter 39 because small quantity generators are not exempt from land disposal regulations and thus the State is more stringent.

Federal citation	State analog
2. California List Waste Land Disposal Restrictions, [52 FR 25760) July 8, 1987; California List Waste Land Disposal Restrictions (Correction 1), [52 FR 41295] October 27, 1987. Checklists 39, 39.1).	LRS 30:2180 *et seq.*, As amended June 14, 1991, effective June 14, 1991; LHWR §§110.A, as amended September 20, 1996, effective September 20, 1996, 1101.D, as amended April 20, 1998, effective April 20, 1998, 1519.B.8.c, 1519.B.8.c.i, as amended September 20, 1998, effective September 20, 1998, 1519.B.8.c.ii, 1519.B.8.c.ii(a)-(b), 1529.B.12, 13, 14, 15, 16, 17 and 18, as amended September 20, 1996, effective September 20, 1996, 2201.G, as amended May 20, 1997, effective May 20, 1997, 2201.G.4, as amended April 20, 1998, effective April 20, 1998, 2201.G.5, as amended September 20, 1998, effective September 20, 1998, 2201.H, 2201.I. as amended May 20, 1997, effective May 20, 1997, 2201.I.1, as amended June 20, 1998, effective June 20, 1998, 2201.I.2, as amended May 20, 1997, effective May 20, 1997, 2203.A. Hallogenated Organic Compounds or HOCs, 2203.A. Land Disposal, 2203.A Polychlorinated Biphenyls or PCBs, 2205.A, 2205.D, 2205.E, 2205.F, as amended January 20, 1996, effective January 20, 1996, 2207.A, 2209.A, 2209.A.1, 2209.A.2, 2209.A.3, 2209.B, 2209.C, 2209.C.1, 2209.C.2, 2209.C.3, as amended September 20, 1998, effective September 20, 1998, 2211.A, 2211.B, 2211.B.1, 2211.B.2, 2211.B.3, 2211.C, as amended January 20, 1996, effective January 20, 1996, 2213.A, 2213.A.1, 2213.A.2, 2213.A.3, 2213.B, 2213.B.1, 2213.B.2, 2213.C, 2213.C.1, 2213.C.2, 2213.D, 2213.D.1, 2213.D.2, 2213.D.3, 2213.E, 2213.F, 2213.G, 2213.G.1, 2213.G.2, 2215.B, 2215.C, 2215.D, 2215.E, 2215.F, 2215.G, 2215.G.1, 2215.G.2, 2215.G.3, 2215.H, 2215.I, as amended September 20, 1998, effective September 20, 1998, 2223.A, as amended April 20, 1998, effective April 20, 1998, 2223.B, 2223.C, as amended September 20, 1998, effective September 20, 1998, 2227.A.1, 2227.A.2, 2227.B, 2230.I.2.c, 2231.G, 2231.H, 2231.I, 2231.J, 2231.K, 2237.A.2, 2237.A.2.a, 2237.A.2.b.i, 2237.A.2.b.i.(a)(d), 2237.A,2.b.ii-iii, 2237.2.c,2237.A.2.d, as amended September 20, 1998, effective September 20, 1998, 2237.B, 2239.A.2, 2239.I.1, 2239.I.2, 2239.I.2.f, 2241.D.4, 2241.D.5, 2241.F, 2241.F.1, 2241.F.1.a, 2241.F.1.b, 2241.F.1.c, 2241.F.1.d, 2241.F.1.e, 2241.F.1.f, 2241.F.1.g, 2241.F.1.h, 2241.F.1.i, 2241.F.2, 2241.F.3, 2241.F.4, 2241.F.5, 2241.F.5.a-c, 2241.G, 2241.H, 2241.H.1–2, 2241.I, 2241.J, as amended January 20, 1996, effective January 20, 1996, 2241.K, 2241.L-Q, 2245.A-B, 2245.B.2, 2245.C, 2245.C.1.b, 2245.C.2, 2245.D, 2245.D.1–4, 2245.D.7, 2245.E, 2245.E.1–3, 2245.F, 2245.H, 2247.A, 2247.A.1, 2247.A.2, 2247.A.3, 2247.B, 2247.B.1, 2247.B.2, 2247.B.3, 2247.B.4, 2247.C, 2247.C.1, 2247.C.2, 2247.D, as amended September 20, 1998, effective September 20, 1998, 2247.E, as amended May 20, 1997, effective May 20, 1997, 2247.F, as amended September 20, 1998, effective September 20, 1998, 2247.F.1, as amended May 20, 1997, effective May 20, 1997, 2247.F.2, as amended September 20, 1998, effective September 20, 1998, chapter 22.table 5, as amended September 20, 1998, effective September 20, 1998, Chapter 39, as amended May 20, 1997, effective May 20, 1997, 4139.A.2, as amended September 20, 1998, effective September 20, 1998, 4303.B, as amended March 20, 1995, effective March 20, 1995, 4313.E.7.c, 4313.E.7.c.i, 4313.E.c.ii, 4313.E.7.c.ii(a)-(b), as amended March 20, 1995, effective March 20, 1995, 4357.B.10, 4357.B.11, 4357.B.12–16, as amended September 20, 1998, effective September 20, 1998. LAC 33:V.2239.A.2 is more stringent than 40 CFR 268.5(a) Federal equivalent(s) because Louisiana specifically requires written evidence of a good faith effort to manage waste. LAC 33:V.2241.n is more stringent than 40 CFR 268.6(k) Federal equivalent because the State term of a petition granted is no longer that what is specified under the final operating permit or up to 5 years from the date of approval if the

Federal citation	State analog
3. Land Disposal Restrictions for First Third Scheduled Wastes, [53 FR 31138] August 17, 1988, Land Disposal Restrictions (Correction I) [54 FR 8264] February 27, 1989. (Checklist 50, 50.1).	LRS 30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§1519.B.8.c, 1519.B.8.c.1, as amended September 20, 1998, effective September 20, 1998, 1519.B.8.c.ii, 1519.B.8.c.ii.(a)-(b), 1529.B.12–18, as amended September 20, 1998, effective September 20, 1998, 2201.G, as amended May 20, 1997, effective May 20, 1997, 2201.G.4, as amended April 20, 1998, effective April 20, 1998, 2201.G.5, as amended September 20, 1998, effective September 20, 1998, 2201.H, 2201.I, as amended May 20, 1997, effective May 20, 1997, 2201.I.1, as amended June 20, 1998, effective June 20, 1998, 2201.I.2, as amended May 20, 1997, effective May 20, 1997, 2205.D, as amended January 20, 1996, effective January 20, 1996, 2209.A, 2209.A.1, 2209.A.2, 2209.B, as amended January 20, 1996, effective January 20, 1996, 2209.A, 2209.A.1, 2209.A.2, 2209.B, 2209.C, 2209.C.1, 2209.C.2, 2209.C.3, as amended September 20, 1998, effective September 20, 1998, 2211.A–B, 2211.B.1–3, 2211.C, as amended January 20, 1996, effective January 20, 1996, 2213B, 2213.B.1–2, 2213.C, 2213.C.2, 2213.D, 2213.E, 2215.B, 2215.C, 2215.D, 2215.E, 2215.F, 2215.G, 2215.G.1, 2215.G.2, 2215.G.3, 2215.H, 2215.I, 2223.A, 2223.C, as amended September 20, 1998, effective September 20, 1998, 2227.A.2, 2231.G, 2231.H, 2231.I, 2231.J, 2231.K, 2237.A.2, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.a, as amended September 20, 1998, effective September 20, 1998, 2237.A.2.b.i, as amended January 20, 1996, effective January 20, 1996, September 20, 1998, 2223.B, as amended September 20, 1998, effective September 1998, 2227.A.1–2, 2227.B, 2230.I.2.c, 2231.G, 2231.H, 2231.I, 2231.J, 2231.K, 2237.A.2, 2237.A.2.a, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.b.-i(a)-(d), 2237.A.2.b.ii–iii, 2237.A.2.c, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.d, as amended September 20, 1998, effective September 20, 1998, 2239.A.2, 2239.I.1, 2239.I.2.f, 2239.I.2, 2241.D.4–5, 2241.F, 2241.F.1, 2241.F.1.a-h, 2241.F.1.i, 2241.F.2–5, 2241.F.5.a-c, 2241.G, 2241.H, 2241.H.1–2, 2241.1, 2241.J, as amended January 20, 1996, effective January 20, 1996, 2241.K, 2241.L, 2241.M, 2241.N, 2241.O, 2241.P, 2241.Q, 2245.A, 2245.B, 2245.B.2, 2245.C, 2245.C, 2245.c.1.B, 2245.C.2, 2245.D, 2245.D.1–4, 2245.D.7, 2245.E, 2245.E.1, 2245.E.2–3, 2245.F, 2245.H, 2247.A, 2247.A.1–3, 2247.B, 2247.B.1–4, 2247.C, 2247.C.1–2, as amended September 20, 1998, effective September 20, 1998, 2247.D, as amended May 20, 1997, effective May 20, 1997, 2247.E, as amended September 20, 1998, effective September 20, 1998, 2247.F, as amended May 20, 1997, effective May 20, 1997, 2247.F.1–2, as amended September 20, 1998, effective September 20, 1998, Chapter 22. Table 5, Chapter 39, as amended May 20, 1997, effective May 20, 1997, 4139.A.2, as amended September 20, 1998, effective September 20, 1998, 4303.B, 4313.E.7.c, 4313.E.7.c.i-ii, 4313.E.7.ii(a)-(b), as amended March 20, 1995, effective March 20, 1995,

Federal citation	State analog
4. Land Disposal Restrictions Amendments to First Third Scheduled Waste (Technical Correction), [54 FR 18836] May 2, 1989. (Checklist 62).	LRS 30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§ 1519.B.8.c, 1519.B.8.c.i, as amended September 20, 1998, effective September 20, 1998, 1519.B.8.c.ii, as amended September 20, 1996, effective September 20, 1996, 1519.B.8.c.ii.(a)-(b), 1529.B.12–18, as amended September 20, 1998, effective September 20, 1998, 2201.G, as amended May 20, 1997, effective May 20, 1997, 2201.G.4, as amended April 20, 1998, effective April 20, 1998, 2201.G.5, as amended September 20, 1998, effective September 20, 1998, 2201.H, 2201.I, as amended May 20, 1997, effective May 20, 1997, 2201.I.1, as amended June 20, 1998, effective June 20, 1998, 2201.I.2, as amended May 20, 1997, effective May 20, 1997, 2205.D, as amended January 20, 1996, effective January 20, 1996, 2209.A, 2209.A.1, 2209.A.2, 2209.B, 2209.C, 2209.C.1, 2209.C.2, 2209.C.3, as amended September 20, 1998, effective September 20, 1998, 2211.A–B, 2211.B.1–3, 2211.C, as amended January 20, 1996, effective January 20, 1996, 2213B, 2213.B.1–2, 2213.C, 2213.C.2, 2213.D, 2213.E, 2215.B, 2215.C, 2215.D, 2215.E, 2215.F, 2215.G, 2215.G.1, 2215.G.2, 2215.G.3, 2215.H, 2215.I, 2223.A, 2223.C, as amended September 20, 1998, effective September 20, 1998, 2227.A.2, 2231.G, 2231.H, 2231.I, 2231.J, 2231.K, 2237.A.2, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.a, as amended September 20, 1998, effective September 20, 1998, 2237.A.2.b.i, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.b.b–i(a)-(d), 2237.A.2.b.ii-iii, 2237.A.2.c, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.d, as amended September 20, 1998, effective September 20, 1998, 2239.I.2, 2241.D.4–5, 2241.F, 2241.F.1, 2241.F.1.a-h, 2241.F.1.i, 2241.F.2–5, 2241.F.5.a-c, 2241.G, 2241.H, 2241.H.1–2, 2241.1, 2241.J, as amended January 20, 1996, effective January 20, 1996, 2241.K, 2241.L 2241.M, 2241.N, 2241.O, 2241.P, 2241.Q, 2245.A, 2245.B, 2245.C–D, 2245.D 2245.D.1–4, 2245.D.7, 2245.E, 2245.E.1, 2245.E.2–3, 2245.F, 2245.H, 2247.A, 2247.A.1–3, 2247.B, 2247.B.1–4, 2247.C, 2247.C.1–2, as amended September 20, 1998, effective September 20, 1998, 2247.D, as amended May 20, 1997, effective May 20, 1997, 2247.E, as amended September 20, 1998, effective September 20, 1998, 2247.F, as amended May 20, 1997, effective May 20, 1997, 2247.F.1–2, as amended September 20, 1998, effective September 20, 1998, Chapter 39, as amended May 20, 1997, effective May 20, 1997, 4139.A.2, as amended September 20, 1998, effective September 20, 1998, 4313.E.7.c, 4313.E.7.c.i-ii, 4313.E.7.ii(a)-(b), as amended March 20, 1995, effective March 20, 1995, 4357.B.10–16, as amended September 20, 1998, effective September 20, 1998.
5. Land Disposal Restrictions For Second Third Scheduled Wastes [54 FR 26594] June 23, 1989. (Checklist 63).	LRS 30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991; LHWR §§ 2217.B, 2217.C, 2217.D, 2217.E, 2217.E.1–2, 2217.F, 2217.G, 2217.H, as amended September 20, 1998, effective September 20, 1998, 2227.A.3, as amended January 20, 1996, effective January 20, 1996, 2217.B–E, as amended September 20, 1998, effective September 20, 1998, 2217.E.1–2, 2217.F–H, as amended September 20, 1998, effective September 20, 1998,

Federal citation	State analog
6. Land Disposal Restrictions; Correction to the First Third Scheduled Waste (Correction), [54 FR 36967] September 6, 1989, Land Disposal Restrictions; Correction to the First Third Scheduled Wastes, [55 FR 23935] June 13, 1990. (Checklists 66, 66.1).	LRS 30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§ 1519.B.8.c, 1519.B.8.c.1, as amended September 20, 1998, effective September 20, 1998, 1519.B.8.c.ii, 1519.B.8.c.ii.(a)–(b), 1529.B.12–18, as amended September 20, 1998, effective September 20, 1998, 2201.G, as amended May 20, 1997, effective May 20, 1997, 2201.G.4, as amended April 20, 1998, effective April 20, 1998, 2201.G.5, as amended September 20, 1998, effective September 20, 1998, 2201.H, 2201.I, as amended May 20, 1997, effective May 20, 1997, 2201.I.1, as amended June 20, 1998, effective June 20, 1998, 2201.I.2, as amended May 20, 1997, effective May 20, 1997, 2205.D, as amended January 20, 1996, effective January 20, 1996, 2209.A, 2209.A.1, 2209.A.2, 2209.B, 2209.C, 2209.C.1, 2209.C.2, 2209.C.3, as amended September 20, 1998, effective September 20, 1998, 2211.A–B, 2211.B.1–3, 2211.C, as amended January 20, 1996, effective January 20, 1996, 2213B, 2213.B.1–2, 2213.C, 2213.C.2, 2213.D, 2213.E, 2215.B, 2215.C, 2215.D, 2215.E, 2215.F, 2215.G, 2215.G.1, 2215.G.2, 2215.G.3, 2215.H, 2215.I, 2223.A, 2223.C, as amended September 20, 1998, effective September 20, 1998, 2227.A.2, 2231.G, 2231.H, 2231.I, 2231.J, 2231.K, 2237.A.2, as amended January 20, 1996, effective January 20, 1996, effective January 20, 1996, 2237.A.2.a, as amended September 20, 1998, effective September 20, 1998, 2237.A.2.b.i, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.b.b-i(a)–(d), 2237.A.2.b.ii–iii, 2237.A.2.c, as amended January 20, 1996, effective January 20, 1996, 2237.A.2.d, as amended September 20, 1998, effective September 20, 1998, 2239.I.2, 2241.D.4–5, 2241.F, 2241.F.1, 2241.F.1.a–h, 2241.F.1.i, 2241.F.2–5, 2241.f.5a–c, 2241.G, 2241.H, 2241.H.1–2, 2241.1, 2241.J, as amended January 20, 1996, effective January 20, 1996 as amended January 20, 1996, effective January 20, 1996, 2241.K, 2241.L, 2241.M, 2241.N, 2241.0, 2241.P, 2241.Q, 2245.A, 2245.B, 2245.C–D, 2245.D.1–4, 2245.D.7, 2245.E, 2245.E.1, 2245.E.2–3, 2245.F, 2245.H, 2247.A, 2247.A.1–3, 2247.B, 2247.B.1–4, 2247.C, 2247.C.1–2, as amended September 20, 1998, effective September 20, 1998, 2247.D, as amended May 20, 1997, effective May 20, 1997, 2247.E, as amended September 20, 1998, effective September 20, 1998, 2247.F, as amended May 20, 1997, effective May 20, 1997, 2247.F.1–2, as amended September 20, 1998, effective September 20, 1998, Chapter 39, as amended May 20, 1997, effective May 20, 1997, 4139.A.2, as amended September 20, 1998, effective September 20, 1998, 4313.E.7.c, 4313.E.7.c.i–ii, 4313.E.7.ii(a)–(b), as amended March 20, 1995, effective March 20, 1995, 4357.B.10–16, as amended September 20, 1998, effective September 20, 1998, as amended September 20, 1998, effective September 20, 1998, 2201.H, 2201.I, as amended May 20, 1997, effective May 20, 1997, 2201.I.1, as amended June 20, 1998, effective June 20, 1998, 2201.I.2, as amended May 20, 1997, 4379.C, 4381.D.4, 4397.B, 4397.B.1–3, 4401.A, 4462.H, as amended March 20, 1995, effective March 20, 1995, 4701.A.1, 4701.A.2–3, 4701.3.a–c, 4701.A.4–5, 4703.A, 4703.A.1–2, 4703.A.2.a–b, 4703.A.3–4, 4703.B, 4703.B.1–2, 4703.B.2.a–b, 4703.B.3, 4703.B.3.a, 4703.B.3.a.i–ii, 4703.B.3.b–c, 4703.B.4, 4703.B.4.a–c, 4703.C, 4703.C.1, 4703.C.1.a–d, 4703.C.2–3, 4703.C.3.a, 4703.C.3.a.i–iv, 4703.C.3.b–c, 4703.C.4, 47.D, 4703.D.1–2, 4703.D.3, 4703.E, 4705, 4705.B, as amended March 20, 1995, effective March 20, 1995.

Federal citation	State analog
7. Land Disposal Restrictions for Third Third Scheduled Waste (HSAA Provisions) [55 FR 22520] June 1, 1990, Land Disposal Restrictions for Third Third Scheduled Waste (Non-HSAA Provisions) [55 FR 22520] June 1, 1990. (Checklist 78H, 78N).	LRS:30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§109.Hazardous Waste.5.a, as amended May 20, 1997, effective May 20, 1997, 322.B.1.b, 1103.B, as amended September 20, 1996, effective September 20, 1996, 1109.E.1.e, 1109.E.7.c, as amended September 20, 1998, effective September 20, 1998, 1519.A.2, as amended September 20, 1996, effective September 20, 1996, 2201.G.4, 2201.G.4.a, 2201.G.4.b, as amended April 20, 1998, effective April 20, 1998, 2203.A, 2203.A.Dris, 2203.A.Hallogenated Organic Compounds or HOCs, 2203.A.Hazardous Constituent, 2203.A.Land Disposal, 2203.A.Nonwastewaters, 2203.A.Polychlorinated Bihenyls or PCBs, as amended September 20, 1996, effective September 20, 1996, 2203.A.Wastewaters, 2207.A, 2207.B., 2215.D, 2219.B, 2219.B, 2219.C.1–2, 2219.D, 2219.E.1, 2219.F, 2219.G, 2219.G.1–4, 2219.H, 2223.A, 2223.C, 2227.A, as amended September 20, 1998, effective September 20, 1998, 2227.A.2–3, 2227.B–C, 2227.C, 2227.C.1–4, 2227.D, as amended January 20, 1996, effective January 20, 1996, 2245.A, 2245.B.2, 2245.C.1.b, 2245.D.2, 2245.E, 2245.E.1–3, 2245.G, 2245.H, 2245.I, 2246.A–B, as amended September 20, 1998, effective September 20, 1998, 2246.C–D, 2246.D.1, 2245.D.1.a, as amended January 20, 1996, effective January 20, 1996, 2246.D.1.b, as amended September 20, 1998, effective September 20, 1998, 2246.D.1.c, 2246.D.2, as amended January 20, 1996, effective January 20, 1996, 2247.B.2, 2247.C, 2247.C.1, 2247.C.3, 2247.E, as amended September 20, 1998, 2247.F, as amended May 20, 1997, effective May 20, 1997, Chapter 22 Table 3, as amended September 20, 1990, effective September 20, 1990, Chapter 22 Table 6, as amended January 20, 1996, effective January 20, 1996, 2311.A, as amended December 20, 1990, effective December 20, 1990, 2511.A, as amended September 20, 1998, effective September 20, 1998, 2511.B.B.1–3, as amended September 20, 1994, effective September 20, 1994, 2519.F, as amended January 20, 1996, effective January 20, 1996, 2715, as amended September 20, 1994, effective September 20, 1994, 2913, as amended September 20, 1994, effective September 20, 1994, effective 20, September 20, 1994, Chapter 39, as amended May 20, 1997, effective May 20, 1997, 4301.E, as amended September 20, 1998, effective September 20, 1998, 4312.B, as amended March 20, 1995, effective March 20, 1995, 4459, 4471, as amended December 20, 1990, effective December 20, 1990, 4491, as amended March 20, 1994, effective March 20, 1994, 4503.A, 4503.B, as amended September 20, 1994, effective September 1994, 4511.F, as amended September 20, 1998, effective September 20, 1998, 4901.B.Table 1, as amended November 20, 1997, effective November 20, 1997, 4901.D.3, as amended September 20, 1998, effective September 20, 1998, 4901.G.Table 6, as amended April 20, 1998, effective April 20, 1998, 4903.B, 4903.C, 4903.D, as amended September 20, 1996, effective September 20, 1996, 4903.F, as amended September 20, 1996, effective September 20, 1996, Chapter 49 Appendix B, as amended January 20, 1996, effective January 20, 1996.

Federal citation	State analog
8. Land Disposal Restriction for Third Scheduled Wastes; Technical Amendment (HSAA), [56 FR 3864] January 31, 1991. (Checklist 83).	LRS:30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§109.Hazardous Waste.5.a, as amended May 20, 1997, effective May 20, 1997, 322.B.1.b, 1103.B, as amended September 20, 1996, effective September 20, 1996, 1109.E.1.e, 1109.E.7.c, as amended September 20, 1998, effective September 20, 1998, 1519.A.2, as amended September 20, 1996, effective September 20, 1996, 2201.G.4, 2201.G.4.a, 2201.G.4.b, as amended April 20, 1998, effective April 20, 1998, 2203.A, 2203.A. Debris, 2203.A.Hallogenated Organic Compounds or HOCs, 2203.A.Hazardous Constituent, 2203.A.Land Disposal, 2303.A.Nonwaster-waters, 2203.A.Polychlorinated Bihenyls or PCBs, as amended September 20, 1996, effective September 20, 1996, 2203.A.Wastewaters, 2207.A, 2207.B., 2215.D, 2219.B, 2219.C.1–2, 2219.D, 2219.E.1, 2219.F, 2219.G, 2219.G.1–4, 2219.H, 2223.A, 2223.C, 2227.A, as amended September 20, 1998, effective September 20, 1996, 2227.A.2–3, 2227.B-C, 2227.C, 2227.C.1–4, 2227.D, as amended January 20, 1996, effective January 20, 1996, 2245.A, 2245.B.2, 2245.C.1.b, 2245.D.2, 2245.E, 2245.E.1–3, 2246.D.1, 2245.D.1.a, as amended January 20, 1996, 2246.d.1.b, as amended September 20, 1998, effective September 20, 1998, 2246.D.1.c, 2246.D.2, as amended January 20, 1996, effective January 20, 1996. 2247.B.2, 2247.C, 2247.C.1, 2247.C.3, 2247.E, as amended September 20, 1998, 2247.F, as amended May 20, 1997, effective May 20, 1997, Chapter 22 Table 9, as amended September 20, 1990, effective September 20, 1990, Chapter 22 Table 6, as amended January 20, 1996, effective January 20, 1996, 2311.A, as amended December 20, 1990, effective December 20, 1990, 2511.A, as amended September 20, 1998, effective September 20, 1998, 2511.B.B.1-3, as amended September 20, 1994, effective September 20, 1994, 2519.F, as amended January 20, 1996, effective January 20, 1996, 2715, as amended September 20, 1994, effective September 20, 1994, 2913, as amended September 20, 1994, effective September 20, 1994, Chapter 39, as amended May 20, 1997, effective May 20, 1997, 4301.E, as amended September 20, 1998, effective September 20, 1998, 4312.B, as amended March 20, 1995, effective March 20, 1995, 4459, 4471, as amended December 20, 1990, effective December 20, 1990, 4491, as amended March 20, 1994, effective March 20, 1994, 4503.A, 4503.B, as amended September 20, 1994, effective September 1994, 4511.F, as amended September 20, 1996, effective September 20, 1996, 4901.B.Table 1, as amended November 20, 1997, effective November 20, 1997, 4901.D.3, as amended September 20, 1998, effective September 20, 1998, 4901.G.Table 6, as amended April 20, 1998, effective April 20, 1998, 4903.B, 4903.C, 4903.D, as amended September 20, 1996, effective September 20, 1996, 4901.D.3, as amended September 20, 1998, effective September 20, 1998, 4901.G.Table 6, as amended April 20, 1998, effective April 20, 1998, 4903.B, 4903.C, 4903.D, as amended September 20, 1996, effective September 20, 1996, 4903.E.2, 4903.F, Chapter 49 Appendix C, as amended September 20, 1996, effective September 20, 1996.
9. Land Disposal Restrictions for Electric Arc Furnace Dust (K061), [56 FR 41164] August 19, 1991. (Checklist 95).	LRS:30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§105.D.1.k, as amended June 20, 1998, effective June 20, 1998, 109.Hazardous Waste.4.b.ii.(c).(i) &ii, as amended May 20, 1997, effective May 20, 1997.

Federal citation	State analog
10. Second Correction to the Third Land Disposal Restrictions, [57 FR 8086], March 6, 1992]. (Checklist 102).	LRS:30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§109.Hazardous Waste.5.a, as amended May 20, 1997, effective May 20, 1997, 322.B.1.b, 322.B.1.c, 1103.B, as amended September 20, 1996, effective September 20, 1996, 1109.E.1.e, 1109.E.7.c, as amended September 20, 1998, effective September 20, 1998, 1519.A.2, as amended September 20, 1996, effective September 20, 1996, 2201.G.4, 2201.G.4.a, 2201.G.4.b, as amended April 20, 1998, effective April 20, 1998, 2203.A, 2203.A.Dris, 2203.A.Hallogenated Organic Compounds or HOCs, 2203.A.Hazardous Constituent, 2203.A.Land Disposal 2203.A.Nonwastewaters, 2203.A.Polychlorinated Bihenyls or PCBs, as amended September 20, 1996, effective September 20, 1996, 2203.A.Wastewaters, 2207.A, 2207.B., 2215.D, 2219.B, 2219.C.1–2, 2219.D, 2219.E.1, 2219.F, 2219.G, 2219.G.1–4, 2219.H, 2223.A, 2223.C, 2227.A, as amended September 20, 1998, effective September 20, 1996, 2227.A.2–3, 2227.B-C, 2227.C, 2227.C.1–4, 2227.D, as amended January 20, 1996, effective January 20, 1996, 2245.A, 2245.B.2, 2245.C.1.b, 2245.D.2, 2245.E, 2245.E.1–3, 2245.G, 2245.H, 2245.I, 2246.A-B, as amended September 20, 1998, effective September 20, 1998, 2246.C-D, 2246.D.1, 2245.D.1.a, as amended January 20, 1996, 2246.d.1.b, as amended September 20, 1998, effective September 20, 1998, 2246.D.1.c, 2246.D.2, as amended January 20, 1996, effective January 20, 1996, 4903.E.2, 4903.F, Chapter 48 Appendix C, as amended September 20, 1996, effective September 20, 1996. LRS:30:2180 *et seq.*, 4903.E.2, 4903.F, Chapter 48 Appendix C, as amended September 20, 1996, effective September 20, 1996.
10. Land Disposal Restrictions, hazardous Waste Debris Case-by-Case Capacity Variance, [57FR 20766], May 15, 1992. (Checklist 103).	LRS 30:2180 *et seq.*, 2219.C.1–2, 2219.D, 2219.E, 2219.E.1–5, 2219.4.E.a-b, 2219.E.b.i-viii, as amended September 20, 1998, effective September 20, 1998.
11. Land Disposal Restrictions, Lead-Bearing hazardous Materials Case-by-Case Variance, [57 Fr 28628], June 26, 1992. (Checklist 106).	LRS 30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§2219.C.1–2, and 2219.I, as amended September 20, 1998, effective September 20, 1998.

Federal citation	State analog
12. Land Disposal Restrictions for Newly Listed Waste and Hazardous Debris, [57 FR 37194], August 18, 1992. (Checklist 109).	LRS 30:2180 *et seq.*, 109.Containment Building, 109.Hazardous Waste.2.c, 109.Hazardous Waste.4.b.ii(c).(i)-(ii), 109.Hazardous Waste.6, 109.Hazardous Waste.6.a-b, 109.Miscellaneous Unit, 109.Pile, as amended May 20, 1997, effective May 20, 1997, 321.C.5.d.ii(b), as amended September 20, 1995, effective September 20, 1995, effective September 20, 1996, 515.A.25, as amended March 20, 1995, effective March 20, 1995, 517.D, 1109.E.1.c, 1109.E.c.ii, 1109.E.1.d, 1109.E.1.d.i, 1109.E.1.e, 1109.E.d.ii, 1705.A, as amended September 20, 1998, effective September 20, 1998, 1801, 1801.A. 1801.A.2, 1801.A.3.a-c, 1801.A.4-5, as amended September 20, 1995, effective September 20, 1995, 1802.A, 1802.A.1–2, 1802.A.2.a-b, 1802.A.3–4, 1802.B, 1802.B.1–2, 1802.B.2.a, 1802.B.2.b, 1802.B.3, 1802.B.3.a, 1802.B.3.a.i-ii, 1802.B.3.b-c, 1802.B.4, 1802.B.4.a-c, 1802.C, 1802.C.1, 1802.C.1.a, 1802.C.1.b, 1802.C.1.c-d, 1802.C.2–3, 1802.C.3.a, 1802.C.a.ii-iv, 1802.C.3.b-c, 1802.C.4, 1802.C.a.i, 1802.D, 1802.D.1, 1802.D.2–3, 1802.E, 1803.A, 1803.A.3, 1803.B, 2203.A.Debris, as amended March 20, 1995, effective March 20, 1995, 2203.A.Hazardous Waste Debris, as amended January 20, 1996, effective January 20, 1996. 2205.A.1, as amended September 20, 1998, effective September 20, 1998, 2205.A.2, as amended January 20, 1996, effective January 20, 1996, 2221.C.1, as amended January 20, 1996, effective January 20, 1996, 2221.C.2, as amended September 20, 1998, effective September 20, 1998, 2221.C.3, as amended September 20, 1998, September 20, 1998, 2221.C.3, as amended January 20, 1996, effective January 20, 1996, 2221.C.4, as amended September 20, 1998, effective September 20, 1998, 2221.C.5, 2221.C.5.a-d, 2221.C.6, 2223.B, as amended January 20, 1996, effective January 20, 1996, 2223.D, as amended September 20, 1996, effective September 20, 1996, 2227.B, as amended January 20, 1996, effective January 20, 1996, 2230.A, 2230.A.1–5, 2230.B, 2230.B.1–3, 2230.C2230.C.1.b, 2230.C.2–5, 2230.D.1, 2230.D.1.a, as amended May 20, 1997, effective May 20, 1997, 2237.C.1, 2237.C.2–3, 2239.I.2.b, 2239.I.2.d, 2239.I.e, as amended January 20, 1996, effective January 20, 1996, 2239.I.2.f, as amended January 20, 1996, effective January 20, 1996, 2245.B.3, 2245.B.4, 2245.B.5, 2245.C, 2245.D.4, 2245.D.6, 2245.D.7, 2245.E, as amended September 20, 1998, effective September 20, 1998, 2246.D, 2246.D.1.a, January 20, 1996, effective January 20, 1996, 2246.D.1.b, as amended September 20, 1998, effective September 20, 1998, 2246.D.1.c, as amended January 20, 1996, effective January 20, 1998, 2246.D.2, 2246.E, 2246.E.1, 2246.E.1.a-c, 2246.E.2, 2246.E.3, 2246.E.3.a-c, as amended January 20, 1996, effective January 20, 1996, 2247.B, 2247.C.1, Chapter 22 Table 2, as amended September 20, 1998, effective September 20, 1998, Chapter 22 Table 8, as amended May 20, 1997, effective May 20, 1997, 3501.C.1, as amended March 20, 1995, effective March 20, 1995, 3501.C.2, as amended September 20, 1998, effective September 20, 1998, 3501.C.3, 3501.C.4, 3507.C, 3511.A.2, 3701.B.1, 3701.B.2, 3701.B.2–4, 3705.A, 4303.B.6, 4377.B.1–4, as amended March 20, 1995, effective March 20, 1995, 4379.C, as amended September 20, 1998, effective September 20, 1998, 4381.D.4, 4397.B, 4397.B.1–3, 4401.A, 4462.H, 4701.A.1, as amended March 20, 1995, effective March 20, 1995, 4701.A.2, 4701.A.3, 4701.A.3.a-c, 4701.A.4–5, as amended September 20, 1995, effective September 20, 1995, 4703.A, 4703.A.1–2, 4703.A.2.a-b, 4703.A.3–4, 4703.B, 4703.B.1–2, 4703.B.2.a-b, 4703.B.3, 4703.B.3.a, 4703.B.3.a.i-ii, 4703.B.3.b-c, 4703.B.4, 4703.B.4.a-c, 4703.C, 4703.C.1, 4703.C.1.a-d, 4703.C.2–3, 4703.c.3.a, 4703.C.3.a.i-iv, 4703.C.3.b-c, 4703.C.4, 4703.D, 4703.D.1–3, 4703.E, 4705.B, as amended March 20, 1995, effective March 20, 1995.
13. Land Disposal Restrictions, Hazardous Soil Case-by-Case Capacity Variance, [57 FR 47772], October 20, 1992. (Checklist 116)..	LRS 30:2180 *et seq.*, 2219.C.1–2, 2219.D, 2219.E, 2219.E.1–5, 2219.4.E.a-b, 2219.E.b.i-viii, as amended September 20, 1998, effective September 20, 1998.
14. Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance, [58 FR 28506] May 14, 1993. Checklist 123)..	LRS 30:2180 *et seq.* as amended June 14, 1991, effective June 14, 1991; 2219.C.1–2, 2219.D, 2219.E, 2219.E.1-5,2219.4.E.a-b, 2219.E.b.i-viii, as amended September 20, 1998, effective September 20, 1998.

Federal citation	State analog
15. Land Disposal Restrictions for Ignitable and Corrosive Characteristic Waste Whose Treatment Standards Were Vacated, [58 FR 29860] May 24, 1993. (Checklist 124)..	LRS 30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§ 322.B.1.b-d, as amended September 20, 1996, effective September 20, 1996, 1501.C.6, as amended May 20, 1997, effective May 20, 1997, 2201.I.3–4, 2203.A. Underlying Hazardous Constituent, as amended September 20, 1998, effective September 20, 1998, 2221,D.1–2, 2223.B, as amended January 20, 1996, effective January 20, 1996, 2245.A, 2245.B.2, 2246.A, 2247.B.2, as amended September 20, 1998, effective September 20, 1998, 4307, as amended June 20, 1998, effective June 20, 1998.
16. Land Disposal Restrictions Phase III-Decharterized Wastewaters, Carbamate Waste, and Spent Postliners, [61 FR 15566] April 4, 1996. (Checklist 151)..	LRS:30:2180 *et seq.*, as amended June 14, 1991, effective June 14, 1991, LHWR §§ 2201.G.4, 2201.G.4.a-b, 2201.G.5, 2201.G.5.a-d, as amended April 20, 1998, 2201I.2, as amended May 20, 1997, effective May 20, 1997, 2201.I.3–4, as amended September 20, 1998, effective September 20, 1998, 2203.A.Inorganic Metal Bearing Waste, 2203.A. Underlying Hazardous Constituents, 2203.A.Waste Water, 2207.A-C, 2207.C.1, 2207.C.2–6, as amended April 20, 1998, effective April 20, 1998, 2221.F.1, as amended September 20, 1998, effective September 20, 1998, 221.F.2–3, as amended April 20, 1998, effective April 20, 1998, 2221.F.4, as amended September 20, 1998, effective September 20, 1998, 2221.F.5–6, 2221.F.6.a-d, 2221.F.7, 2223.A, 2223.C, as amended April 20, 1998, effective April 20, 1998, 2223.E, as amended September 20, 1998, effective September 20, 1998, 2231.A, as amended January 20, 1996, effective January 20, 1996, 2235, as amended April 20, 1998, effective April 20, 1998, 2245.A, 2245.B.2, 2245.B.4–5, 2245.C.1.b, 2245.D.2, 2246.A, 2246.D, as amended September 20, 1998, effective September 20, 1998, 2246.D.1.a-b, 2247.B.2, 2247.C.4–5, Chapter 22 Table, 2, 3, and 5, as amended September 20, 1998, effective September 20, 1998, Chapter 22 Table 7, as amended April 20, 1998, effective April 20, 1998. LAC 33:V.2201.G.4 is more stringent than 40 CFR 268.1(c)(3)(ii) Federal equivalent because it clarifies the point of injection by specifically stating ''at the well head.'' LAC 33.V.2231.A is more stringent than 40 CFR 268.44(a) because the State requires the petitioner to bear the burden of proving that the properties of the waste differ significantly from waste analyzed in the treatment standards.

F. What Decisions Has the EPA Made?

We conclude that Louisiana's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, we grant Louisiana final authorization to operate its hazardous waste program as revised, assuming we receive no adverse comments as discussed above. Upon effective final approval Louisiana will be responsible for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Louisiana also will have primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

G. How Do the Revised State Rules Differ From the Federal Rules?

The EPA considers the following State requirements to be more stringent than the Federal: LAC 33:V.319, which refers to LAC 33:I Chapter 5 is more stringent than 40 CFR 260.1(b)(1) and 40 CFR 260.2(b) Federal equivalent (because the regulations in LAC 33:I chapter 5 require more specific information than that of the Federal regulations. LAC 33:V.3901, 3903, 3911, 3913 and 3915 are more stringent than 40 CFR 261.5(b)(c), (e), (f)(2) and (g)(2) Federal equivalents because the small quantity generators are regulated more stringent in Louisiana than in the above mentioned Federal citations. LAC 33:V.2239.A.1–4 are more stringent than the 40 CFR 268.5(a)(1–4) Federal equivalent because Louisiana additionally requires one compacted clay or other LDEQ approved liner in addition to the Federal requirements. LAC 33:V.2239.C is more stringent than the 40 CFR 268.5(c) Federal equivalent because the State citation additionally specifies that failure to segregate waste streams shall not constitute justification for a case-by-case extension for those wastes which are separable and treatable.

The LAC 33:V.2239.H is more stringent than the 40 CFR 268.5(g) Federal equivalent because the State citation has a specific time interval whereas the Federal citation has a discretionary period. LAC 33:V.2241.A is more stringent than Federal equivalent 40 CFR 268.6(a) because there is no exemption granted to the generator for land disposal of waste streams. Pertaining to only the notification section of this citation, LAC 3:V.2241.I is more stringent than the 40 CFR 268.6(f)(2)–(3) Federal equivalent because it requires a 24 hour notice to the administrative authority once it is determined that the hazardous constituents have migrated from the unit. LAC 33:V.2241.N is more stringent than the 40 CFR 268.6(k) Federal equivalent because the State term of a petition granted is no longer than what is specified under the final operating permit or up to 5 years from the date of approval if the unit is operating under interim status. The EPA allows up to a maximum 10 years from the date of approval. The State requires exemption to be reviewed at least once every 3 years.

LAC 33:V.2241.Q is more stringent than the 40 CFR 268.6(n) Federal equivalent because Louisiana sets limits at 50ppm, while EPA's limit is 500ppm.

Federal citation 40 CFR 268.1(e)(1) was referenced to LAC 33V. Chapter 39 because small quantity generators are not exempt from land disposal regulations and thus the State is more stringent. LAC 33:V.2201.G.4 is more stringent than the 40 CFR 268.1(c)(3)(ii) Federal equivalent because Louisiana regulations clarify the point of injection by adding ''at the Well head.'' These requirements are part of Louisiana's authorized program and are federally enforceable. In this authorization of the State of Louisiana's program revisions for LDR, there are no provisions that are broader in scope. Broader in scope requirements are not part of the authorized program and EPA cannot enforce them.

H. Who Handles Permits After This Authorization Takes Effect?

Louisiana will issue permits for all the provisions for which it has authority and will administer the permits it issues.

EPA will continue to administer any RCRA hazardous waste permits or portions of permits which it issued before the effective date of this authorization until they expire or terminate. The EPA will not issue any more permits or portions of permits for the provisions listed in the chart above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which the State is not yet authorized.

I. Why Wasn't There a Proposed Rule Before Today's Notice?

EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial and we expect no comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State changes. If EPA receives comments which oppose this authorization, that document will serve as a proposal to authorize the changes.

J. Where Do I Send My Comments and When Are They Due?

You should send written comments to Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533. Please refer to Docket Number LA–99–1. We must receive your comments by September 24, 1999. You may not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

K. What Happens if EPA Receives Comments Opposing This Action?

If EPA receives comments opposing this authorization, a second **Federal Register** document will be published before the time the immediate final rule takes effect. The second notice may withdraw the immediate final rule or identify the issues raised, respond to the comments, and affirm that the immediate final rule will take effect as scheduled.

L. When Will This Approval Take Effect?

Unless EPA receives comments opposing this action, this final authorization approval will become effective without further notice on October 25, 1999.

M. Where Can I Review the State's Application?

You can view and copy the State of Louisiana's application from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810, (504) 765–0617 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444. For further information contact Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

N. Now Does Today's Action Affect Indian Country in Louisiana?

Louisiana is not authorized to carry out its hazardous waste program in Indian country within the State. This authority remains with EPA. Therefore, this action has no effect on Indian country.

O. What Is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, subpart T for this authorization of Louisiana's program changes until a later date.

Regulatory Requirements

Compliance With Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of E.O. 12866.

Compliance With Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) The OMB determines is ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that the 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 rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

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 the 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 the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involved technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

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 and 205 of the

UMRA, the EPA must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, 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. The EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the State of Louisiana's program, and today's action does not impose any additional obligations on regulated entities. In fact, the EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary Federal program.

The requirements of section 203 of UMRA also do not apply to today's action. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires the EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate hazardous waste treatments, storage or disposal facilities (TSDFs), they are already subject to the regulatory requirements under the existing State laws that are being authorized by the EPA, and thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the 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 of 1966), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e. small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if any agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA submitted 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 today's **Federal Register**. This rule is not a ''major rule'' defined by 5 U.S.C. 804(2).

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Executive Order 12875 Enhancing Intergovernmental Partnerships

Under E.O. 12875, the EPA may not issue 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, the EPA must provide to the 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, E.O. 12875 requires the 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.

This rule does not create a 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 E.O. 12875 do not apply to this rule.

Executive Order 13084 Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, the EPA may not issue a regulation that is not require 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 cost incurred by the tribal governments. If the mandate is unfunded, the EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the 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, E.O. 13084 requires the EPA to develop an effective process permitting elected 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.

This rule is not subject to E.O. 13084 because it does not significantly or

uniquely affect the communities of Indian governments. The State of Louisiana is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that the EPA implements in the Indian country within the State.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, and Water supply.

Authority

This document is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 15, 1999.

Jerry Clifford,

Deputy Regional Administrator, Region 6.

[FR Doc. 99–22041 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1574; MM Docket No. 98–64; RM–9272, RM–9358]

Radio Broadcasting Services; St. Anne and Beaverville, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of STARadio Corporation, allots Channel 293A at St. Anne, Illinois, as the community's first local aural transmission service (RM–9272). *See* 63 FR 27902, May 21, 1998. At the request of Milner Broadcasting Company, we also dismiss its petition for rule making requesting the allotment of Channel 293A at Beaverville, Illinois (RM–9358). Channel 293A can be allotted to St. Anne in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.6 kilometers (6.6 miles) southeast to avoid short-spacings to the licensed sites of Station WYBA(FM), Channel 292A, Lansing, Illinois, and Station WGCY(FM), Channel 292A, Gibson City, Illinois. The coordinates for Channel 293A at St. Anne are 40–56–20 North Latitude and 87–39–10 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 27, 1999. The window period for filing applications for Channel 293A at St. Anne, Illinois, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–64, adopted August 4, 1999, and released August 13, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73 [AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding St. Anne, Channel 293A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–22002 Filed 8–24–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1603; MM Docket No. 99–72; RM–9323]

Radio Broadcasting Services; Cedar Key, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 261A to Cedar Key, Florida, in response to a petition filed by Jeffrey Mark Tillery *See* 64 FR 12922, March 16, 1999. The coordinates for Channel 261A at Cedar Key are 29–08–12 NL and 83–02–06 WL. With this action, this proceeding is terminated. A filing window for Channel 261A at Cedar Key will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective September 27, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99–72, adopted August 11, 1999, and released August 13, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel 261A at Cedar Key.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–22003 Filed 8–24–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 081799E]

Fisheries of the Economic Exclusive Zone Off Alaska; Groundfish Fisheries by Vessels Using Hook-and-Line Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA), except for sablefish or demersal shelf rockfish. This action is necessary because the 1999 Pacific halibut bycatch mortality allowance apportioned to hook-and-line gear targeting groundfish other than sablefish or demersal shelf rockfish in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 1, 1999, until 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–481–1780 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch mortality allowance for groundfish included in the other hook-and-line fishery, which is defined at § 679.21(d)(4)(iii)(C), for 1999 as 290 metric tons. The other hook-and-line fishery includes all groundfish, except sablefish and demersal shelf rockfish.

In accordance with § 679.21(d)(7)(ii), the Administrator, Alaska Region, NMFS, has determined that the 1999 Pacific halibut bycatch mortality allowance specified for the hook-and-line groundfish fisheries other than sablefish or demersal shelf rockfish in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for groundfish other than sablefish or demersal shelf rockfish by vessels using hook-and-line gear in the GOA.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the 1999 Pacific halibut bycatch mortality allowance specified for the groundfish fisheries other than sablefish or demersal shelf rockfish by vessels using hook-and-line gear in the GOA. A delay in the effective date is impracticable and contrary to the public interest. The 1999 bycatch mortality allowance of Pacific halibut apportioned to hook-and-line gear targeting groundfish other than sablefish or demersal shelf rockfish in the GOA has been caught. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: August 19, 1999.

Gary C. Matlock,

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

[FR Doc. 99–22079 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 081799D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area in the Gulf of Alaska

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully utilize the 1999 total allowable catch (TAC) of Pacific cod allocated to vessels catching Pacific cod for processing by the inshore component in that area.

DATES: Effective 1200 hrs, Alaska local time, September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–481–1780 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels is in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(a)(6)(iii) the 1999 TAC of Pacific cod allocated to vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA was established as 38,642 metric tons (mt) by the Final 1998 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) and subsequent reserve release (64 FR 16362, April 5, 1999).

NMFS closed the inshore component fishery for Pacific cod in the Central Regulatory Area to directed fishing under § 679.20(d)(1)(iii) on March 14, 1999 (64 FR 13122, March 17, 1999).

NMFS has determined that as of August 24, 1999, approximately 4,000 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA.

Classification

All other closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific cod TAC. Providing prior notice and opportunity for public comment for this action is impracticable and contrary to the public interest. Further delay would only disrupt the FMP objective of providing a portion of the Pacific cod TAC for vessels catching Pacific cod for processing by the inshore component. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: August 19, 1999.

Gary C. Matlock,

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

[FR Doc. 99–22080 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 164
Wednesday, August 25, 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

Food and Nutrition Service

7 CFR Parts 210, 220, 225, and 226

RIN 0584–AC82

Modification of the ''Vegetable Protein Products'' Requirements for the National School Lunch Program, School Breakfast Program, Summer Food Service Program and Child and Adult Care Food Program—Extention of Public Comment Period

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The proposed rule entitled Modification of the ''Vegetable Protein Products'' Requirements for the National School Lunch Program, the School Breakfast Program, the Summer Food Service Program and the Child and Adult Care Food Program was published in the **Federal Register** (64 FR 38839–38844) on July 20, 1999. Public comments were requested to be postmarked on or before September 20, 1999. This action extends the public comment period to November 19, 1999. This extension gives the public additional time to analyze the provisions of the proposed rulemaking and to develop substantive comments which will assist the Department in modifying the requirements regarding ''Vegetable Protein Requirements''.

DATES: To be assured of consideration, comments must be submitted or postmarked on or before November 19, 1999.

COMMENTS: Comments may be mailed to: Mr. Robert M. Eadie, 3101 Park Center Drive, Alexandria, Virginia 22302. All written submissions will be available for public inspection in Room 1007, 3101 Park Center Drive, Alexandria, Virginia during regular business hours (8:30 a.m. to 5:30 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Contact Ms. Marion Hinners of Ms. Janice Fabina, at the above address or by telephone at (703) 305–2621. Copies of the proposed rule are available at the Food and Nutrition Service Web site, located at www.fns.usda.gov/cnd.

SUPPLEMENTARY INFORMATION:

Background

The Department published the proposed Modification of the ''Vegetable Protein Products'' Requirements for the National School Lunch Program, the School Breakfast Program, the Summer Food Service Program and the Child and Adult Care Food Program in the **Federal Register** (64 FR 38839–38844) on July 30, 1999. The Department provided a 60-day comment period. Commenters have indicated that the 60-day comment period is not enough to provide a thorough analysis and to develop detailed comments. Furthermore, since the rule was published in July, during summer break for many schools, the comment period would end at the beginning of the new school year, which would not provide school food service personnel adequate opportunity to review the rule and provide their comments.

The Department is eager to ensure that commentors have sufficient time to evaluate the proposal and to develop substantive comments. To achieve this end, the Department will continue to receive comments submitted or postmarked on or before November 19, 1999.

Dated: August 19, 1999.

George A. Braley,

Acting Administrator.

[FR Doc. 99–22088 Filed 8–24–99; 8:45 am]

BILLING CODE 3410–30–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

Public Meeting on 10 CFR Part 70 Rulemaking Activities

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: NRC will host a public meeting in Rockville, Maryland. This meeting will be held in two parts. During the first part of the meeting, an overview of the proposed revisions to 10 CFR Part 70 and the associated draft Standard Review Plan will be presented. Comments received to date on the proposed rule and the draft Standard Review Plan will be discussed during the second part of the meeting.

This meeting will facilitate public comments by presenting an overview of the proposed rule and Standard Review Plan and discussing areas where the Commission is specifically seeking public comments. It will also provide an opportunity to discuss public comments received to date on the proposed rule and Standard Review Plan.

DATES: This meeting is scheduled for Tuesday and Wednesday, September 14–15, 1999 from 9:00 am to 4:00 pm. This meeting is open to the public.

ADDRESSES: NRC's Licensing Board Hearing Room at Two White Flint North, Room 3B45, 11545 Rockville Pike, Rockville, Maryland. Visitor parking around the NRC building is limited; however, the meeting site is located adjacent to the White Flint Station on the Metro Red Line.

FOR FURTHER INFORMATION CONTACT: Theodore S. Sherr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7218, e-mail: *tss@nrc.gov.*

Dated at Rockville, Maryland this 20th Day of August, 1999.

For the Nuclear Regulatory Commission.

Theodore S. Sherr,

Chief, Licensing and International Safeguards Branch, Division of Fuel Cycle Safety and Safeguards, NMSS.

[FR Doc. 99–22031 Filed 8–24–99; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 114

[Notice 1999–14]

Rulemaking Petition: Voting Records and Voter Guides Notice of availability

AGENCY: Federal Election Commission.

ACTION: Rulemaking petition: Notice of availability.

SUMMARY: On July 20, 1999, the Commission received a Petition for Rulemaking from James Bopp, Jr., of the James Madison Center for Free Speech, on behalf of the Iowa Right to Life Committee, Inc. The Petition urges the Commission to repeal its rules

addressing voting records and voter guides that are publicly distributed by corporations and labor organizations, an action it calls necessary to conform these rules with a recent court decision. The Petition is available for inspection in the Commission's Public Records Office and through its FAXLINE service.

DATES: Statements in support of or in opposition to the Petition must be filed on or before September 24, 1999.

ADDRESSES: All comments should be addressed to Rosemary C. Smith, Acting Assistant General Counsel, and must be submitted in either written or electronic form. Written comments should be sent to the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up. Electronic mail comments should be sent to voterguides@fec.gov. Commenters sending comments by electronic mail should include their full name and postal service address within the text of their comments. Comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered.

FOR FURTHER INFORMATION CONTACT: Rosemary C. Smith, Acting Assistant General Counsel, or Rita A. Reimer, Attorney, 999 E Street, N.W., Washington, D.C. 20463, (202) 694–1650 or (800) 424–9530 (toll free).

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act at 2 U.S.C. 441b prohibits corporations and labor organizations from using general treasury monies to make contributions or expenditures in connection with Federal elections. Such entities may engage in certain nonpartisan activities, however, including, inter alia, the preparation and distribution to the general public of voting records of Members of Congress and voter guides consisting of two or more candidates' positions on campaign issues, as long as certain conditions are met. *See* 11 CFR 114.4(c)(4) (voting records), 114.4(c)(5) (voter guides).

The Petitioner is asking the Commission to repeal its rules at 11 CFR 114.4(c)(4) and 114.4(c)(5), an action it argues is necessary to conform the Commission's regulations to the decision of the United States Court of Appeals for the First Circuit in *Clifton* v. *Federal Election Commission*, 927 F.Supp. 493 (D.Me. 1996), *modified in part and remanded in part*, 114 F.3d 1309 (1st Cir. 1997), *cert. denied*, 118 S.Ct. 1036 (1998). That decision invalidated certain portions of these rules, including the ''electioneering message'' standard contained in 11 CFR 114.4(c)(5)(ii) (D) and (E).

Copies of the Petition for Rulemaking are available for public inspection at the Commission's Public Records Office, 999 E Street, N.W., Washington, DC 20463, Monday through Friday between the hours of 9:00 a.m. and 5:00 p.m. Interested persons may also obtain a copy of the Petition by dialing the Commission's FAXLINE service at (202) 501–3413 and following its instructions, at any time of the day and week. Request document #241.

Consideration of the merits of the Petition will be deferred until the close of the comment period. If the Commission decides that the Petition has merit, it may begin a rulemaking proceeding. Any subsequent action taken by the Commission will be announced in the **Federal Register**.

Dated: August 20, 1999.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 99–21994 Filed 8–24–99; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–113526–98]

RIN 1545–AW44

Arbitrage and Related Restrictions Applicable to Tax-Exempt Bonds Issued by State and Local Governments; Investment-Type Property

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations on the arbitrage and related restrictions applicable to tax-exempt bonds issued by State and local governments. The proposed amendments affect issuers of tax-exempt bonds and provide guidance on the definition of investment-type property to help issuers comply with the arbitrage and related restrictions.

DATES: Written comments must be received by December 23, 1999. Outlines of topics to be discussed at the public hearing scheduled for January 12, 2000, at 10 a.m. must be received by December 15, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–113526–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (REG–113526–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC.

Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS site at http://www.irs.ustreas.gov/tax__regs/regslist.html. The public hearing is in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Barbara Jane League, (202) 622–3980; concerning submissions of comments, the hearing, and/or requests to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 148 of the Internal Revenue Code provides rules addressing the use of proceeds of tax-exempt State and local bonds to acquire higher-yielding investments. On June 18, 1993, final regulations (TD 8476) relating to the arbitrage restrictions and related rules under sections 103, 148, 149, and 150 were published in the **Federal Register** (58 FR 33510). Corrections to these regulations were published in the **Federal Register** on August 23, 1993 (58 FR 44451), May 11, 1994 (59 FR 24350), and July 9, 1999 (64 FR 37037). On May 9, 1997, additional final regulations (TD 8718) relating to the arbitrage restrictions and related rules under sections 103, 148, 149, and 150 were published in the **Federal Register** (62 FR 25502). This document proposes to modify § 1.148–1(e) to clarify which prepayments are investment-type property under section 148(b)(2)(D).

Explanation of Provisions

The current regulations, at § 1.148–1(e)(2), provide that prepayments for property or services give rise to investment-type property if a principal purpose for prepaying is to obtain an investment return from the time that the payment is made until the time that payment otherwise would be made. A prepayment does not give rise to investment-type property if (1) the prepayment is made for a substantial business purpose other than investment return and the issuer has no commercially reasonable alternative to the prepayment, or (2) prepayments on

substantially the same terms are made by a substantial percentage of persons who are similarly situated to the issuer but who are not beneficiaries of tax-exempt financing.

Recently, an issue arose about whether investment-type property includes the prepayment of a contract for property or services after the date that the contract is entered into. In *City of Columbus* v. *Commissioner,* 112 F.3d 1201 (D.C. Cir. 1997), the court held that a prepayment for property cannot occur after the property is acquired. The court's holding suggests that an issuer could avoid investment-type property by entering into a contract for property or services and, at a later date, prepaying that contract. This result is inconsistent with the intent of section 148. The legislative history indicates that Congress intended that the arbitrage rules apply broadly. For example, the Conference Report to the Tax Reform Act of 1986 provides that investment property includes the acquisition of any property held for investment (other than another tax-exempt bond). H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II–747, 1986–3 C.B. (Vol. 4) 747.

This document proposes modifications to the regulations to establish that prepayments that give rise to investment-type property can occur after the contract for property or services is entered into and to make other non-substantive, clarifying changes. It is intended that these regulations address only the potential issue created by the *City of Columbus* opinion as noted above. Comments are requested on whether the affect of the changes proposed in this document is broader than intended.

In addition to comments on the proposed regulations, comments are requested on whether additional guidance is needed to clarify other aspects of the investment-type property definition. For example, comments are requested on whether clarification is needed on which prepayments of an obligation will be treated as a prepayment for property or services that gives rise to investment-type property, and whether a contract under which property or services are to be provided over time and the payments for those property or services are to be made over time gives rise to investment-type property when the payment schedule does not match the schedule for the provision of the property or services.

Finally, Treasury and the IRS have become aware of certain transactions involving prepayments for the purchase of a commodity. In these transactions, an issuer generally enters into a long-term contract with a supplier (for example, a natural gas supply company) to supply over a number of years a fixed amount of the commodity to the issuer at a fixed price (the ''supply contract''). In return, the issuer makes a single lump-sum prepayment for the commodity to the supplier. The prepayment is financed through the issuance of bonds. The amount of the prepayment is determined in a manner that permits the issuer to obtain an investment return from the prepayment. The issuer also enters into other agreements, including one or more swap agreements, that result in the issuer converting substantially all of the issuer's cost for the commodity under the supply contract into a variable cost that approximates the then current price of the commodity when the issuer takes delivery.

Based on the information received, and viewing the transaction as a whole, it appears that a principal purpose of the prepayment for the supply contract was to earn an investment return. If so, the supply contract is investment-type property unless the requirement of § 1.148–1(e)(2)(i) or (ii) are met. Treasury and the IRS are concerned that the supply contract may be investment-type property and request comments on these transactions.

The regulations, when finalized, will apply to bonds issued after a date of applicability that will be set forth in the final regulations. Treasury and the IRS have not yet determined such date of applicability other than to have made the determination that the date of applicability will not be before this document is August 25, 1999. Treasury and the IRS request comments as to the date of applicability of the final regulations. No inference is intended as to the treatment of bonds issued prior to the date of applicability of the final regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies, if written) that are submitted timely to the IRS. In particular, the IRS and Department of Treasury specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for Wednesday, January 12, 2000, beginning at 10 a.m. in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by December 23, 1999, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by December 15, 1999. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these proposed regulations are Rebecca L. Harrigal and Barbara Jane League, Office of Assistant Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

Par. 2. Section 1.148–1(e) is amended as follows:

1. Paragraph (e)(1) is revised.
2. Paragraphs (e)(2) introductory text, (e)(2)(i) and (e)(2)(ii) are redesignated as paragraphs (e)(2)(i) introductory text, (e)(2)(i)(A), and (e)(2)(i)(B), respectively.
3. Paragraph (e)(2) heading is revised.
4. Newly designated paragraph (e)(2)(i) introductory text is revised.
5. New paragraph (e)(2)(ii) is added.

The revisions and addition read as follows:

§ 1.148–1 Definitions and elections.

* * * * *

(e) *Investment-type property*—(1) *In general.* Investment-type property includes any property, other than property described in section 148(b)(2)(A), (B), (C) or (E), that is held principally as a passive vehicle for the production of income. For this purpose, production of income includes any benefit based on the time value of money.

(2) *Prepayments.* (i) Except as otherwise provided in this paragraph (e), a prepayment for property or services, including a prepayment of a contract for property or services that is made after the date that the contract is entered into, also gives rise to investment-type property if a principal purpose for prepaying is to receive an investment return from the time the prepayment is made until the time payment otherwise would be made. A prepayment does not give rise to investment type property if—

* * * * *

(ii) *Example.* The following example illustrates an application of paragraph (e)(2)(i) of this section:

Example. In 1996, City A entered into a ten-year contract with Company Y. Under the contract, Company Y is to provide services to City A and in return City A will make fixed annual payments to Company Y. In 1998, Company Y and City A agree that City A will prepay its obligation under the contract. To finance the prepayment, City A will issue bonds. The amount of the prepayment is determined in a manner that permits City A to obtain an investment return from the prepayment. A principal purpose for City A agreeing to make the prepayment is to obtain an investment return from the time of the prepayment until the time payment otherwise would be made. The prepayment is not made for a substantial business purpose other than to obtain the investment return and City A had a commercially reasonably alternative to the prepayment. In addition, prepayments on substantially the same terms are not made by a substantial percentage of persons who are similarly situated to City A but who are not beneficiaries of tax-exempt financing. When the prepayment is made, City A will have acquired investment-type property. It does not matter that the prepayment occurred after the date that the contract was entered into.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–21878 Filed 8–24–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–99–024]

RIN 2115–AE47

Drawbridge Operation Regulations: Kennebunk River, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating rules governing the Dock Square Drawbridge mile 1.0, across the Kennebunk River between Kennebunk and Kennebunkport, Maine. The bridge owner has asked the Coast Guard to change the regulations to allow the draw to remain closed to vessel traffic because the bridge has not had a request to open since 1985. This proposal is expected to relieve the bridge owner of the requirement to open the bridge and still meet the needs of navigation.

DATES: Comments must reach the Coast Guard on or before October 25, 1999.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, 408 Atlantic Avenue, Boston, Ma. 02110–3350, or deliver them to the same address between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The District Commander maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at 408 Atlantic Avenue, Boston, Massachusetts room 630, between 7 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–99–024) and the specific section of this document to which each comment applies, and give reasons for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address under **ADDRESSES**. The request should include the reasons why a public hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background

The Dock Square Drawbridge has a vertical clearance at mean high water of 5 feet and 14 feet at mean low water. The existing regulations listed at 33 CFR 117.527, require the bridge to open on signal from April 15 through October 15; except that, from 5 p.m. to 7 a.m., the draw shall open if notice is given to the drawtender during his shift, from 7 a.m. to 5 p.m. At all other times the draw shall open after 24 hours advance notice is given.

The bridge owner, Maine Department of Transportation, asked the Coast Guard to change the regulations governing the Dock Square Drawbridge to allow the drawbridge to remain closed to vessel traffic because the bridge has not opened since 1985.

Discussion of Proposal

The Coast Guard is proposing to revise the regulations listed at 33 CFR 117.527, governing the Dock Square Drawbridge at mile 1.0, across the Kennebunk River between Kennebunk and Kennebunkport, Maine. The drawbridge has not opened since 1985. The Coast Guard believes as a result of

the lack of requests to open the bridge that it is reasonable to allow the Dock Square Drawbridge to remain closed to vessel traffic.

Regulatory Evaluation

This proposed 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 not been reviewed 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 proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the bridge has not had a request to open since 1985.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposal will have a significant economic impact on 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 less than 50,000. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b), for the reasons discussed in the Regulatory Evaluation section above, that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Section 2.B.2., Figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.527 is revised to read as follows:

§ 117.527 Kennebunk River.

The Dock Square drawbridge at mile 1.0, across the Kennebunk River, between Kennebunk and Kennebunkport, Maine, need not open for vessel traffic. The owners of the bridge shall provide and keep in good legible condition, two board gages in accordance with 33 CFR 118.160, of this chapter.

Dated: August 11, 1999.

R.M. Larabee,

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

[FR Doc. 99–22052 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–98–174]

RIN 2115–AE47

Drawbridge Operation Regulations: Kennebec River, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the operating rules governing the Route-197 Bridge, mile 27.1, across the Kennebec River between Richmond and Dresden, Maine. The bridge owner asked the Coast Guard to change the regulations to restore the operating regulations that were inadvertently deleted in 1989, from the Code of Federal Regulations. This proposal is expected to relieve the bridge owner of the requirement to crew the bridge at all times and still meet the needs of navigation.

DATES: Comments must reach the Coast Guard on or before October 25, 1999.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, 408 Atlantic Avenue, Boston, Ma. 02110–3350, or deliver them to the same address between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The District Commander maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at 408 Atlantic Avenue, Boston, Massachusetts room 630, between 7 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John W. McDonald, Project Officer, First Coast Guard District, (617) 223–8364.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD01–98–174) and the specific section of this document to which each comment applies, and give reasons for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address under **ADDRESSES.** The request should include the reasons why a public hearing would be beneficial. If it determines that the opportunity for

oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background

The Route-197 Bridge has a vertical clearance at mean high water of 15 feet and at mean low water of 20 feet. The existing regulations require the bridge to open on signal at all times.

The bridge owner, Maine Department of Transportation (MDOT), asked the Coast Guard to change the operating regulations for the Route-197 Bridge to correct an inadvertent removal of the operating regulations in 1989, as docket number (CGD01–89–077). The bridge owner was not aware of the removal and continued to operate the bridge in accordance with the old regulations. The Coast Guard was also unaware of the inadvertent removal until notified by the bridge owner.

This proposal, if adopted, will require the bridge open on signal from June 1 through September 30, 9 a.m. to 5 p.m. From 5 p.m. to 9 a.m., the draw shall open on signal after notice is given to the drawtender at the bridge during the drawtender's duty shift from 9 a.m. to 5 p.m. From October 1 to May 31, the draw shall open on signal after at least a 24 hour advance notice is given to the Maine Department of Transportation Division Office in Rockland, Maine.

Discussion of Proposal

The Coast Guard is proposing to change the operating regulations for the Route-197 Bridge, to require the draw to open on signal, from June 1 through September 30, from 9 a.m. to 5 p.m., and from 5 p.m. to 9 a.m., the draw shall open on signal after notice is given to the drawtender at the bridge during the time the drawtender is on duty, 9 a.m. to 5 p.m. From October 1 through May 31, the draw shall open on signal if at least a 24 hour advance notice is given to the Maine Department of Transportation Division Office in Rockland, Maine.

The bridge opening logs submitted to the Coast Guard by the bridge owner for the Route-197 Bridge from 1996 to 1998 show the number of opening requests as follows: January 0, 0, 0; February 0, 0, 0; March 0, 0, 0; April 0, 0, 0; May 12, 9, 12; June 14, 20, 14; July 18, 20, 20; August 18, 31, 16; September 20, 11, 10; October 0, 13, 9; November 0, 0, 2; December 0, 0, 0, openings respectively. The bridge logs show relatively few requests to open the bridge from June 1 to September 30.

The Coast Guard believes the proposed changes to the regulations are reasonable because the bridge has been operating in accordance with the proposed hours since 1989, and the Coast Guard has determined, based upon the bridge opening data, the fact that the waterway is normally frozen during the winter months, and the lack of complaints, that these operating hours still meet the needs of navigation.

The existing paragraph (b) will be re-designated as (a)(8), and a new paragraph (b) will be added to the existing regulations indicating the operating regulations for the Route-197 Bridge.

Regulatory Evaluation

This proposed 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 not been reviewed 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 proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the bridge has continued to operate under the old regulations that were inadvertently removed, and the mariners will not be required to change their current operations as a result.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposal will have a significant economic impact on 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 less than 50,000. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b), for the reasons discussed in the Regulatory Evaluation section above, that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this rule will economically affect it.

Collection of Information

This proposed rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Section 2.B.2., Figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulation

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.525 is amended by re-designating paragraph (b) as paragraph (a)(8) and by adding a new paragraph (b) to read as follows:

§ 117.525 Kennebec River.

* * * * *

(b) The draw of the Route-197 bridge, mile 27.1, between Richmond and Dresden shall open on signal from June 1 through September 30, from 9 a.m. to 5 p.m. From 5 p.m. to 9 a.m., the draw shall open on signal after notice is given to the drawtender while the drawtender is on duty between 9 a.m. and 5 p.m. From October 1 through May 31, the draw shall open on signal after at least a twenty-four hour advance notice is given to the Maine Department of Transportation Division Office in Rockland, Maine.

Dated: August 11, 1999.

R.M. Larrabee,

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

[FR Doc. 99–22053 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA100–4093; FRL–6428–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Post-96 Rate of Progress Plan for the Philadelphia Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing limited approval of a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision consists of the three percent per year emission reduction rate-of-progress (ROP) plan for the period 1996–1999 in the Pennsylvania portion of the Philadelphia-Wilmington-Trenton severe ozone nonattainment area (the Philadelphia area). This requirement is commonly known as the Post-96 ROP plan. The intended effect of this action is to propose limited approval of this ROP plan required by the Clean Air Act to ensure progress on reducing emissions of ozone precursors.

DATES: Written comments must be received on or before September 24, 1999.

ADDRESSES: Written comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178. Or by e-mail at fernandez.cristina@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has prepared a technical support document (TSD) for this action. The TSD contains details of Pennsylvania's July 31, 1998 submittal and EPA's evaluation of that submittal. Copies of the TSD are available from the EPA Regional office listed in the **ADDRESSES** section of this document.

I. Background

Section 182(b)(1) of the Clean Air Act (the Act) requires all moderate, serious, severe, and extreme ozone nonattainment areas to reduce volatile organic compound (VOC) emission 15% from 1990 levels by 1996. That requirement is known as the 15% plan. Section 182(c)(2)(B) of the Act requires serious, severe, and extreme ozone nonattainment areas to reduce emissions of VOC by 3% per year every year from 1996 until their attainment dates. This requirement, known as the Post-96 rate-of-progress (ROP) plan, was originally due by November 15, 1994. However, in a March 2, 1995 memorandum, EPA Assistant Administrator Mary Nichols outlined an alternative attainment demonstration policy that combines the Post-96 ROP plan with the attainment demonstration requirements found in section 182(c)(2)(A) of the Act. This approach consists of two ''phases.'' Phase I requires the states to submit a plan to meet ROP from 1996 to 1999 (the Post-96 ROP plan), and a set of three enforceable commitments. For Phase II, states are required to submit a ROP plan from 1999 to the area's attainment year (commonly referred to as the Post 99 ROP plan), and a modeled attainment demonstration.

The Philadelphia area is classified as a severe ozone nonattainment area. This is a four-state ozone nonattainment area consisting of portions of Delaware, Maryland, New Jersey, and Pennsylvania. For purposes of the Post 96 ROP plan, the four states have maintained the same agreement they reached regarding the 15% ROP plan for the Philadelphia area, namely that each state would secure a 15% reduction, and now a 9% (3% per year for 1997, 1998 and 1999) reduction from its portion of the area's base year inventory. The Pennsylvania portion of the Philadelphia area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties. In a May 31, 1995 letter from James Seif, Secretary of Pennsylvania's Department of Environmental Protection to EPA Region III, Pennsylvania committed to participating in the alternative attainment demonstration approach outlined in the March 2, 1995 memorandum.

On July 31, 1998, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to the Pennsylvania State Implementation Plan (SIP) consisting of the Post-96 plan for the Pennsylvania portion of the Philadelphia severe ozone nonattainment area. EPA received this revision on August 4, 1998. PADEP's July 31, 1998 submittal contains both the 1996 to 1999 ROP reduction, and the additional requirements described in the March 2, 1995 Mary Nichols memorandum. This submittal also includes the 1990 oxides of nitrogen (NO_X) base year inventory for the Philadelphia nonattainment area. In an October 2, 1998 letter, EPA determined that PADEP's submittal is administratively and technically complete. That completeness determination stopped the 18-month sanctions clock that EPA started on May 7, 1997. The sanctions clock had been started for Pennsylvania's failure to submit the enforceable commitments to adopt (1) additional measures needed for attainment and (2) the remainder of the rules to meet ROP requirements pending modeling results from the Ozone Transport Assessment Group (OTAG), as required by the March 2, 1995 Mary Nichols memorandum. PADEP's complete July 31, 1998 SIP submittal remedied that failure. Therefore, the sanctions clock was halted.

This rulemaking only addresses the portion of PADEP's July 31, 1998 submittal related to the 1996 to 1999 ROP plan, i.e. the Post-96 ROP plan. On June 17, 1999 EPA approved the 1990 NO_X base year inventory SIP submittal in a separate rulemaking action (64 FR 32424).

Section 182(c)(2)(C) of the Act allows states to substitute emission reductions of NO_X occurring after 1990 for VOC reductions in the Post-1996 rate of progress plans. VOC and NO_X reduction measures, whether mandatory under the Act or adopted at the state's discretion, must ensure ''real, permanent, and enforceable'' emissions reductions. Pennsylvania uses both VOC and NO_X emission control measures to meet the 9% reduction required for the Post 96 ROP plan.

II. Base Year Inventory

EPA approved the 1990 base year VOC emissions inventory for Pennsylvania's portion of the Philadelphia area on June 9, 1997 (62 FR 31343). As stated above, EPA approved the 1990 base year NO_X emissions inventory for Pennsylvania's portion of the Philadelphia area on June 17, 1999 (64 FR 32424).

III. Post-1996 ROP Plans

A. Calculation of Needed Reductions

The process for the calculation of the required reductions is set forth in EPA's guidance document entitled ''Guidance on the Post-96 Rate of Progress Plans and the Attainment Demonstration,'' January 1994. The ''target level'' of emissions represents the maximum amount of emissions that a nonattainment area can have in the given target year, which in this case is 1999. Section 182(c)(2)(C) of the Act allows states to substitute NO_X emission reductions that occur after 1990 for VOC emissions in the Post-1996 Plan. EPA issued guidance on the criteria states can use to substitute NO_X for VOC reductions on December 15, 1993, ''NO_X Substitution Guidance'' and follow-up guidance on August 5, 1994, ''Clarification of Policy for Nitrogen Oxides (NO_X) Substitution.'' The condition for meeting the ROP requirement is that the sum of all creditable VOC and NO_X emission reductions must equal 3 percent per year averaged over the three year period 1996 to 1999, for a total of 9 percent. If a state wishes to substitute NO_X for VOC emission reductions, then a target level of emissions demonstrating a representative combined 9 percent emission reduction in VOC and NO_X emissions must be developed for the year 1999. Furthermore, growth in both VOC and NO_X emissions must be offset by emission reductions. Therefore, separate emission target levels for 1999 must be calculated for both VOC and NO_X emissions.

To calculate the target level of emissions, the required emission reduction is subtracted from the previous milestone's target level. In this case, the 1999 ROP VOC target level is based on the 1996 VOC target level calculated for the 15% plan. EPA granted approval of Pennsylvania's 15% ROP plan for the Philadelphia area on June 9, 1997 (62 FR 31343). A technical correction to that document was published on January 6, 1998 (63 FR 415). In that plan, the PADEP calculated the 15% ROP target level to be 494.31 tons per day (TPD).

1999 Rate of Progress (ROP) VOC and NO_X Target Level Calculation

Pennsylvania has elected to substitute NO_X for VOC emission reductions in its Post-96 ROP plan for the Philadelphia area. In Pennsylvania's plan, growth in VOC emissions from 1996 to 1999 was offset by VOC emission reductions achieved by 1999. Similarly, growth in NO_X emissions from 1990 to 1999 was offset by NO_X emission reductions achieved in that same time period. Pennsylvania did not calculate separate VOC and NO_X target levels. However, EPA was able to calculate VOC and NO_X target levels using data in Pennsylvania's Post-96 ROP plan. These calculations are shown below.

VOC:	
1. 1990 ROP base year inventory = 1990 base year inventory minus biogenic emissions	732 − 116 = 616 TPD.
2. 1990 adjusted base year inventory = 1990 ROP base year inventory minus 1990 to 1999 Federal Motor Vehicle Control Program (FMVCP) and Reid Vapor Pressure (RVP) reductions.	616 − 39 = 576 TPD.
3. Required reductions = 0.5% × 1990 adjusted base year inventory	0% × 576 = 0 TPD.
4. 1999 ROP target level = 1996 target minus required reduction minus fleet turnover correction	494 − 0 − 6 = 488 TPD.
5. Reductions needed for ROP and to offset growth (rounded to nearest ton) = 1999 uncontrolled emissions minus 1999 target.	625 − 488 = 137 TPD.
NO_X:	
1. 1990 ROP base year inventory (sum of all point, area, and mobile source emissions)	440 TPD.
2. 1990 adjusted base year inventory = 1990 ROP base year inventory minus 1990 to 1999 FMVCP/RVP reductions.	440 − 20 = 420 TPD.
3. Required reduction = 9% × 1990 adjusted base year inventory	9% × 420 = 38 TPD.
4. 1999 ROP target level = 1990 ROP base year inventory minus required reduction minus 1990 to 1999 FMVCP/RVP reductions.	440 − 38 − 20 = 382 TPD.
5. Reductions needed for ROP and to offset growth (rounded to nearest ton) = 1999 uncontrolled emissions minus 1999 target.	455 − 382 = 73 TPD.

B. Growth Projections (1990–1999)

States must include control measures in their Post-1996 ROP plans to offset the emissions growth projected to occur after 1996. Therefore, states must project their emission inventories to estimate emissions growth between 1996 and 1999. EPA's document entitled ''Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration'' provides guidance to states on how to calculate growth. The projected inventories must reflect expected growth in activity, as well as regulatory actions which will affect emission levels. EPA guidance provides that emission projections for point sources can be based on information obtained directly from facilities and/or permit applications. Area and mobile source emission projections may be developed from information from local planning agencies. In the absence of source-specific data, credible growth factors must be developed from accurate forecasts of economic variables and the activities associated with the variables. Economic variables that may be used as indicators of activity growth are: product output, value added, earnings, and employment. Population can also serve as a surrogate indicator. Economic data and models which provide acceptable growth factors for emission projections include the U.S. Department of Commerce Bureau of Economic Analysis (BEA) forecasts for states and metropolitan statistical areas; the Economic Growth Analysis System (E-GAS), which models economic growth and estimates corresponding increases in emissions-producing activity; and the Emissions Preprocessor System for urban airshed modeling, which produces spatially and temporally-resolved emission inventories for input into urban airshed models.

Growth Factor Methodology

PADEP's Post-96 ROP plan uses growth factors from the BEA projection factor software (BEAFAC) for point sources, most area sources, and non-road mobile emissions sources. PADEP's Post-96 ROP plan assumes linearity of the BEA data, and uses linear interpolation of BEA factors from the years 1988, 1995, and 2000 to generate estimates for 1990 and 1999. BEA data from 1973 and 1979 was excluded, since the economic changes in Pennsylvania in those years creates a nonlinearity in the interpolation. BEA data from 2010 and 2040 was excluded because of PADEP's lack of confidence in its accuracy.

Point Source Emissions Growth Calculation

PADEP summed the emissions for each 2-digit Standard Industrial Classification (SIC), which is industrial source category based, and applied the growth factor to the entire emissions attributable to that 2-digit SIC grouping. For its point source inventory, Pennsylvania matched BEA growth projections for 57 industrial categories to similar two-digit SIC codes used in the inventory. All of the BEA growth projections were increases except for small decreases in nine categories. These are: metal mining, coal mining, oil and gas extraction, tobacco products, apparel, leather and leather products, primary metal industries, electronic and other electrical equipment, and water transportation.

Area Source Growth Emissions Growth Calculation

With the exception of gasoline marketing, growth factors from the BEA's projection factor software, BEAFAC, were used for area sources. For the most part, employment and population factors were utilized. Gasoline marketing growth is determined by growth in vehicle miles traveled (VMT), and is calculated using MOBILE5.

Nonroad Engine Emissions Growth Calculation

Growth factors from the BEA were used for non-road mobile sources.

Section 6.5, Highway Vehicle Emissions Growth Calculation

Vehicle miles traveled (VMT) growth was projected by a travel-demand computer model for the Philadelphia area. The MOBILE5 model was run, and then meshed with the VMT data using Pennsylvania's Post Processor for Air Quality (PPAQ) to determine 1999 projected highway emissions. VMT data for 1990 and 1999 is summarized in the following table.

APPENDIX V.—VMT GROWTH, 1990–1999

County	1990 VMT (miles)	1999 VMT (miles)	Growth as % of 1990 VMT (percent)
Bucks	12,850,048	14,829,484	1.15
Chester	10,147,864	12,712,974	1.25
Delaware	8,279,044	10,201,547	1.23
Montgomery	16,839,969	19,653,334	1.17
Philadelphia	16,485,464	17,352,364	1.05
Total	64,602,389	74,749,703	1.16

Summary of Projected Emissions Growth, 1990–1999 in PADEP's Post-96 ROP Plan

The following tables summarize VOC and NO_X emissions growth, by source sector, from the PADEP's Post-96 ROP plan:

VOC EMISSIONS GROWTH FOR THE PHILADELPHIA AREA, 1990–1999

[1990 base year and 1999 projected uncontrolled emission inventories (tpd)]

	Point	Area	Highway	Nonroad	Total
1990 Emissions	152.75	194.35	187.89	80.56	615.55
Growth	9.75	8.51	−11.03	2.07	9.30
Growth as % of 1990 Emissions	6.4%	4.4%	−5.9%	2.6%	1.5%
1999 Emissions	162.50	202.86	176.86	82.63	624.85

NO_X Emissions Growth for the Philadelphia Area, 1990–1999

[1990 base year and 1999 projected uncontrolled emission inventories (tpd)]

	Point	Area	Highway	Nonroad	Total
1990 Emissions	161.90	47.12	158.32	72.20	439.54
Growth	15.59	−0.11	−1.94	2.17	15.71
Growth as % of 1990 Emissions	9.6%	−0.2%	−1.2%	3.0%	3.6%
1999 Emissions	177.49	47.01	156.38	74.37	455.25

EPA evaluation: The Commonwealth's growth projection methodologies are acceptable, as listed in EPA's inventory preparation guidance and guidance for growth factor estimation.

C. EPA's Evaluation of Control Measures

The purpose of the Post-1996 ROP plan is to demonstrate how the State has reduced emissions 3% per year between the years 1996 and 1999, for a total 9% reduction. In general, reductions toward ROP requirements are creditable provided the control measures occurred after 1990 and are real, permanent, quantifiable and federally enforceable. A short description of each of the control measures selected by Pennsylvania follows.

Reformulated Gasoline (RFG)

This is a federally implemented control measure. Section 211(k) of the CAA requires that, beginning January 1, 1995, only reformulated gasoline be sold or dispensed in ozone nonattainment areas classified as severe or worse. As a severe area, Philadelphia benefits from the emission reductions from this program. PADEP claims a VOC emission

reduction of 22.41 TPD and a NO_X reduction of 0.43 TPD from this measure.

Fully creditable reductions: 22.41 TPD VOC and 0.43 TPD NO_X.

Enhanced I/M

On 1/28/98, EPA granted conditional interim approval of Pennsylvania's enhanced I/M program. PADEP made submittals to satisfy all conditions of this rulemaking. On June 8, 1999, EPA lifted the interim nature of its conditional interim approval (64 FR 30399). On June 17, 1999 (64 FR 32411), EPA converted its conditional approval of Pennsylvania's enhanced I/M program to full approval. The emission reductions from the fully approved enhanced I/M are fully creditable.

Fully creditable reductions: 59.28 TPD VOC, and 32.29 TPD NO_X.

Federal Motor Vehicle Control Program (FMVCP) and Tier I Vehicle Emission Standard (Tier I)

This is a federally implemented control measure. The MOBILE5 model automatically applies FMVCP controls (unless that feature is disabled). PADEP claims a VOC emission reduction of 6.92 TPD and a NO_X reduction of 14.84 TPD from this measure.

Fully creditable reductions: 6.92 TPD VOC, and 14.84 TPD NO_X.

Stage II Vapor Recovery

EPA approved Pennsylvania's Stage II vapor recovery regulation on December 13, 1995 (60 FR 63938). The federally approved Stage II regulation requires the use of vapor recovery nozzles at gas stations through a phased compliance schedule but the last group of stations (pumping less than 100,000 gallons of gasoline per month) were required to comply with this requirement by no later than February 8, 1994 in all moderate and above ozone nonattainment areas. PADEP claimed a 17.71 TPD VOC emission reduction from the implementation of this regulation.

Fully creditable reductions: 17.71 TPD VOC.

OTC NO_X MOU (Phase II)

The 1990 Clean Air Act amendments created the northeast Ozone Transport Region (OTR) in recognition that ozone is a regional problem that requires a regional planning approach. The OTR includes the States of Maine, New Hampshire, Massachusetts, Vermont, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Maryland, Delaware, Washington DC, and portions of northern Virginia. The Ozone Transport Commission (OTC) is a planning body composed of representatives of each of the OTR states. On September 27 1994, the OTC initiated a major agreement to cut emissions of NO_X from power plants and other large stationary NO_X sources. The agreement put forth was a Memorandum of Understanding (MOU) that committed states in the OTR to reduce NO_X emissions in three phases. The first phase of NO_X reductions outlined in the MOU was NO_X RACT level of control. The second and third phases are more stringent than RACT. Pennsylvania was a signatory to the OTC NO_X MOU, and has adopted and implemented Phase II controls.

Pennsylvania adopted its OTC NO_X MOU rules, Title 25 Pennsylvania Code Chapters 121 and Chapter 123—Nitrogen Oxides Allowance Requirements, on September 16, 1997. The requirements became effective on November 1, 1997. PADEP submitted the rules to EPA as a SIP revision on December 29, 1997. On January 26, 1999, EPA proposed approval of PADEP's NO_X MOU rule (64 FR 3906). The emission reductions claimed by Pennsylvania for this control measure are not fully approvable as creditable toward ROP requirements until EPA takes final action to fully approve Pennsylvania's NO_X MOU regulation into the SIP. PADEP's claims a 27.37 TPD emission reduction from this measure.

Reductions: 27.37 TPD NO_X.

(not fully approvable as creditable until EPA fully approves PADEP's NO_X MOU rule)

RACT

PADEP claims a 10 TPD VOC emission reduction and a 6 TPD NO_X emission reduction from RACT controls. In severe ozone nonattainment areas, the Act requires RACT controls on all VOC sources for which EPA has issued a control techniques guideline (CTG). RACT controls are also required on all non-CTG sources of VOC and on NO_X sources with the potential to emit (PTE) 25 tons per year (TPY) or greater. In the Philadelphia area, by definition, VOC and NO_X sources with PTE 25 PTE or more are defined as ''major sources.'' Compliance was required by May 31, 1995.

On February 4, 1994, PADEP submitted a revision to its SIP for the control of VOC and NO_X emissions from major sources (Pennsylvania Chapters 129.91 through 129.95). This submittal was amended with a revision on May 3, 1994 correcting and clarifying the presumptive NO_X RACT requirements under Chapter 129.93. The SIP revision consists of new regulations which require sources that have the PTE 25TPY or more of VOC (not already subject to RACT under a category specific SIP regulation developed pursuant to a CTG) or NO_X in the Philadelphia area to comply with RACT by May 31, 1995. While the new regulations contain specific provisions requiring major non-CTG VOC and major NO_X sources to implement RACT, the regulations do not contain specific emission limitations in the form of a specified overall percentage emission reduction requirement or other numerical emission standards. Instead, the regulations contain technology-based or operational ''presumptive RACT emission limitations'' for certain major NO_X sources. For other major NO_X sources, and all subject major non-CTG VOC sources, the submittal contains a ''generic'' RACT provision. A generic RACT regulation is one that does not impose specific up-front emission limitations but instead allows for future case-by-case determinations. This regulation allows PADEP to make case-by-case RACT determinations that are then submitted to EPA as revisions to the Pennsylvania SIP. PADEP takes credit for emission reductions from source-specific controls on a number of VOC and NO_X sources in the Philadelphia area.

The following table lists the specifc sources that PADEP takes credit for in the Post-96 ROP plan, and the emission reductions claimed for each source. Note that the NO_X sources listed are not covered by the OTC NO_X MOU.

EMISSION REDUCTIONS CLAIMED FOR VOC AND NO_X

Source	VOC Reductions Claimed (TPD)
Fasson—Division of Avery	6.54
PECO Energy—Cromby	0.03
ICI/NP	0.27
Norwood Industries	2.12

EMISSION REDUCTIONS CLAIMED FOR VOC AND NO_X—Continued

Source	VOC Reductions Claimed (TPD)
Philadelphia Baking	0.12
Nabisco	0.33
Continental Baking	0.41
Total VOC Reduction Claimed	9.82
Source	**NO_X Reductions Claimed (TPD)**
PECO Energy—Cromby	3.62
Transcontinental Gas Pipeline	0.01
Sun Refining & Marketing	1.99
Philadelphia Baking	0.01
Total NO_X Reduction Claimed	5.63

On February 23, 1998, EPA granted conditional limited approval to PADEP's generic VOC and NO_X RACT regulations. The conditions required to be met in order for EPA to convert its conditional limited approval to limited approval were that Pennsylvania submit all case-by-case RACTs to EPA as SIP revisions within one year of the effective date of EPA's final conditional approval (i.e. by April 22, 1999), and certify either (1) that there are no additional sources to which the RACT requirement is applicable, or (2) demonstrate that the emissions remaining from the sources subject to the RACT requirements are de minimis. On April 22, 1999, Pennsylvania submitted a demonstration to meet the conditions set forth in this notice. Once EPA approves all of PADEP's case-by-case RACT determinations as SIP revisions, EPA will convert its limited approval of Pennsylvania's generic RACT rule to a full approval.

The reductions from RACT are not fully approvable as creditable in the Post 96 ROP plan for the Philadelphia area until EPA approves as SIP revisions those specific case-by-case RACT determinations for which credit is claimed. While Pennsylvania has submitted all of the RACTs listed above, only one of these has been SIP approved. Because the RACT for ICI/NP is the only one approved into the SIP, it is the only source with a fully approvable creditable emission reduction, 0.27 TPY VOC. Emission reductions from the additional sources will become fully approvable as creditable when EPA approves the source-specific SIP revisions. Therefore, the remaining emission reductions that PADEP has claimed (9.82 minus the 0.27 from ICI/NP = 9.55 TPD VOC, and 5.63 TPD NO_X) are not fully approvable as creditable until EPA fully approves each source-specific SIP revision.

PADEP needs 3.42 TPD of the 6.54 TPD VOC emission reduction it claims from one source, Fasson (located in Bucks County) to meet the 1999 ROP target. The credits from the VOC and NO_X RACT sources in PADEP's plan would provide a buffer to ensure that the ROP target is met.

Fully creditable reductions: 0.27 TPD VOC

Additional reductions: 9.55 TPD VOC and 5.63 TPD NO_X

(Not fully approvable as creditable until EPA fully approves the case-by-case SIP revisions)

Autobody Refinishing Coatings

According to EPA's guidance and proposed national autobody refinishing rule, PADEP claimed a 37% reduction from this source category. PADEP used projected 1999 uncontrolled VOC emissions of 18.34 TPD to calculate a 6 TPD emission reduction.

This is a federally implemented control measure. EPA's final rule, ''National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings,'' was published on September 11, 1998 (63 FR 48806). This rule will result in a 36% VOC reduction for areas such as Philadelphia that are currently unregulated for this source category.

EPA reviewed the area source emissions data and projections included in the plan, and determined that the 1999 projected uncontrolled VOC emissions for autobody refinish coatings is 17.176 TPD.

Fully creditable reductions: 36% × 17.176 = 6.18 TPD VOC

Consumer Products

PADEP claims a 20% reduction from this control measure, and states that the 1999 uncontrolled VOC emissions from this source category are 33 TPD. This is a federally implemented control measure. The final rule ''National Volatile Organic Compound Emission Standards for Consumer Products,'' (63 FR 48819), published on September 11, 1998, results in a 20% reduction. EPA reviewed the area source emissions data and projections that PADEP included in appendix IV, *Area Source Emissions Data* and concluded that PA used the overall consumer & commercial products emission factor, 6.3 pounds per capita annually, to calculate the 1999 projected emissions for this source category. EPA's consumer products rule only covers a subset of that source category, and the proper emission factor is 3.9 pounds per capita annually, as specified in the June 22, 1995 memorandum from John S. Seitz, Director of EPA's Office of Air Quality Planning and Standards, entitled ''Regulatory Schedule for Consumer and Commercial Products under section 183(e) of the Clean Air Act.'' Therefore, PADEP overestimated the creditable emission reduction by a factor of 1.62 (6.3 ÷ 3.9 = 1.62).

The 1999 projected uncontrolled emission from the entire consumer products source category in the Philadelphia area is 33.205 TPD. Therefore, the 1999 uncontrolled emissions from the sources covered by the consumer products rule is 20.497 TPD (33.205 ÷ 1.62).

Fully creditable reductions: 20% × 20.497 = 4.10 TPD VOC

Architectural and Industrial Coatings

PADEP claims a 15% reduction from this measure, and states that the uncontrolled emissions from this category are approximately 40 TPD, and the resulting emission reduction is 7 TPD. This is a federally implemented control measure. EPA's final rule, ''National Volatile Organic Compound

Emission Standards for Architectural Coatings,'' (63 FR 48848), published on September 11, 1998, results in a 20% reduction. EPA reviewed the area source emissions data and projections that PADEP included in appendix IV, *Area Source Emissions Data,* to determine the 1999 projected uncontrolled VOC emissions for architectural coatings. Uncontrolled emissions from architectural surface coatings, high performance industrial coatings, and other special purpose coatings total 36.325.

Fully creditable reductions: 20% × 36.325 = 7.27 TPD VOC

Treatment, Storage, and Disposal Facilities (TSDFs)

In the plan, PADEP states that the federally-implemented Phase II TSDF standards require 93% control of emissions from this source category. PADEP states that, using an 80% rule effectiveness factor, emission reductions from this control measure equal about 10 TPD. This is a federally implemented control measure. EPA reviewed the area source emissions data and projections that PADEP included in appendix IV, *Area Source Emissions Data,* to determine the 1999 projected uncontrolled VOC emissions for TSDFs to be 12.689 TPD.

EPA promulgated Phase I of the TSDF national rule on June 21, 1990 (55 FR 25454). In a May 6, 1993 policy memo, ''Credit Toward the 15 Percent Rate-of-Progress Reductions from Federal Measures,'' from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch and Susan Wyatt, Chief, Chemicals and Petroleum Branch, to Air Branch Chiefs, Regions I–X, EPA specified that the maximum reduction limit that states could claim for Phase II of the national TSDF regulation is 93% of total TSDF emissions. The Phase II TSDF rule was published in the **Federal Register** on December 6, 1994 (59 FR 62896) and subsequently amended on February 9, 1996 (61 FR 4903) and November 25, 1996 (61 FR 59932). Final compliance with the Phase II requirements is required by no later than December 8, 1997. Using an 80% rule effectiveness factor, creditable emission reductions from this control measure equal 9.44 TPD.

Fully creditable reductions: 93% × 80% x 12.698 = 9.44 TPD VOC.

D. EPA Evaluation of Rate of Progress Plan

EPA's review of this Pennsylvania submittal indicates that the Commonwealth has adopted, submitted and implemented adequate measures to achieve the Act's required 9 percent reduction in ozone precursor emissions between 1996 and 1999 and offset VOC growth with VOC reductions in that same period. As shown in the table below, the emission reductions from the measures in PADEP's Post-96 plan will meet the 9% requirement. When all measures are fully SIP approved, they will result in fully creditable emission reductions of 9% for NO_X and 0% for VOC.

EMISSION REDUCTIONS IN THE PHILADELPHIA POST-96 ROP PLAN (TPD)

Control Measures	VOC		NO_X	
	Fully creditable	Not yet creditable*	Fully creditable	Not yet creditable*
RFG	22.41		0.43	
Enhanced I/M	59.28		32.29	
FMVCP/Tier 1	6.92		14.84	
Stage II	17.71			
NO_X MOU				27.37
RACT & Source-Specific VOC Controls	0.27	9.55		5.63
AIM	7.27			
Autobody Refinishing	6.18			
Consumer Products	4.10			
TSDF Controls	9.44			
Subtotals	133.58	9.55	47.56	33.00
Total Reductions	143.13		80.56	
Required Reductions	137		73	

*These emission reductions will not be fully approvable as creditable until EPA fully approves the related control measures into the Pennsylvania SIP.

EPA cannot propose full approval of the plan until all underlying measures from which emission reductions are credited are fully approved into Pennsylvania's SIP. Therefore, EPA cannot fully approve the Post 96 ROP plan until the OTC NO_X MOU rule and the source specific SIP revision for Fasson in Bucks County are fully approved. EPA is proposing limited approval of the Post-1996 ROP plan for the Pennsylvania portion of the Philadelphia area on the basis that it strengthens the SIP. The limited approval would remain until EPA fully approves the NO_X MOU rule, and the source-specific SIP revision for Fasson needed to meet the target.

EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

Proposed Action

EPA is proposing limited approval of the Post-96 ROP plan for the Pennsylvania portion of the Philadelphia severe ozone nonattainment area, submitted by the Commonwealth of Pennsylvania on July 31, 1998.

Administrative Requirements

A. Executive Orders 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875

Under E.O. 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. If EPA complies by consulting, E.O. 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, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 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 a 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 E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has 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 an economically significant regulatory action as defined by Executive Order 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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 EPA complies by consulting, E.O. 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 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 E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.* EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that this proposed approval action, proposing limited approval of Pennsylvania's July 31, 1998 Post-96 ROP plan for its portion of the Philadelphia severe ozone nonattainment area, does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Dated: August 12, 1999.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 99–22047 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0032b; FRL–6410–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Colorado Springs Carbon Monoxide Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of a Related Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of the Colorado Springs carbon monoxide redesignation request, maintenance plan, and revisions to Colorado's Regulation No. 13 ''Oxygenated Fuels Program''. The redesignation request and maintenance plan were submitted by the Governor on August 19, 1998. The revisions to Regulation No. 13 were submitted by the Governor on October

1, 1998. In the Final Rules Section of this **Federal Register**, EPA is approving the State's redesignation request and State Implementation Plan (SIP) revisions, involving the maintenance plan and the changes to Regulation No. 13, as a direct final rule without prior proposal because the Agency views the redesignation and SIP revisions as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by September 24, 1999.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region VIII, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Telephone number (303) 312–6479.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules Section of this **Federal Register**.

Dated: July 21, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 99–21934 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6427–1]

North Carolina: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant final authorization for the hazardous waste program revisions submitted by North Carolina. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If EPA receives adverse written comments, EPA will withdraw the immediate final rule and it will not take effect. EPA will then address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

DATES: Written comments must be received on or before September 24, 1999.

ADDRESSES: Mail written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303–3104; (404) 562–8440. You can examine copies of the materials submitted by North Carolina during normal business hours at the following locations: EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303–3104; (404) 562–8190, and North Carolina Department of Environment and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 29201, (919) 733–2178.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, GA 30303–3104; (404) 562–8440.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: August 13, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–21826 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6428–5]

Hazardous Waste Management Program: Final Authorization of State Hazardous Waste Management Program Revisions for State of Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and request for comment.

SUMMARY: The EPA (also, ''the Agency'' in this preamble) is proposing to grant final authorization to the State of Louisiana for its hazardous waste program revisions, specifically, revisions needed to meet Resource Conservation and Recovery Act (RCRA) Land Disposal Restrictions, which contains Federal rules promulgated between November 7, 1986 to June 30, 1996. In the ''Rules and Regulations'' section of this **Federal Register** (FR), EPA is authorizing the State's program revisions as an immediate final rule without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. The Agency has explained the reasons for this authorization in the preamble to the immediate final rule. If the EPA does not receive adverse written comments, the immediate final rule will become effective and the Agency will not take further action on this proposal. If the EPA receives adverse written comments, a second **Federal Register** document will be published before the time the immediate final rule takes effect. The second document may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before September 24, 1999.

ADDRESSES: Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444 ; or Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana, 70810, (504) 765–0617.

FOR FURTHER INFORMATION CONTACT: Alima Patterson at (214) 665–8533.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: June 15, 1999.

Jerry Clifford,

Acting Regional Administrator, Region 6.

[FR Doc. 99–22042 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6427–8]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete Northwest Transformer (Mission/Pole Road) Site from the National Priorities List Update: request for comments.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, announces its intent to delete the Northwest Transformer (Mission/Pole Road) Site in Whatcom County, Washington, 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 State of Washington Department of Ecology (Ecology) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before September 24, 1999.

ADDRESSES: Comments may be mailed to: Timothy H. Brincefield, Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop ECL–115, Seattle, WA 98101.

Comprehensive information on this Site is available through the Region 10 public docket which is available for viewing at the NW Transformer (Mission/Pole Road). Site information repositories at the following locations:

Whatcom County Public Library, 5205 Northwest Road, Bellingham, Washington 98226–9092.

United States Environmental Protection Agency, Region 10, Office of Environmental Cleanup—Records Center, 1200 Sixth Avenue, Mail Stop ECL–076, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Timothy H. Brincefield, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop ECL–115, Seattle, Washington 98101, (206) 553–2100.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis of Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA), Region 10 announces its intent to delete a site from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and requests comments to this deletion. EPA identifies sites on the NPL that appear to present a significant risk to human health or the environment. As described in § 300.425(e)(3)of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

EPA plans to delete the Northwest Transformer (Mission/Pole Road) Site (''Site'') located at the intersection of Mission and East Pole Roads in Whatcom County, Washington, from the NPL.

EPA will accept comments on the plan to delete this Site for thirty days after publication of this notice 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 the Northwest Transformer (Mission/Pole Road) Site and explains how the Site meets deletion criteria.

II. NPL Deletion Criteria

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

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

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

Even if a site is deleted from the NPL, where hazardous substances, pollutants or contaminants remain at the 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. In the case of the (Mission/Pole Road) Site, the Remedial Action for Soils achieved State and Federal cleanup levels, and remedial actions objectives and performance standards designed to allow for unrestricted use and unlimited exposure at this Site, however, because of concern about potential migration of PCBs in groundwater that might have been mobilized during the Remedial Action, EPA required at least one five-year review pursuant to Section 121 (c) of SARA. That review has been completed, no contaminants of concern have ever been detected in groundwater off Site or on the perimeter of the Site, and all groundwater wells on Site have met cleanup goals for at least two years of monitoring.

Due to the potential for the Site to be mined for gravel (similar to adjacent properties), and since small quantities of low level Polychlorinated Biphenyl (PCB) contamination is known to remain in soils (between 1 and 3 parts per million remain in a few places at depths below 15 feet), the periodic review also concluded that certain Institutional Controls established in the 1991 Consent Decree between the United States, the Site Owner and the former Owner/Operators, should be

maintained. EPA has confirmed that the required Institutional Controls are in place. EPA will conduct another periodic review within five years to ensure that the Institutional Controls remain in place and are functioning as designed.

All appropriate actions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, have been implemented. No further response is appropriate. The Site requires no maintenance, however Institutional Controls have to be maintained.

If new information becomes available that indicates a need for further action, EPA may require additional 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 Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) The March 31, 1994, Preliminary Close Out Report and the July 27, 1999, Final Close Out Report document the achievement of cleanup goals and protectiveness of the Site; (2) The Washington Department Of Ecology (Ecology) has concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for public review in the Site information repositories.

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 information purposes to assist EPA management. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) states that deletion of a site from the NPL does not preclude eligibility for future Fund-financed response actions.

EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision. The Agency will prepare a Responsiveness Summary if any significant public comments are received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be made available to local residents by EPA's Regional Office in Seattle, Washington.

IV. Basis for Intended Site Deletion

The following Site summary provides the Agency's rationale for the intention to delete this Site from the NPL.

A. Site Background

The Northwest Transformer (Mission/Pole Road) Superfund Site was a former transformer manufacturing, service and reclamation facility located on a 1.6 acre property at the intersection of Mission and East Pole Roads, in Whatcom County, just South of Everson Washington.

B. History

The Site was placed on the United States Environmental Protection Agency (EPA) National Priorities List (NPL) in 1984 under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) based upon evidence of the release of PCBs to the environment. In May 1985, EPA initiated an Immediate Removal Action (IRM) at the Site, which included removal of PCB-contaminated soil, debris, and liquids, and installation of groundwater monitoring wells. A Remedial Investigation/Feasibility Study (RI/FS) characterized contamination remaining at the Site and recommended thermal destruction of PCBs in soils contaminated with greater than 10 milligrams per kilogram (mg/kg)/parts per million (ppm) PCBs (HDR 1988a; HDR 1988b). In September 1989, EPA issued a Record of Decision (ROD) for a Remedial Action (RA; EPA 1989). The selected remedy included excavation, consolidation, and treatment via in-situ vitrification (ISV) of approximately 1,200 cubic yards of soil contaminated with greater than 10 ppm (mg/kg) PCBs; placement of a two-foot thick clean soil cover; abandonment of an on-Site well; sampling of on-Site wood structures; and implementation of a groundwater monitoring program (GWMP).

Subsequent to the 1989 ROD, an ISV pilot test demonstrated that, although effective, the ISV technology would cost significantly more than originally anticipated. Furthermore, additional sampling indicated that the volume of soil contaminated by greater than 10 ppm PCBs was significantly less than originally estimated. Based upon these factors, and the lack of availability of a full-scale ISV unit, EPA issued a Proposed Plan to modify the Site remedy. In September 1991, EPA issued an Amended ROD, selecting a remedy which included off-Site incineration of soils contaminated with greater than 50 ppm PCBs, off-Site landfilling of soils contaminated with between 1 ppm and 50 ppm PCBs, demolition of the barn and off-Site disposal of barn debris, placement of a two-foot thick clean soil cover, and possible institutional controls (EPA 1991). Based upon the non-detection of PCBs in groundwater samples collected from both on-Site and off-Site wells immediately prior to the issuance of the Amended ROD, EPA determined that no remedial action for groundwater would be necessary, subject to completion of the GWMP and evaluation of its results.

The RA was completed in 1993–1994 as documented in the December 30, 1994 Remedial Action Completion report and July 27, 1999 Five Year Review and Final Close Out Reports. The Site soil RA activities, including remediation of the localized PCB ''hot spot'' discovered at depth in the former seepage pit area, were conducted in a manner that achieved the EPA and Washington State Department of Ecology (Ecology) performance standards for a non-conditional Site cleanup, using the 1 ppm PCB cleanup level for soil above the 15-ft compliance depth and the less than 10 ppm PCB cleanup level for soil below the 15-ft compliance depth.

Groundwater monitoring at the Site has been conducted both prior to and during RA activities (Phase 1), and following completion of RA activities (Phase 2). The GWMP included sampling from a total of 27 wells (10 onsite monitoring wells and 17 offsite groundwater supply wells in the vicinity of the Site). No PCBs were detected in any of the offsite groundwater supply wells or any of the 8 groundwater monitoring wells located along the perimeter of the Site. In sampling prior to 1997, PCBs were detected in one shallow on-Site monitoring well (well NWT–7S, located just north/downgradient of the former seepage pit area). PCBs concentrations in groundwater samples collected from well NWT–7S sometimes exceeded the maximum contaminant level (MCL) for PCBs in drinking water of 0.5 micrograms per liter (ug/L). The most recent groundwater sampling data (from the last two sampling events), however, indicates a lowering of the potential risk posed by the residual low-level PCBs remaining at depth near the former seepage pit area, including the attainment of two consecutive groundwater sampling results below the State cleanup level based on the practical quantitation limits (0.25 ug/L as specified in the ROD) and the 0.5 ug/L MCL for onsite wells as set forth by

the plan for the post-RA groundwater monitoring.

C. Characterization of Risk

Prior to cleanup, the environmental pathway of concern was potential direct contact with PCBs in soils. The estimated pre-remediation Site-specific potential cancer risk for soils ranged from 5 in 100,000 (5×10^{-5}) to 2 in 10,000 (2×10^{-4}).

The remedial action for soils was initiated in 1993 and completed in 1994 with removal and off-Site disposal of all contamination in excess of State and Federal standards and Site-specific cleanup goals. Current Site risk from exposure to soils is below 1×10^{-6}, and the surface and shallow soils on Site are safe for unlimited use and unrestricted exposure.

Due to the possibility of deep excavation on Site in the future, the Institutional Controls on soils established in the 1991 Consent Decree between the United States and the Site owners are being maintained with slight modifications. In the event of excavation of soils below 15 feet, some low levels of residual contamination could be encountered (some soils with 1–3 parts per million PCBs remain at depth). Prior to any excavation below 15 feet, Ecology must be notified and proper precautions must be taken to protect worker health and safety and to prevent spread of any residual contamination that could pose a risk to human health or the environment risk.

Though at the time of the ROD no groundwater contamination had been identified, further groundwater monitoring was required to determine if there was any risk from potential ingestion of contaminated groundwater in the event groundwater contamination migrated off Site to downgradient water supply wells, or in the event water supply wells were installed on Site in the area of the old seepage pit. No groundwater contamination has ever been detected in wells off Site or around the perimeter of the Site. During Remedial Design and for a time subsequent to the Remedial Action for soils, groundwater monitoring results from one well in the center of the Site showed evidence of contamination slightly in excess of the Federal MCL and State practical quantitation limit (PQL) for PCBs in groundwater. Analytical data from the last two rounds of monitoring have confirmed that even that one well is below the Federal MCL and State PQL such that no remedial action or further monitoring is necessary. The on-Site wells will be abandoned in accordance with State requirements. To ensure against future exposure to potential contamination, the groundwater Institutional Controls established in the 1991 Consent Decree calling for notification of EPA prior to use of groundwater from the Site are being maintained and augmented by a requirement to test the groundwater for PCBs and provide the results to EPA.

With the implementation and completion of all remedial activities, the Site poses no further threat to human health and the environment. There are no further operation and maintenance activities to be performed at the Site, however Institutional Controls must be maintained.

D. Public Participation

Community input has been sought by EPA Region 10 throughout the cleanup process at the Site. Information repositories were established at the Whatcom County Public Library (originally at the Branch on Kirsch Road in Everson, subsequently moved by the Library to their regional document center in Bellingham) and in the EPA Regional Office in Seattle. Fact sheets were distributed periodically before, during, and after cleanup. Proposed cleanup plans were issued in 1989 (for the original ROD) and 1991 (for the Amended ROD). The draft Five Year review was shared with the Everson City Council and Public Works Department in 1998 and the Final Five Year Review is being issued in August, 1999.

A copy of the Deletion Docket can be reviewed by the public at the Whatcom County Public Library, or the EPA Region 10 Superfund Records Center. The Deletion Docket includes this Notice, the ROD, Amended ROD, Remedial Action Completion Report, Five Year Review, and Final Site Close-Out Report. EPA Region 10 will also announce the availability of the Deletion Docket for public review in a local newspaper and informational fact sheet.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if ''responsible parties or other persons have implemented all appropriate response actions required.'' EPA, with the concurrence of Ecology, believes that this criterion for deletion has been met. Groundwater and soil data from the Site confirm that the ROD cleanup goals have been achieved. There is no significant threat to human health or the environment and, therefore, no further remedial action is necessary. Consequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available in the docket at the information repositories.

Dated: August 18, 1999.

Charles Clarke,

Regional Administrator, Region 10.

[FR Doc. 99–21938 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 64, No. 164
Wednesday, August 25, 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.

ADVISORY COMMISSION ON ELECTRONIC COMMERCE

Meetings

The Advisory Commission on Electronic Commerce was established by Pub. L. 105–277 to conduct a thorough study of federal, state, local and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities. The Commission is to report its findings and recommendations to the Congress no later than April 21, 2000. Notice is hereby given, that the Advisory Commission on Electronic Commerce will hold a meeting by telephone conference call on Tuesday, September 7, 1999, beginning at 2 p.m. The meetings of the Commission shall be open to the public. The audio from this meeting will be broadcast live on the World Wide Web. Instructions for accessing this broadcast can be found at the Commission Web site: www.ecommercecommission.org. A verbatim transcript of this meeting will be available on the same Web site not later than Wednesday, September 8, 1999.

Oral comments from the public will be excluded at this meeting. Interested persons are invited to provide comments in writing to the Commission. Written comments should be provided in accordance with guidelines published in the **Federal Register** on August 13, 1999 (64 FR 44183).

Records shall be kept of all Commission proceedings and shall be available for public inspection given adequate notice at the Commission's offices at 3401 North Fairfax Dr., Arlington, Virginia 22201–4498.

A listing of the members of the commission and details concerning their appointment were published in the **Federal Register** on June 9, 1999, at 64 FR 30958.

Heather Rosenker,
Executive Director.

[FR Doc. 99–22158 Filed 8–24–99; 8:45 am]

BILLING CODE 0000–00–P

AFRICAN DEVELOPMENT FOUNDATION

Sunshine Act Meeting

Board of Directors Meeting

TIME: 12:00 noon–3:00 p.m.

PLACE: ADF Headquarters.

DATA: Tuesday, September 21, 1999.

STATUS: Open.

Agenda

12:00 noon p.m.—Chairman's Report
1:30 p.m.—President's Report; New Business
3:00 p.m.—Adjournment

If you have any questions or comments, please direct them to Dick Day, Coordinator, Office of Policy, Planning and Outreach, who can be reached at (202) 673–3916.

William R. Ford,
President.

[FR Doc. 99–22156 Filed 8–23–99; 12:29 pm]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Form FNS–798 and FNS–798A, WIC Financial Management and Participation Report with Addendum

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Nutrition Service's (FNS) intention to request approval for revision of a currently approved collection, Form FNS–498, WIC Monthly Financial Management and Participation Report.

The revision will be named Form FNS–798 and FNS–798A, WIC Financial Management and Participation Report with Addendum, and will replace Form FNS–498, WIC Monthly Financial Management and Participation Report and Form FNS–227 and Form FNS–227A, WIC Program Annual Closeout Report with Addendum.

DATES: Comments on this notice must be received by October 25, 1999.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Patricia N. Daniels, Director, Supplemental Food Programs Division, Food and Nutrition Service, US Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instructions should be directed to: Patricia N. Daniels, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: WIC Financial Management and Participation Report with Addendum.

OMB Number: 0584–0045.

Expiration Date: 10–31–00.

Type of Request: Revision of a Currently Approved Collection.

Abstract: Section 17(f)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(4)) provides that ''State agencies shall submit monthly financial reports and participation data to the Secretary.'' (See also 7 CFR 246.25(b)(1).) The proposed WIC Financial Management and Participation Report (FNS–798) would replace the WIC Monthly Financial Management and Participation Report (FNS–498) as the form State agencies complete to comply with this requirement. The States and

FNS would continue to use the reported information for program monitoring, funds management, budget projections, monitoring caseload, policy development, and responding to requests from Congress and the interested public.

Additionally, nonentitlement programs such as the WIC Program are required to conduct an annual closeout and reconciliation of grants. Departmental regulations at 7 CFR 3016.23(b) require that ''[a] grantee must liquidate all obligations incurred under the award not later than 90 days after the end of the funding period (or as specified in a program regulation) to coincide with the submission of the annual Financial Status Report (SF–269).'' WIC Program regulations at 7 CFR 246.17(b)(2) instruct WIC State agencies to ''submit to FNS, within 150 days after the end of the fiscal year, final fiscal year closeout reports.'' The WIC Program Annual Closeout Report (FNS–227) with addendum (FNS–227A) is currently substituted for the SF–269, because a closeout form which maintains the integrity of WIC's two grant components (food and nutrition services and administration) and captures State agencies' decisions to shift WIC grant funds between Federal fiscal years is needed. The final WIC Financial Management and Participation Report (FNS–798) submitted for the year with its addendum (FNS–798A) would replace the WIC Program Annual Closeout Report (FNS–227) with addendum (FNS–227A) as the substitute for the SF–269. The consolidated format is expected to reduce the reporting burden associated with the annual closeout and reconciliation of grants.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.1 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Directors or Administrators of WIC State agencies.

Estimated Number of Respondents: 88 respondents.

Estimated Number of Responses per Respondent: Seventeen.

Estimated Total Annual Burden on Respondents: 4637.6 hours.

Dated: August 12, 1999.

Samuel Chambers, Jr.

Administrator, Food and Nutrition Service.

[FR Doc. 99–21989 Filed 8–24–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Supplemental Form for Collecting Taxpayer Identifying Numbers; Notice

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the Agency's proposed information collection of taxpayer identifying numbers. The proposed collection is a new collection of information.

DATES: Written comments must be submitted on or before October 25, 1999.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methods and assumptions used; (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 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 Mark Porter, Grants Management Division, Food and Nutrition Service, US Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

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.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instruction should be directed to Mark Porter at (703) 305–2847.

SUPPLEMENTARY INFORMATION:

Title: Supplemental Form for Collecting Taxpayer Identifying Numbers.

OMB Number: Not yet assigned.

Expiration Date: 3 years from date of approval.

Type of Request: New collection.

Abstract: Section 3100(y) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), codified at 31 U.S.C. 3325(d), requires Federal agencies to include the taxpayer identifying number (TIN) of all persons or organizations they pay whenever a request for payment is submitted to Federal payment officials. Departmental Regulation 2100–2 requires all individuals and entities doing business with USDA to furnish a TIN. The purpose of the Supplemental Form for Collecting Taxpayer Identifying Numbers is to comply with Federal law by enabling the Agency to legally obtain a TIN from all persons and organizations who are entered into a direct payment relationship with FNS.

Affected Public: Individuals and entities who enter into a direct payment agreement with FNS under any of the various nutrition and nutrition education programs administered by FNS.

Estimated Number of Respondents: 800.

Number of Responses per respondent: 1.

Estimated Total annual responses: 800.

Hours per response: 0.0833.

Total Annual Reporting Hours: 66.6.

Number of record keepers: 8.

Estimated Annual hours per record keeper: 1.0.

Total Annual record keeping hours: 8.

Total annual burden hours: 74.6 (annual reporting hours plus annual record keeping hours).

Dated: August 12, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–21990 Filed 8–24–99; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF AGRICULTURE

Forest Service

Whiskey Campo Resource Management Project, Boise National Forest, Elmore County, ID

AGENCY: Forest Service, USDA.

ACTION: Revised Notice of Intent to Prepare Environmental Impact Statement.

SUMMARY: The proposed action for the Whiskey Campo Resource Management Project has changed. (The original notice of intent appeared in the **Federal Register** on January 5, 1998, pp. 200–201.) The fish passage improvement activities in the original Whiskey Campo proposed action are being implemented under Trinity Fish Passage Restoration Project Decision Memo signed July 22, 1999. The Mountain Home Ranger District of the Boise

National Forest will prepare an environmental impact statement (EIS) for the remaining portions of the resource management project in the Whiskey Campo project area, located approximately 5 miles west of Featherville, Idaho, in the middle to upper elevation of the Trinity Creek watershed. The project area encompasses about 12,870 acres of National Forest System land. Approximately 5,500 acres of the project area are located within the Whiskey Jack Inventoried Roadless Area (RARE No. 02009), and about 900 acres of the project area are located within the Rainbow Inventoried Roadless Area (RARE No. 02008). Access is by Forest Development Road (FDR) 172. The project area is located about 130 road miles east of Boise, Idaho.

The agency invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of the environmental analysis and decisionmaking process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

Proposed Action

The proposed action is nearly the same as that published in the **Federal Register** January 5, 1998. It does not contain the fish passage restoration activities, which are being implemented under the Trinity Fish Passage Restoration Project Decision Memo. The proposed action also has more specific activity-related numbers than the original.

Timber Stand Management Activities—Approximately 1,890 acres of forested land would be commercially thinned and underburned with low severity prescribed fire. Some salvage harvest of large diameter, beetle-infested Douglas-fir would occur in these stands. On approximately 4,580 acres of forested land, bark beetle infested and severely dwarf mistletoe infected trees would be salvage harvested.

Helicopter yarding would be done on approximately 5,910 acres. Skyline yarding would be done on approximately 180 acres. A combination of tractor and off-road jammer (excavator) yarding would be done on approximately 780 acres. Approximately 2 miles of road would be constructed to access timber stands proposed for treatment. The newly constructed roads would be closed to all motorized use and revegetated following the project. One small culvert on FDR 172N would be replaced. Three helicopter landings would be constructed and revegetated. Ten existing helicopter landings would be used and revegetated.

Aspen Stand Rejuvenation—On approximately 400 acres of aspen stands dispersed throughout the project area, prescribed fire and/or harvest of invading conifer trees would be used to rejuvenate decadent stands or maintain vigorous, young stands. These activities would promote regeneration of aspen suckers and saplings and prevent conversion to conifer stands.

Elk Habitat Improvement—Approximately 3.5 miles of road in the Spring Creek drainage would be decommissioned (closed and removed from the transportation system for future use). Approximately 5.4 miles of road in the Spring Creek drainage would be modified from seasoned to year-long closure. Such closures would bring the elk habitat effectiveness of the Spring Creek drainage into compliance with the Forest Plan.

Fish Habitat Improvements—Approximately 13.7 miles of FDR 172 would be graveled. Graveling of the road surface would help retain the fine sediment particles on the road surface.

Travel Safety Modifications to FDR 172—Approximately 25 ''blind'' curves and narrow road sections would be modified to improve sight distance and provide sufficient safe passing opportunities.

Preliminary Issues

Two preliminary issues have been identified.

Timber harvest would develop a portion of the Rainbow and Whiskey Jack Inventoried Roadless Areas (IRA's), changing the wilderness attributes on those portions. The developed portion would not be given future consideration for wilderness designation under current Forest Service guidelines.

Constructing roads in inventoried roadless areas is of great concern to some publics. This is based on landscape and/or watershed level concerns of an irreversible or irretrievable nature associated with wildlife refugia, watershed stability, recreational opportunity, and overall ecological concerns that are partially addressed by other issues and effects but not in total. These landscape and watershed level concerns are the impetus behind the Forest Service temporary suspension of roadbuilding in inventoried roadless areas.

Possible Alternatives to the Proposed Action

Three alternatives to the proposed action have been identified. One alternative is the no action alternatives. The issue regarding timber harvest developing inventoried roadless areas generated an alternative that includes the proposed action's activities except that no activities would occur in the inventoried roadless areas except for prescribed fire in the Whiskey Jack Inventoried Roadless Areas. The issue regarding road construction in inventoried roadless areas generated an alternative that includes the proposed action's activities except that no new road construction or ground-based logging systems would be used in the Whiskey Jack or Rainbow Inventoried Roadless Areas.

Decisions To Be Made

The Boise National Forest Supervisor will decide the following: (1) Whether to conduct timber management and harvest activities now or to defer them until a later time; (2) if now, which acres to treat and which logging systems to use; (3) what, if any, acres to treat with prescribed fire; (4) what, if any, road graveling to do; (5) what, if any, road obliteration and/or road closure to do; and (6) what, if any, road reconstruction or construction to do.

Schedule

Draft Environmental Impact Statement (DEIS), September 1999. Final, January 2000.

Public Involvement

Scoping was initiated in January 1998 with a Notice of Intent in the **Federal Register**, a legal notice in The Idaho Statesman, and a letter to individuals, groups, and agencies who have expressed an interest in this type of project. Comments were used to determine relevant issues and analysis needs. The same individuals, groups, and agencies were notified about the decision to revise the Whiskey Campo proposed action, and they received a copy of the Trinity Fish Passage Restoration Project Decision Memo.

Comments

Written comments concerning the revised project and analysis are encouraged and should be postmarked within 30 days following publication of this announcement in the **Federal Register**. Comments received in response to this notice will be released in their entirety if requested pursuant to the Freedom of Information Act. Mail comments to Jane Beaulieu, District Planner, Mountain Home Ranger District, 2180 American Legion Boulevard, Mountain Home, ID 83647. For further information, contact Frank Marsh, Project Leader, at 208–587–7961.

The comment period on the DEIS will be 45 days from the date the

Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of DEIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1002 (9th Cir., 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points. Comments received on the DEIS will be released in their entirety if requested pursuant to the Freedom of Information Act.

Responsible Official

David D. Rittenhouse, Forest Supervisor, Boise National Forest, 1249 South Vinnell Way, Suite 200, Boise, ID 83709.

Dated: August 12, 1999.

David D. Rittenhouse,

Forest Supervisor.

[FR Doc. 99–21675 Filed 8–24–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

State Road 40 Project, Ocala National Forest, Marion County, Florida

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service and the Florida Department of Transportation (Joint Lead Agencies) are issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project to improve State Road 40 in Marion County, Florida. The agencies invite written comments and suggestions from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action.

DATES: A draft EIS is expected to be completed in December, 2000. The final EIS is scheduled to be completed in December, 2001.

ADDRESSES: To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. You may request to be placed on the project mailing list or direct questions, comments and suggestions to Ms. Heather Bradshaw-Ells, Project Manager, Florida Department of Transportation, 719 S. Woodland Blvd. DeLand, Florida 32720, telephone (904) 943–5391.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Thorsen, District Ranger, Seminole Ranger District, Ocala National Forest, 40929–SR 19, Umatilla, Florida 32784, telephone (352) 669–3153; Mr. Larry Perry, Florida Department of Environmental Protection, District 3, Apopka, Florida 32714, telephone (407) 884–2000.

SUPPLEMENTARY INFORMATION: The proposed action is to improve State Road 40 from the end of the existing four lanes in Silver Springs, Marion County, Florida to County Road 314A in Marion County, Florida, a distance of 10 miles. Improvements to the corridor are considered necessary to provide for projected traffic demands. The route proposed by the Florida Department of Transportation crosses a portion of the Ocala National Forest in Marion County and involves a distance of 5.6 miles within National Forest Boundaries. The western leg segment (4.4 miles) is located adjacent to the boundaries of Silver River State Park which is managed by the Florida Department of Environmental Protection. The USDA Forest Service and Florida Department of Transportation will be joint lead agencies in preparing the EIS. The Florida Department of Environmental Protection and the United States Coast Guard will be cooperating agencies. The Forest Supervisor for the National Forest in Florida will decide whether or not to permit an additional easement across national forest lands for the portion of the project within national forest boundaries. The Florida Department of Transportation will decide whether or not to improve the highway and if so, the extent of the improvement.

Newsletter describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to organizations and citizens who express interest in this proposal. In addition, public meetings and workshops will be scheduled, and a web site established to provide the opportunity for public input throughout the process. Preliminary issues include the impacts of the project on wildlife, wetlands, vegetative communities, visual resources, public safety, and possible future development of related road projects. Possible other alternatives under consideration include: taking no action, widening to a four lane divided highway or alternative corridors.

The comment period on the draft EIS will be 45 days from the date the Environmental Protect Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts, *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.*, v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and

respond to them in the final environmental impact statement. To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Dated: August 18, 1999.

Marsha Kearaney,

Forest Supervisor, National Forests in Florida.

[FR Doc. 99–21995 Filed 8–24–99; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maryland Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 4:00 p.m. on September 15, 1999, at the Howard County Office of Human Rights, 6751 Columbia Gateway Drive, Columbia, Maryland 21046. The purpose of the meeting is: (1) activity planning for forum series project; (2) monitoring updates on employment and disability issues; (3) status update on ''City Services, Public Safety, and the Justice System-Do Korean American Storeowners in Baltimore, Maryland, Get Equal Treatment?'' and (4) briefing on civil rights developments in Howard County by invited speakers.

Persons desiring additional information, or planning a presentation to the Committee, should contact Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 17, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–22018 Filed 8–24–99; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Amendment of Public Meeting of the Missouri Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission on August 24, 1999, was erroneously reported. The day of the meeting is August 26, 1999, convening from 3:00 p.m. and adjourning at 5:00 p.m.

The second notice for the meeting was announced in the **Federal Register** on Wednesday, July 21, 1999, FR Doc. 99–18507, 64 FR, No. 139, p. 39114.

Persons desiring additional information should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414).

Dated at Washington, DC, August 19, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–22017 Filed 8–20–99; 1:16 pm]

BILLING CODE 6335–01–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 provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Institute of Standards and Technology (NIST).

Title: Manufacturing Extension Partnership Information Reporting.

Agency Form Number: None.

OMB Approval Number: None.

Burden: 4,944 hours.

Average Hours Per Response: Ranges between .03 and 24 hours depending on the requirement. Most respondents will average 68 hours on an annual basis.

Needs and Uses: The Manufacturing Extension Partnership Program purpose is to strengthen the global competitiveness of U.S.-based manufacturing by providing information, decision support, and implementation assistance to smaller manufacturing firms in adopting new, more advanced manufacturing technologies, techniques, and business best practices. The purpose of this proposed comprehensive reporting system will be to obtain information to determine whether the investment in the Centers is providing efficient and effective transfer of technology to smaller manufacturers in the United States.

Affected Public: Not-for-profit institutions, federal government, state, local or tribal government.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Virginia Huth, (202) 395–6929.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, Office of the Chief Information Officer, (202) 482-3272, Department of Commerce, Room 5033, 14th and Constitution Avenue, N.W., Washington, D.C. 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 Virginia Huth, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20230.

Dated: August 20, 1999.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 99–22037 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–816, A–533–817, A–560–805, A–475–826, A–588–847, A–580–836, C–427–817, C–533–818, C–560–806, C–475–827, C–580–837]

Postponement of Final Antidumping Duty Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, Japan and Korea; Postponement of Final Countervailing Duty Determinations: Certain Cut-to-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy, and Korea; and Amendment of the Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On July 26, 1999, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determinations in the countervailing duty investigations of certain cut-to-length carbon-quality steel plate products from France, India, Indonesia, Italy, and the Republic of Korea (*see Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate From France,* 64 FR 40430 (July 26, 1999), India (64 FR 40438), Indonesia (64 FR 40457), Italy (64 FR 40416), and the Republic of Korea (64 FR 40445)). These notices aligned the schedules for the final determinations with the companion antidumping investigations. On July 29, 1999, the Department published in the **Federal Register** its preliminary determinations in the antidumping duty (AD) investigations of certain cut-to-length carbon-quality steel plate products from France, India, Indonesia, Italy, Japan, and the Republic of Korea (see Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products From France, 64 FR 41198 (July 29, 1999), India (64 FR 41202) Indonesia (64 FR 41206), Italy (64 FR 41213), Japan (64 FR 41218), and the Republic of Korea (64 FR 41224)). Respondents in each of the AD investigations requested that the Department postpone its final determinations by sixty days. In addition, the respondents in the AD investigations of France, Italy, and Korea alleged that the Department made ministerial errors in its preliminary determinations for those countries. Furthermore, the petitioners alleged that the Department made ministerial errors in its preliminary AD determination for Indonesia.

In response to the respondents' requests, the Department is postponing the final determinations in the above-referenced investigations. Furthermore, after reviewing the ministerial error allegations, the Department is amending its preliminary AD determination with respect to Indonesia only.

EFFECTIVE DATE: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: The following individuals of Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230: James Terpstra at (202) 482–3965 regarding cases A–427–816, A–533–817, and A–580–836; Wendy Frankel at (202) 482–5849 regarding cases A–475–826, and A–588–847; Irene Darzenta Tzafolias at (202) 482–0922 regarding case A–560–805; Roy Malmrose at (202) 482–5414 regarding case C–427–817; and Richard Herring at (202) 482–4149 regarding cases C–533–818, C–560–806, C–475–827, and C–580–837.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (1999).

Scope of the Investigations

The products covered by the scope of these investigations are certain hot-rolled carbon-quality steel: (1) Universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm but not exceeding 1250 mm, and of a nominal or actual thickness of not less than 4 mm, which are cut-to-length (not in coils) and without patterns in relief), of iron or non-alloy-quality steel; and (2) flat-rolled products, hot-rolled, of a nominal or actual thickness of 4.75 mm or more and of a width which exceeds 150 mm and measures at least twice the thickness, and which are cut-to-length (not in coils). Steel products to be included in the scope are of rectangular, square, circular or other shape and of rectangular or non-rectangular cross-section where such non-rectangular cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges. Steel products that meet the noted physical characteristics that are painted, varnished or coated with plastic or other non-metallic substances are included within this scope. Also, specifically included in this scope are high strength, low alloy (HSLA) steels. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Steel products to be included in this scope, regardless of Harmonized Tariff Schedule of the United States (HTSUS) definitions, are products in which: (1) Iron predominates, by weight, over each of the other contained elements, (2) the carbon content is two percent or less, by weight, and (3) none of the elements listed below is equal to or exceeds the quantity, by weight, respectively indicated: 1.80 percent of manganese, or 1.50 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 0.41 percent of titanium, or 0.15 percent of vanadium, or 0.15 percent zirconium. All products that meet the written physical description, and in which the chemistry quantities do not equal or exceed any one of the levels listed above, are within the scope of these investigations unless otherwise specifically excluded. The following products are specifically excluded from these investigations: (1) Products clad, plated, or coated with metal, whether or not painted, varnished or coated with plastic or other non-metallic substances; (2) SAE grades (formerly AISI grades) of series 2300 and above; (3) products made to ASTM A710 and A736 or their proprietary equivalents; (4) abrasion-resistant steels (*i.e.*, USS AR 400, USS AR 500); (5) products made to ASTM A202, A225, A514 grade S, A517 grade S, or their proprietary equivalents; (6) ball bearing steels; (7) tool steels; and (8) silicon manganese steel or silicon electric steel.

The merchandise subject to these investigations is classified in the HTSUS under subheadings: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000,

7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7225.40.3050, 7225.40.7000, 7225.50.6000, 7225.99.0090, 7226.91.5000, 7226.91.7000, 7226.91.8000, 7226.99.0000.

Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

Postponement of the Final Determinations

In accordance with section 735(a)(2)(A) of the Act, during July and August, 1999, exporters accounting for a significant proportion of the exports of subject merchandise from each of the countries named in the above-referenced AD investigations requested that the Department postpone its final determinations until 135 days after publication of its preliminary determinations. These same exporters also requested that the Department extend provisional antidumping measures from a four-month period to not more than six months pursuant to section 733(d) of the Act. Accordingly, the Department has decided to extend the final determinations in the above-referenced AD investigations because for each investigation (1) the Department's preliminary determination was affirmative for at least one exporter requesting a postponement, (2) the exporters requesting the postponement account for a significant proportion of the exports of subject merchandise from their respective countries, and (3) no compelling reasons exist for the Department to deny the exporters' requests for a postponement. Therefore, the Department has decided to postpone the final determinations until not later than 135 days after publication of the preliminary determinations in the **Federal Register**. The postponed final determinations will be due on December 11, 1999. Suspension of liquidation will be extended accordingly.

In addition, because the countervailing duty investigations of Certain Cut-to-Length Carbon-Quality Steel Plate Products From France, India, Indonesia, Italy and Korea have been aligned with the antidumping duty investigations under section 705(a)(1) of the Act, the time limit for completion of the final determinations in the countervailing duty investigations will be the same date, December 11, 1999, as the final determinations of the concurrent antidumping investigations.

Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon-Quality Steel Plate Products From Indonesia

On July 28, 1999, Bethlehem Steel Corporation and U.S. Steel Group, a unit of USX Corporation, two of the petitioners, alleged that the Department made certain ministerial errors in calculating the cost of production used in the preliminary AD determination for the Indonesian respondent PT Gunawan Dianjaya Steel (Gunawan)/PT Jaya Pari Steel Corporation (Jaya Pari). None of the respondents in the AD investigation of Indonesia alleged any ministerial errors nor did they comment on petitioners' ministerial error allegation. The Department has reviewed its preliminary calculations for Gunawan/Jaya Pari and agrees that it made certain ministerial errors within the meaning of 19 CFR 351.224(f) (for further detail see the Memorandum Regarding Ministerial Error Allegations from The Team to Louis Apple, Director, Office II, AD/CVD Enforcement I, dated August 9, 1999). In addition, the Department finds these ministerial errors to be significant as defined by 19 CFR 351.224(g). A significant ministerial error is defined as a correction which, singly or in combination with other errors, (1) would result in a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted average dumping margin calculated in the original (erroneous) preliminary determination; or (2) would result in a difference between a weighted-average dumping margin of zero or *de minimis* and a weighted-average dumping margin of greater than *de minimis* or vice versa. Therefore, the Department is amending its preliminary AD determination with respect to Gunawan/Jaya Pari in accordance with 19 CFR 351.224(e). Because the Department based the weighted-average margin for all Indonesian manufactures/exporters of the merchandise under investigation, other than PT Krakatau Steel, on Gunawan/Jaya Pari's weighted-average margin, the Department is also amending the ''all others'' margin. As a result of the correction of these ministerial errors, the Department has determined that the following amended weighted-average dumping margins apply for Indonesia:

Manufacturer/Exporter	Amended weighted-average margin (percent)
Gunawan Dianjaya Steel/PT Jaya Pari Steel Corporation ..	43.59
All Others	43.59

ITC Notification

In accordance with section 733(f) of the Act, the Department has notified the ITC of the amended AD determination. If the final determinations are affirmative, the ITC will determine whether imports of the merchandise under investigation are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of the preliminary determinations or 45 days after the final determinations.

Public Comment

Interested parties may submit case briefs or other written comments for a particular investigation to the Assistant Secretary for Import Administration by no later than seven days after receipt of all verification reports issued in that investigation. Parties may submit rebuttal briefs, limited to issues raised in case briefs, within five days after the deadline for filing case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, the Department will hold a public hearing for each investigation, if requested, in order to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Any hearings will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The date, time, and room number for the hearings is to be determined. Parties should confirm by telephone the date, time, and room number for each hearing 48 hours before the hearing is to begin. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, no later than August 28, 1999. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief, and may make rebuttal presentations only on arguments included in that party's rebuttal brief. See 19 CFR 351.310(c).

The Department is publishing this notice of postponement of the final determinations and amendment to the preliminary AD determination for Indonesia pursuant to section 735(a) of the Act and 19 CFR 351.210(g) and 19 CFR 351.224(e).

Dated: August 17, 1999.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–22082 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–814, A–428–816, A–405–802, C–412–815, C–428–817]

Certain Cut-To-Length Carbon Steel Plate from Finland, Germany and the United Kingdom: Final Results of Changed Circumstances Antidumping Duty and Countervailing Duty Reviews, and Revocation of Orders in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of changed circumstances antidumping duty and countervailing duty reviews, and revocation of orders in part.

SUMMARY: On May 12, 1999, the Department of Commerce (the Department) received a request on behalf of Bethlehem Steel Corporation and U.S. Steel Group—a unit of USX Corporation (Bethlehem & U.S. Steel), petitioners in these cases, for changed circumstances antidumping (AD) and countervailing duty (CVD) reviews and an intent to revoke in part the AD and CVD orders with respect to specific cut-to-length carbon steel plate from Germany and the United Kingdom and the AD order with respect to specific cut-to-length carbon steel plate from Finland. A telephone conversation on May 17, 1999, with counsel on behalf of all other petitioners (Inland Steel Industries, Inc., LTV Steel Company, Inc., National Steel Corporation, AK Steel Corporation, Gulf States Steel Inc. of Alabama, Sharon Steel Corporation, and WCI Steel Inc.) confirmed petitioners' lack of interest in the continuation of the AD and CVD orders with respect to the subject merchandise defined in the Scope of the Review section below (See Memorandum to the File). Accordingly, on July 7, 1999, the Department published a notice of initiation and preliminary results of changed circumstances reviews and intent to revoke these orders in part (64 FR 36666). We gave interested parties an opportunity to comment on the preliminary results of these changed circumstances reviews. No comments were received.

EFFECTIVE DATE: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy Decker (AD reviews on Finland and the United Kingdom), James Doyle or Becky Hagen (AD review on Germany), Robert Copyak (CVD reviews on Germany and the United Kingdom), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0196, (202) 482–0159, (202) 482–1102, or (202) 482-2209, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351.

Background

On August 17, 1993, the Department published the CVD orders on certain cut-to-length carbon steel plate from Germany and the United Kingdom (58 FR 43756 and 43748, respectively). On August 19, 1993, the Department published the AD orders on certain cut-to-length carbon steel plate from Finland, Germany and the United Kingdom (58 FR 44165, 44170, and 44168, respectively).

On May 12, 1999, Bethlehem and U.S. Steel, petitioners, requested partial revocation of the AD and CVD orders pursuant to section 751(d)(1) of the Act, with respect to specific carbon steel plate imports from the United Kingdom, Germany and Finland described below.

Accordingly, on July 7, 1999, the Department published a notice of initiation and preliminary results of changed circumstances reviews and intent to revoke these orders in part (64 FR 36666). We gave interested parties an opportunity to comment on the preliminary results of these changed circumstances reviews. No comments were received.

Scope of the Review

The products covered by these AD/CVD orders constitute one ''class or kind'' of merchandise: certain cut-to-length carbon steel plate. These products include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'') for example, products which have been beveled or rounded at the edges. Excluded is grade X–70 plate. These HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Merchandise covered by these changed circumstances reviews and partial revocations are shipments of certain carbon cut-to-length steel plate with a maximum thickness of 80 mm in steel grades BS 7191, 355 EM and 355 EMZ, as amended by Sable Offshore Energy Project specification XB MOO Y 15 0001, types 1 and 2.

Final Results of Changed Circumstances AD and CVD Reviews, and Revocation of Orders in Part

In accordance with section 782(h) of the Act, the Department has determined that substantially all of the domestic producers have no further interest in maintaining these orders with respect to certain cut-to-length carbon steel plate subject to these requests. This lack of interest by domestic producers constitutes sufficient changed circumstances to warrant partial revocation of these orders. Therefore,

the Department is partially revoking these orders on cut-to-length carbon steel plate with respect to the plate described above, in accordance with sections 751(b) and 782(h) of the Act and 19 CFR 351.216(d). This partial revocation applies to all unliquidated entries of carbon cut-to-length steel plate with a maximum thickness of 80 mm in steel grades BS 7191, 355 EM and 355 EMZ, as amended by Sable Offshore Energy Project specification XB MOO Y 15 0001, types 1 and 2 not covered by the final results of an administrative review.

The Department will instruct the U.S. Customs Service to proceed with liquidation, without regard to antidumping or countervailing duties, of all unliquidated entries of cut-to-length carbon steel plate subject to these requests, as described above, in accordance with section 778 of the Act.

These changed circumstances administrative reviews, partial revocations of the antidumping duty and countervailing duty orders and notice are in accordance with sections 751(b) and 782(h) of the Act and sections 351.216, 351.221(c)(3) and 351.222(g)(1)(i) of the Department's regulations.

Dated: August 13, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–22086 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Brass Sheet and Strip From Canada: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke Order in Part.

SUMMARY: In response to a request by the respondent, the Department of Commerce (the Department) has conducted an administrative review of the antidumping duty order on brass sheet and strip (BSS) from Canada. The review covers one manufacturer/exporter of this merchandise to the United States, Wolverine Tube (Canada), Inc. (Wolverine). The period covered is January 1, 1997 through December 31, 1997.

Upon consideration of the data on the record of this review, and of the case briefs and rebuttal briefs submitted by Petitioners' (Hussey Copper, Ltd.; The Miller Company; Olin Corporation; Revere Copper Products, Inc.; International Association of Machinists and Aerospace Workers; International Union, Allied Industrial Workers of America (AFL-CIO); Mechanics Educational Society of America, and United Steelworkers of America (AFL-CIO)) and by Wolverine, we have determined that a dumping margin exists. For the reasons discussed below, we are not revoking the order with respect to BSS from Canada manufactured by Wolverine.

EFFECTIVE DATE: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or James Terpstra, Office of Antidumping/Countervailing Duty Enforcement, Office Four, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0651 or 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 351 (1998).

Background

The Department published an antidumping duty order on BSS from Canada on January 12, 1987 (52 FR 1217). On February 8, 1999, the Department published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on BSS from Canada (64 FR 6039) (preliminary results).

Immediately prior to the preliminary results, Petitioners raised a number of issues with respect to Wolverine's questionnaire response (Petitioners' letter of January 12, 1999). Some of these issues we were able to consider for purposes of the preliminary results (*see* 64 FR at 6039–41/Further Developments Section). However, in order to address the remaining issues we needed to collect additional information from Wolverine in order to clarify the record. Thus, on February 23, 1999, we issued a supplemental questionnaire to which Wolverine responded on March 25, 1999. On April 12, 1999, Petitioners raised issues with this reported information which necessitated an additional supplemental questionnaire (April 18, 1999), to which Wolverine responded on April 30, 1999. On May 7, 1999, Petitioners raised issues with the information in the April 30, 1999, response. As a result, we sought further clarification in a supplemental questionnaire (May 14, 1999) to which Wolverine responded on June 3, 1999. We gave interested parties an opportunity to comment on our preliminary results. We received written comments from Petitioners and Wolverine. No hearing was requested.

Scope of Review

Imports covered by this review are shipments of BSS, other than leaded and tinned BSS. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. Although the HTS item numbers are provided for convenience and customs purposes, the written description of the scope of this order remains dispositive. In our final affirmative determination of circumvention of the antidumping duty order, covering the period September 1, 1990, through September 30, 1991, we determined that brass plate used in the production of BSS falls within the scope of the antidumping duty order on BSS from Canada. *See Brass Sheet and Strip from Canada: Final Affirmative Determination of Circumvention of Antidumping Duty Order,* 58 FR 33610 (June 18, 1993).

Period of Review

The review period (POR) is January 1, 1997 through December 31, 1997. The review involves one manufacturer/exporter, Wolverine.

Normal Value Comparisons

To determine whether sales of subject merchandise from Canada to the United States were made at less than normal value, we compared the Export Price (EP) to the Normal Value (NV), as described in the ''Export Price'' and ''Normal Value'' sections of the preliminary results of review notice (*see* preliminary results, 64 FR at 6039). Therefore, in this proceeding, when making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of Review'' section of this notice, above, that were sold in the ordinary course of trade, for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade, based on the characteristics listed in Sections B and C of our antidumping questionnaire.

Revocation in Part

Under the Department's regulations, the Department may revoke an order in part if the Secretary concludes that: (1) ''one or more exporters or producers covered by the order have sold the merchandise at not less than normal value for a period of at least three consecutive years''; (2) ''[i]t is not likely that those persons will in the future sell the subject merchandise at less than normal value...''; and (3) ''the exporter or producer agrees in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Secretary concludes that the exporter or producer, subsequent to the revocation, sold the subject merchandise at less than normal value.'' *See* 19 CFR 351.222(b)(2).

Upon review of the three criteria described above, and of the case briefs and rebuttal briefs, and on the basis of all of the evidence on the record, we determine for the final results of this review that the Department's requirements for revocation have not been met.

The Department found that Wolverine's sales reviewed during the eighth (1994) and ninth (1995) administrative reviews under this order were made at not less than NV. However, in the tenth (1996) and in this current eleventh review, we determined that Wolverine's sales were made at less than NV. Therefore, we are not revoking the antidumping duty order with respect Wolverine. *See Comment 1.*

Changes Since the Preliminary Results

Since the preliminary results we have made the following changes in our calculations. We recalculated Wolverine's reported warranty costs on a customer-specific basis (*see Comment 3*). We added home market indirect selling expenses to the COP calculation (*see Comment 7*). We included in the margin calculation a sale made in 1996 but entered in 1998 (*see Comment 8*). We used temper as a matching criterion, as in previous reviews of this product (see *Comment 9*). *See also Analysis Memo* dated August 9, 1999, on file in the Central Records Unit (CRU), located in Room B–099 of the main Commerce Department Building.

In addition, Wolverine, in response to post-preliminary supplemental questionnaires, presented several revisions to its reported information. We have accepted and used the following revisions: 1) recalculated general and administrative (G&A) expenses which accounted for certain one-time personnel related expenses (*see Comment 6*); 2) revised allocation of foreign exchange gains and losses to attribute the proper amounts to the reported cost information (*see Analysis Memo*); 3) recalculated freight expenses (*see Analysis Memo*); 4) recalculated packing expenses (*see Analysis Memo*); 5) revised interest expense which accounts for certain one-time debt-refinancing arrangements (*see Comment 10*); and 6) recalculated credit expenses (*see Analysis Memo*).

Analysis of Comments Received

Comment 1

Wolverine claims that the Department should revoke Wolverine from the antidumping order for the following reasons: 1) the Department found zero or *de minimis* dumping margins in the final results of the administrative reviews of subject merchandise entered during calender years 1994 and 1995, 2) Wolverine timely requested revocation from the order during the administrative review covering entries during calender year 1996, complied with all other prerequisites for requesting revocation, and submitted evidence demonstrating that it was unlikely that the Company would resume dumping if the antidumping order were revoked, 3) the Department's position in litigation with respect to the 1996 review shows that Wolverine has *de facto* achieved *de minimis* or zero dumping margins in the final results of three successive reviews, 4) the Department has issued preliminary results in the 1997 review indicating *de minimis* margins for that review period, and 5) the information regarding likelihood of resumption of dumping submitted in the 1996 review, and used as the basis for its preliminary decision in the instant review remains valid.

Petitioners state that Wolverine's request for revocation should be denied for the following reasons: 1) regardless of the Department's position before the NAFTA Panel with respect to the 1996 review, the margin found in that review remains in effect, 2) correcting the errors in Wolverine's sales and cost database will result in dumping margins above *de minimis* in this review, and 3) dumping is likely to recur in the future.

Department Position

We agree with Petitioners that Wolverine has not met the requirements for revocation in this review. Because the litigation in the 1996 review is not yet complete, the margin found in that review remains in effect. In addition, we have determined that Wolverine was dumping at an above *de minimis* rate during the 1997 POR. Because Wolverine does not meet the requirements of 19 CFR 351.222(b)(2)(i), Wolverine is not entitled to revocation in this review.

Comment 2

Petitioners claim that Wolverine incorrectly reported the width for one of Wolverine's U.S. sales. Petitioners request that the Department correct this error in Wolverine's U.S. sales database before making its final margin analysis. Additionally, Petitioners contend that Wolverine also failed to provide cost data for the product (*i.e.,* control number) sold pursuant to this invoice in its constructed value database.

Department Position

We agree with Petitioners that the width reported for this sale was inaccurate, and have adjusted our calculation accordingly. However, we disagree that the reported cost information is wrong and must be rejected. Wolverine reported the cost for producing the merchandise subject to this sale. That fact that the product code reported on the sales list for this merchandise was incorrect with respect to the width variable does not mean the reported cost for this merchandise is also incorrect. Accordingly, we accepted the reported cost. (*See also Analysis Memo.*)

Comment 3

Petitioners claim that Wolverine's reported U.S. warranty expense is understated and must be corrected to include all relevant costs. Petitioners state that warranty expenses should be

recalculated to include complete delivery costs for the returned goods. According to Petitioners, the Department's supplemental questionnaire directed Wolverine to include in its warranty expense value freight costs and the cost of manufacture associated with restoring merchandise returned under warranty. Petitioners claim that the reported warranty expenses should include the delivery cost of the damaged merchandise, as well as the return freight costs for this merchandise. Petitioners also argue that the fabrication portion of the reported warranty expense is understated because it only includes variable manufacturing costs and excludes fixed manufacturing costs. In addition, Petitioners argue that the Department erred by treating the reported direct warranty expenses as being in Canadian dollars, rather than in U.S. dollars. Finally, Petitioners generally contest the accuracy of the fabrication portion of the reported warranty expenses.

Wolverine asserts that the Department should accept its warranty cost data as submitted, because these costs are accurate and include all appropriate expenses. Specifically, Wolverine states, the freight cost for returned goods, plus the cost of fabricating returned material, is included in its market-specific warranty expense, and fixed manufacturing costs are properly excluded. Moreover, these costs were reported in Canadian dollars, the currency in which the expenses were incurred. According to Wolverine, Petitioners' criticisms regarding the justifications for Wolverine's warranty expense are unfounded. Wolverine rebuts Petitioners' assertion that warranty expenses should be increased by an amount for fixed overhead, arguing that the Department excludes such costs from its ''DIFMER'' analysis and should exclude them from warranty costs as well. Wolverine also argues that Petitioners' arguments with respect to the factual accuracy of the fabrication portion of its warranty expenses were raised too late in the proceeding and should not be considered.

Department Position

We agree with Petitioners that an adjustment to the margin calculation is needed to properly deal with the cost of re-working the defective merchandise; however, as explained below, this is not an adjustment to warranty costs, for which the fabrication element of warranty expense is already correctly reported. We also agree with Wolverine that the total amount of warranty expense, which includes the freight cost associated with returning defective merchandise and the manufacturing costs associated with re-working such merchandise to make it re-saleable, was accurately reported inclusive of all appropriate costs and expenses, and was reported in Canadian dollars.

We disagree with petitioners' claim that the overall warranty cost is understated because it does not include the cost of the outbound freight to the customer. This expense was properly excluded from the warranty expense. The outbound cost of freight on the transaction associated with the warranty claim was incurred by Wolverine as a freight cost outside of any warranty context, and therefore should continue to be treated as freight cost, not a warranty cost, for that sale. The reference to ''freight cost'' in the supplemental questionnaire was to the freight costs incurred as a direct result of the product defect associated with the warranty. Since in this case the re-worked brass was not returned after re-working to the customer filing the warranty claim, the only ''warranty'' freight was the cost of returning the defective product to Wolverine.

With respect to the fabrication element of warranty costs, in other words the cost of re-working the defective product so that it could be re-sold, we do not agree with Wolverine's claim that these expenses (which are now included in the reported warranty expense value) should be excluded from the reported warranty expenses. These expenses are clearly incurred as a direct result of the warranty claim, and thus should be treated as warranty expenses. We do, however, agree with Wolverine that double counting of these expenses must be avoided. Because the manufacturing costs associated with re-working defective merchandise reported for warranty expenses is part of the overall reported cost of production/constructed value (COP/CV) data for the POR, we need to make an adjustment to avoid double counting. Accordingly, we reduced the reported COP/CV to account for any portion of such costs associated with re-working defective merchandise returned under warranty (*see Analysis Memo*).

Regarding petitioners' claim that the fabrication element of Wolverine's overall warranty costs is understated because it includes only labor and variable overhead, with no fixed overhead component, we disagree. In calculating warranty expenses, the Department considers only variable expenses, because the fixed expenses associated with fabrication would, by definition, be incurred irrespective of the warranty claims at issue. In this respect, warranty expenses are similar to technical service expenses: any fixed portion of the cost at issue, *e.g.*, the salary of a technical service representative, would be considered an indirect selling expense. Similarly, any fixed overhead expenses which could be allocated to the cost of reworking the defective merchandise would also be considered indirect expenses. In addition, given the relatively minor amount of these costs, as compared to the overall production expenses, the portion of fixed overhead allocable to warranty expenses would be negligible and would have a *de minimis* effect on the calculations. Accordingly, we made no adjustment to direct warranty expenses for fixed overhead. *See Analysis Memo*.

With respect to the question of whether the warranty expenses reported by Wolverine were stated in U.S. dollar or Canadian dollar values, we agree with Wolverine that the reported values are Canadian dollar values reported in that currency. Wolverine originally indicated that it reported these expenses in U.S. dollars (August 14, 1998 questionnaire response, computer format sheet exhibit C1). Wolverine subsequently realized its oversight, however, and reported that these expenses were both incurred and reported in Canadian dollars (June 3, 1999 questionnaire response, at 2 and Exhibit 8 of Wolverine's December 28, 1998).

Finally, Petitioners attempt, in their case brief, to cast doubts on the overall accuracy of the fabrication cost element of Wolverine's warranty cost data, suggesting that Wolverine has not provided enough support for the Department to be sure of the accuracy of these costs as reported. We agree with Wolverine that these allegations are late, lack substance, and are not supported by the record.

Comment 4

During this review, Wolverine allocated its POR warranty expenses on U.S. and Canadian sales, respectively, over total quantity shipped in each market. During this POR, Wolverine's total U.S. warranty expense arose from a claim associated with a single defective brass coil that was returned. Petitioners argue that, whenever possible, warranty expenses must be allocated on a model-specific basis, or at a minimum, on a customer-specific basis. Thus, Petitioners argue, because it is possible to associate this warranty expense with the single transaction at issue, and because the Department's practice is to seek to allocate direct expenses such as warranties at a transaction-specific or model-specific

level, the Department should allocate this entire warranty expense either to the transaction at issue, or at least to the customer at issue. Wolverine argues that its U.S. warranty expenses should be allocated over total U.S. sales of subject merchandise, as currently reported, because Wolverine sets its prices in consideration of its average likelihood of defects. This is particularly true, Wolverine asserts, because BSS is a mature commodity-like product which is not highly customized, such that the defect rate tends to be generally consistent, even though Wolverine cannot predict on which units individual defects will occur. Wolverine also argues that, if the Department were to reject the basis on which Wolverines has allocated warranty expenses incurred during the POR, it should use the historical 3-year average warranty expense it reported.

Department Position

We disagree with Wolverine that the warranty expense should be allocated over all U.S. sales of the subject merchandise. Once we ascertained the correct total warranty expense we determined that these expenses should be allocated on as a specific a basis as possible, which in this case, for the reasons given below, is on a customer-specific basis.

Where feasible, the Department normally considers actual or historical warranty data on a model-by-model basis. *See, e.g.,* questions B34 and C44 of the questionnaire sent to Wolverine on March 31, 1998. Because certain warranty expenses are direct selling expenses, the Department asks respondents to associate these expenses with the individual sales which gave rise to them, to the extent that the company's record-keeping system permits them to do so. In some instances, the company's record-keeping system does not track direct expenses such as warranties to individual sales; in such cases, the Department normally will accept an allocation of these expenses on as specific a basis as possible, including a customer-specific basis. In this case, Wolverine's records kept in the normal course of business allow it to track warranty expenses on a more specific basis. (*See Analysis Memo.*) In this review, Wolverine changed its practice and allocated warranty expenses over all U.S. sales of subject merchandise. (We also note that Wolverine made no mention of this change in practice in the narrative portion of its questionnaire response, and gave no reason for the change until petitioners challenged the allocation.)

Wolverine argues that, in negotiating sales prices (and including in those prices an element for possible warranty expense) a manufacturer takes into account the ''average likelihood'' of product defects. Thus, Wolverine argues, the ''only logical basis'' for allocating warranty expenses is the average warranty expense that it has reported. This would be a more convincing argument had Wolverine chosen to allocate its warranty expenses in this fashion earlier. Furthermore, Wolverine has not argued that it was unforeseen that its warranty expenses could be so concentrated. When a company produces large products, such as coils of brass, it is clear that a single damaged product can result in a significant warranty expense, and this fact would be taken into consideration in setting prices. Despite this fact, Wolverine's earlier warranty-reporting has been more specific.

Companies often track warranty expenses on a customer-specific basis. This is because such expenses frequently tend to be clearly identified with specific customers. It is the individual customer whose warranty claims must be addressed. Producers and sellers have a fundamental need to be familiar with and satisfy their customers' needs in order to obtain repeat business. As a result, companies usually need to keep accurate records to assure that customer complaints, including but not limited to warranty expense claims, are dealt with. This gives rise to the requirement for accurate, customer-specific, record keeping. In addition, warranty expenses may, in fact, vary by customer. This is based not only on the different mix of models sold to individual customers, but also on differences in product applications, delivery conditions (time, distance, and method), product tolerance requirements individual customers specify as acceptable, and inspection practices. Moreover, Wolverine changed its practice with regard to warranty allocation and failed to identify or justify this change. In light of the above factors we continued to allocate warranty expenses on a customer-specific basis as we did in earlier review segments of this proceeding. *See Analysis Memo.*

Finally, we have not followed Wolverine's suggestion that if we do not accept its reported allocation of POR data, we use the historical three year average warranty expense, because we have more accurate POR-based data available. Average historical data are most commonly used in situations in which POR-specific data are not available because the product is one for which warranty claims may only be filed some years after merchandise is sold or in which POR-specific data are for some reason aberrational. Wolverine has not alleged that the warranty claim at issue was aberrational.

Comment 5

Petitioners argue that Wolverine improperly allocated its U.S. freight costs and thus, that Wolverine's U.S. freight costs for a small number of sales for which transaction-specific costs are available should be recalculated on a transaction-specific basis. Petitioners assert that, rather than allocating its freight costs on the most specific basis possible, as required by the Department's regulations, Wolverine diluted the BSS freight costs incurred on subject merchandise by allocating its freight costs, including those incurred on a substantial volume of sales of non-subject merchandise, over all brass sales. The result, Petitioners claim, was a significant reduction in Wolverine's reported U.S. freight expense for subject merchandise.

Wolverine argues that the use of a transaction-specific method for the sales in question would be distortive and that Wolverine's freight costs reported for the POR are based on the same method that the company has used in the past, and that the Department has accepted in prior segments of this proceeding. Wolverine states that its reported cost of freight reflects the average POR freight cost incurred to ship all merchandise to the same customer at the same location. According to Wolverine, this average reflects the delivery terms it negotiates with each customer, which are based on Wolverine's assessment of the delivery costs it will incur on sales of all products to an individual customer. Moreover, Wolverine argues that its freight records are not organized to allow freight costs to be easily attributed to specific invoices.

Department Position

We disagree with Petitioners that the freight costs associated with the particular sales in question should be re-calculated on a transaction-specific basis. To avoid a ''cherry-picking'' approach to price adjustments, the Department generally prefers to use a transaction-specific expenses or a single allocation methodology to quantify a given expense within a POR. As a consequence, while transaction-specific data may be available for certain transactions, the Department will not use the transaction-specific expenses when only allocated expense data is available for other transactions. Although the Department seeks to

obtain transaction-specific freight costs, the accounting records of respondent companies are frequently not organized in a way that lends itself to such reporting as a general matter. *See, e.g., Brother Industries, Ltd.* v. *United States,* 540 F. Supp. 1341, 1363 (1982); *see also Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From [various countries]; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 33320, 33340 (June 18, 1998). As a result, allocations of freight costs are common. As noted in this review, and as verified in prior reviews, Wolverine's freight expenses records are not organized in a manner that allows freight costs to be attributed easily to individual transactions. For example, it is common for a given Wolverine freight bill to cover multiple invoices and both subject and non-subject merchandise. Therefore, the Department has in the past determined that it is reasonable for Wolverine to calculate the average freight costs to each customer, and then allocate this amount over all sales to that customer. That is what Wolverine did in this review. Moreover, Commerce also has verified in past reviews that no distortion was introduced by allocating costs to ship both subject and non-subject merchandise to the same customer, and there is no indication on the record of this review of a change in that situation.

Comment 6

Petitioners argue that the Department should correct Wolverine's G&A expense ratio: (1) based on the formula in the Department's questionnaire, and (2) to reflect an ''even-handed and consistent treatment'' for income and expenses. Petitioners assert that Wolverine improperly excluded certain personnel costs in its calculation of G&A expenses. According to Petitioners, the Department should calculate a revised G&A expense ratio for Wolverine based on the total G&A expenses reported by Wolverine at Attachment 12 of Wolverine's March 25, 1999 questionnaire response, and the total cost of sales shown in Wolverine Tube Inc.''s 1997 financial statement.

Wolverine states that it reported G&A expense net of related income items generated at the manufacturing subsidiary, in compliance with the Department's questionnaire requirement. Wolverine contends that, in calculating the G&A ratios, it also added a proportionate amount of G&A expenses incurred at the corporate parent level that were not otherwise reflected in the subsidiary's expenses. According to Wolverine, the Department should use Wolverine's submitted G&A figures in its Final Results.

Department Position

We agree with Wolverine that its G&A expenses were appropriately reported. Contrary to Petitioners' assertion, Wolverine allocated an appropriate portion of its corporate parent's G&A to the production of subject merchandise. This allocation is typical of the kind we accept in antidumping cases where the corporate parent incurs certain G&A expenses on behalf of its subsidiary. *See, e.g., Final Determination of Sales at Less Than Fair Value: Welded Stainless Steel Pipe from Malaysia: Final Result of Antidumping Review,* 59 FR 4023, 4027 (January 28, 1994). *See also Analysis Memo.* We note that, based on issues raised by Petitioners, we asked Wolverine to revise its reported G&A expenses to include a portion of certain one-time charges which had not originally been included in the reported costs. Wolverine complied with this request in its March 30, 1999 questionnaire response. We have used the G&A expenses revised in this manner for the final results of this review.

Comment 7

Petitioners claim that the Department should include home market indirect selling expenses in its cost test due to the fact that Wolverine failed to report indirect selling expenses in its sales database and the Department incorrectly excluded indirect selling expenses from its cost test.

Wolverine agrees that the Department should add indirect selling expenses to COP.

Department Position

We agree and have adjusted our calculations accordingly.

Comment 8

Wolverine claims that the Department erroneously excluded from the 1997 POR margin calculation one U.S. sale. This sale involved merchandise that was sold prior to, but entered during, the POR. According to Wolverine, the U.S. sale in question was confirmed in 1996 but the merchandise was shipped in 1997. Wolverine notes that under section 751(a)(2)(A) of the Act, the Department is required to determine the normal value and U.S. price of each entry of subject merchandise made during the POR.

Petitioners did not comment on this issue.

Department Position

We have included this sale in our analysis. The Department's practice with respect to sales prior to importation has been to examine the sales of merchandise which entered the United States during the POR.

Comment 9

Petitioners argue that the Department should continue to reject Wolverine's original and revised temper codes. Petitioners state that temper has not been viewed as an appropriate model match criterion in the BSS proceedings generally, because it is not one of the primary or essential characteristics of C.D.A. 200-series BSS, the subject merchandise.

Wolverine claims that the Department must reject Petitioners' newly submitted factual information with respect to the use of temper as a product matching criterion (*i.e.,* statements regarding whether or not temper is ''generally identified in the industry'' as representing ''commercial reality''). Wolverine states that temper has been used by the Department as a matching criterion in the last 3 completed reviews; therefore, regardless of whether the Department accepts Petitioners' ''new factual information,'' temper should continue to be used as a matching criterion. Finally, Wolverine notes that Petitioners have reviewed this methodology in three prior reviews and have not previously objected to the use of temper as a matching criterion in any of those segments of the proceedings.

Department Position

We agree with Wolverine that temper is an appropriate matching criterion. We did not use Wolverine's submitted temper codes in the preliminary determination because its temper coding categories also involved a different criterion ''finish.'' In response to our supplemental questionnaire, however, Wolverine, has re-coded its products as to temper to resolve this problem. We have used temper as a matching criterion in previous reviews of this order. *See, e.g., Brass Sheet and Strip from Canada: Preliminary Results of Antidumping Duty Preliminary Review; Review of Notice of Intent To Revoke Order in Part,* 63 FR 6519, 6521 (February 9, 1998)((1996 review); *Brass Sheet and Strip from Canada; Results of Antidumping Duty Administrative Review,* 61 FR 1560, 1561 (January 22, 1996)(1993 review). We have found that temper is a measurable physical characteristic, which is recognized in the marketplace, and which results in cost and price differences. Moreover, we

disagree with Petitioners' claim that because temper was not used as a matching criterion in the investigation it cannot be a relevant criterion in this review. The Department may alter its approach over different segments of a proceeding if the facts so warrant. In fact, it is not uncommon for the Department to modify its approach through different segments of a proceeding as it learns more about the product, the industry, and the selling practices within that industry. Finally, we do not agree that Petitioners' assertions and argument with respect to the alleged ''commercial reality'' concerns as to temper codes rise to the level of ''factual information.'' Thus, they need not be excluded as ''new factual information.''

Comment 10

Petitioners argue that the Department should revise Wolverine's interest expense ratio to include the costs that Wolverine incurred during the POR to refinance and restructure its debt.

Wolverine states that the Department does not require that all interest expenses incurred by a company in one year be included in COP in the same year for antidumping analysis purposes, and that the Department has allocated exchange gains and losses associated with long-term debt over the remaining term of that debt, and not to the year in which the exchange gain/loss occurred.

Department Position

We agree with Petitioner that Wolverine's interest expense ratio should take these costs into account; however, we also agree with Wolverine that the debt restructuring costs, which were originally excluded from the reported costs, should be amortized over five years, the term of the credit arrangement. Wolverine resubmitted its interest cost incorporating this change and we have accepted it. *See also Analysis Memo.*

Final Results of the Review

As a result of our comparison of EP to NV, we determine that a dumping margin of 0.71 percent exists for Wolverine for the period January 1, 1997 through December 31, 1997. We also determine not to revoke in part the antidumping duty order with respect to imports of subject merchandise from Wolverine.

Cash Deposit Instructions

The following deposit requirements will be effective upon publication this notice of final results of administrative review for all shipments of the subject merchandise from Canada that are entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Wolverine will be the rate stated above; (2) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (3) the cash deposit rate for all other manufacturers or exporters will continue to be rate, the ''all others'' rate established in the LTFV investigation, and (4) for any previously reviewed exporter, the cash deposit rate will be its company-specific rate established for the most recent period. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Assessment Instructions

The Department will determine, and the U.S. Customs Service shall assess, antidumping duties on all entries subject to this review. For assessment purposes, we have calculated importer-specific *ad valorem* duty assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined entries during the POR to the total quantity of sales examined corresponding to such sales. The Department will issue appraisement instructions directly to the Customs Service.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 9, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–22087 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–506]

Porcelain-On-Steel Cooking Ware From the People's Republic of China: Postponement of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce (''Department'') is extending by 120 days the time limit for the preliminary results of the antidumping duty administrative review of the antidumping duty order on porcelain-on-steel cooking ware from the People's Republic of China (''PRC'') covering the period December 1, 1997, through November 30, 1998, because it is not practicable to complete this review within the time limits mandated by the Tariff Act of 1930, as amended (''the Act'').

EFFECTIVE DATE: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: Russell Morris, at (202) 482–1775, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Act, as amended, by the Uruguay Round Agreements Act (''URAA''), effective January 1, 1995. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR Part 351 (April 1998).

Postponement of Preliminary Results of Review

Section 751(a)(3)(A) of the Act requires the Department to make a

preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations provide that when it is not practicable to complete the review within the specified time period, the Department may extend this time period by 120 days. Because of the complexities in this administrative review, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act. *See* Memorandum from Bernard T. Carreau to Robert S. LaRussa, Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Porcelain-On-Steel Cooking Ware from the People's Republic of China, on file in the Central Record Unit, Room B–099, Main Commerce Building.

Accordingly, the Department is extending the deadline for issuing the preliminary results of this review until no later than December 31, 1999. In accordance with section 751(a)(3)(A) of the Act, we plan to issue the final results of this administrative review within 120 days after publication of the preliminary results.

Dated: August 16, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary for AD/CVD Enforcement Group II.

[FR Doc. 99–22085 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–828]

Antidumping Administrative Review of Silicomanganese from the People's Republic of China: Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the administrative review of the antidumping duty order on Silicomanganese from the People's Republic of China. The review covers two manufacturer/exporters of the subject merchandise to the United States for the period December 1, 1997, through November 30, 1998.

EFFECTIVE DATE: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: Timothy Finn or Jim Terpstra, Group II, Office IV, AD/CVD Enforcement, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–0065, or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete the preliminary results of this review within the initial time limit established by the Uruguay Round Agreements Act (245 days after the last day of the anniversary month), pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department is extending the time limit for completion of the preliminary results until November 1, 1999. *See* 19 CFR 351.213 (g)(2) and the Memorandum from Bernard T. Carreau to Robert S. LaRussa, on file in the Central Records Unit located in room B–099 of the main Department of Commerce building.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675(a)(3)(A)).

Dated: August 16, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–22084 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar from India; Preliminary Results of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of new shipper review of stainless steel bar from India.

SUMMARY: In response to requests from Jyoti Steel Industries, Parekh Bright Bars Pvt. Ltd., and Shah Alloys Ltd., the Department of Commerce is conducting a new shipper review of the antidumping duty order on stainless steel bar from India. This review covers these companies' sales of stainless steel bar to the United States during the period February 1, 1998 through July 31, 1998.

We have preliminarily determined that, during the period of review, Parekh Bright Bars Pvt. Ltd. has made sales of subject merchandise below normal value and that Jyoti Steel Industries and Shah Alloys Ltd. have not made sales of subject merchandise below normal value. If these preliminary results are adopted in our final results, we will instruct the Customs Service not to assess antidumping duties.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: Stephanie Hoffman, James Breeden, or Melani Miller, Office 1, 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) 482–4198, (202) 482–1174, or (202) 482–0116, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, all references to the Department of Commerce's (''the Department's'') regulations are to 19 CFR Part 351 (April 1998).

Background

On August 18 and August 31, 1998, the Department received requests from Jyoti Steel Industries (''Jyoti''), Parekh Bright Bars Pvt. Ltd. (''Parekh''), and Shah Alloys Ltd. (''Shah'') to conduct a new shipper review of the antidumping duty order on stainless steel bar from India. Our notice initiating the new shipper review of these companies was published in the **Federal Register**, on October 30, 1998 (63 FR 58367). The period covered by this review is February 1, 1998, through July 31, 1998.

Scope of Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened

and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Use of Facts Otherwise Available

Parekh failed to respond to the Department's supplemental questionnaire and request for cost information (*i.e.*, Section D of the original questionnaire). Section 776(a)(2)(A) of the Act provides for the use of facts available when an interested party withholds information that has been requested by the Department. As described in more detail below, Parekh has failed to provide information explicitly requested by the Department; therefore, we must resort to the facts otherwise available.

In using the facts otherwise available, however, pursuant to section 782(e) of the Act, the Department must determine whether information Parekh already submitted for the record of this review may be used in calculating a dumping margin. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and that is necessary to the determination but which does not meet all the applicable requirements established by the Department if—

(1) The information is submitted by the deadline established for its submission,

(2) The information can be verified,

(3) The information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination,

(4) The interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information, and

(5) The information can be used without undue difficulties.

Parekh did respond to the Department's original questionnaire and a supplemental questionnaire. However, Parekh failed to respond to a second supplemental questionnaire requesting clarification of deficient information in Parekh's previous responses. Moreover, as explained in the ''Normal Value'' section of this notice below, the Department has preliminarily determined to base normal value on constructed value (''CV'') for all three respondents. Parekh failed to provide requested cost information necessary for the calculation of CV. Therefore, we find the information already on the record so incomplete that it cannot serve as a reliable basis for calculating a dumping margin. Consequently, we are not using any of the information submitted by Parekh for our preliminary results and are relying instead on facts available.

In selecting from among the facts otherwise available, section 776(b) of the Act provides that the Department may use an inference that is adverse to the interests of a party if it determines that party has failed to cooperate to the best of its ability. On May 18, 1999, the Department issued a second supplemental questionnaire to Parekh. The Department did not receive a response to this questionnaire, nor did it receive a request from Parekh for an extension of time to respond. The Department made several efforts to contact Parekh regarding the status of its questionnaire response, but was unable to reach any of Parekh's personnel. Consistent with section 782(d) of the Act, the Department sent a letter to Parekh on July 16, 1999, advising the company that its lack of cooperation may result in the use of facts otherwise available. Parekh did not respond to this letter. Additionally, in the Department's May 18, 1999, letter to Parekh, the Department informed Parekh that if it chose not to offer evidence demonstrating why a particular market situation does not exist in the home market, it should submit a response to section D of the original questionnaire (*i.e.*, cost information). Parekh did not submit any information concerning the particular market situation, nor did it submit cost information.

The Department finds that by not providing necessary information specifically requested by the Department and discontinuing its participation in this review, Parekh has failed to cooperate to the best of its ability. Therefore, in selecting facts available, the Department determines that an adverse inference is warranted. As adverse facts available, we have preliminarily assigned a margin of 21.02 percent to Parekh's sales of the subject merchandise.

This margin, calculated for sales by Mukand Limited during the investigation, represents the highest weighted-average margin determined for any firm during any segment of this proceeding. Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (''SAA'') provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see*, H.R. Doc. 316, Vol. 1, 103d Cong., 2d Sess. 870 (1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no

circumstances indicating that this margin is inappropriate as facts available. Therefore, we preliminarily find that the 21.02 percent rate is corroborated.

United States Price

In calculating the price to the United States, we used export price (''EP''), in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation into the United States and use of constructed export price was not otherwise indicated.

We calculated EP based on the CIF price to the United States. In accordance with section 772(c)(2) of the Act, we made deductions, as appropriate, for foreign inland freight, international freight, marine insurance, and brokerage and handling.

Normal Value

Viability: In order to determine whether Shah, Jyoti, and Parekh made a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (''NV''), we compared the respondents'' volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. We found that each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its respective aggregate volume of U.S. sales of the subject merchandise. Even though this result would normally indicate that NV should be based on home market sales, as explained below, information on the record indicates that a ''particular market situation'' exists in the home market that renders the otherwise viable home market an inappropriate basis for NV.

In a letter dated February 3, 1999, the petitioners stated that the dates of the home market sale reported by Parekh and Shah were outside the period of review. Lacking home market sales in the period of review, the petitioners argued that both Parekh's and Shah's home markets were not viable.

In considering this argument, the Department notes that section 773(a)(1)(A) of the Act states that NV shall be based upon the price at which the foreign like product is first sold in the usual commercial quantities and in the ordinary course of trade ''at a time *reasonably corresponding* to the time of the sale used to determine the export price or constructed export price'' (emphasis added). Neither the Department's regulations nor the SAA offer any further clarification of the time period the Department should examine in determining market viability.

However, the Department has developed a methodology for determining contemporaneity for purposes of comparing NV with export price or constructed export price. The Department's regulations at 19 CFR 351.414(e)(2) provide that if there are no sales of the foreign like product in the month of the U.S. sale under consideration, the Secretary will select as the contemporaneous month the most recent of the three months prior to the month of the U.S. sale, and if there are no sales of the foreign like product during any of these months, the earlier of the two months following the month of the U.S. sale in which there was a sale of the foreign like product. This methodology commonly is referred to as the 90/60-day contemporaneity window.

Although both Shah and Parekh's home market sales were made outside the period of review, we have preliminarily determined that, since both respondents' home market sales were within the 90/60-day contemporaneity window they would be used for comparison purposes. Because the time of these home market sales ''reasonably corresponds'' to the time of the sales used to establish EP, we have examined whether these sales constitute a viable home market for the purpose of determining NV.

Particular Market Situation: On March 8, 1999, the petitioners alleged that Shah, Jyoti, and Parekh made home market sales identical to their U.S. sales, after making their U.S. sales, in order to artificially establish zero dumping margins. Consequently, the petitioners alleged that the home market constitutes a fictitious market within meaning of section 773(a)(2), and that the Department should not use the home market sales as the basis for normal value. In the alternative, the petitioners claimed that a particular market situation within the meaning of section 773(a)(1)(C)(iii) exists in the home market because all three respondents made a single sale in the home market that constituted five percent or more of sales to the U.S. market. The petitioners asserted that in light of this particular market situation, the Department was precluded from using respondents' home market sales for calculating normal value. *See* May 18, 1999, Memorandum to Laurie Parkhill, ''Home Market Viability, Fictitious Market, and Particular Market Situation Allegations'' (''May 18, 1999 Memo'') and June 24, 1999, Memorandum to Richard Moreland, ''Particular Market Situation'' (''June 24, 1999 Memo'') for a detailed discussion of these issues.

In considering the petitioners' fictitious market allegation, we have preliminarily determined that evidence on the record does not support a finding that Shah, Jyoti, or Parekh established a fictitious market. It is the Department's practice in proceedings involving fictitious market allegations to require that the petitioners provide some evidence on the record that establishes the occurrence of different movements in prices at which different forms of the foreign like product are sold before pursuing an allegation. *See, e.g., Tubeless Steel Disc Wheels from Brazil; Final Results of Antidumping Duty Administrative Review,* 56 FR 14085 (April 5, 1991) (''* * * before pursing a [fictitious market] allegation, the Department must have sufficient evidence that there have been different movements in the prices at which different forms of the subject merchandise have been sold in the home market.''). The petitioners have not provided such evidence and, therefore, we have not pursued an inquiry into the petitioners' fictitious market allegations. *See* May 18, 1999 Memo.

With respect to the petitioners' allegation of a particular market situation, we preliminarily determine that a particular market situation does exist for Shah, Jyoti, and Parekh. According to section 773(a)(1) of the Act, the Department may decline to use home market sales for determining normal value where ''the particular market situation in the exporting country does not permit a proper comparison with the export price or constructed export price.'' The SAA further discusses particular market situations, stating that a particular market situation may exist where a single sale in the home market constitutes five percent of sales to the United States. SAA at 152.

In the instant review, we find that each respondent had a single sale in the home market which constituted more than five percent of the aggregate volume of its U.S. sales. In addition, we note that the subject merchandise is a commodity-type product that can easily be distinguished from a large capital good, such as a printing press, where one home market sale made during the period of review might be a normal situation. We further note that although we gave the respondents an opportunity to offer information demonstrating why a particular market situation does not exist in the home market, Jyoti and Shah (the two respondents who chose to

submit information)[1] failed to submit information demonstrating why these single, isolated sales in the home market were indicative of actual home market prices of the foreign like product. Accordingly, we preliminarily determine that the respondents' home markets should not be used for purposes of calculating normal value. Moreover, because none of the respondents have made sales to third countries during the POR, we determine that CV is the appropriate basis for normal value. *See* May 18, 1999 Memo and June 24, 1999 Memo for a more detailed analysis.

Constructed Value: In accordance with section 773(e)(1) of the Act, we calculated CV for Shah and Jyoti based on the sum of the respective respondent's cost of materials (net of import duty credits earned on its U.S. sale), labor, overhead, G&A, profit, and U.S. packing costs. (As discussed in the ''Facts Available'' section above, we could not calculate CV for Parekh because it failed to respond to our request for necessary cost information.) With respect to G&A, we used the amounts reported by Shah and Jyoti in their 1997–1998 audited financial statements, and, in accordance with our normal practice, adjusted these amounts to capture those expenses associated with the production of the subject merchandise.

With respect to amounts for profits, section 773(e)(2)(A) of the Act states that CV should include an amount ''incurred and realized by the specific exporter or producer being examined in the investigation or review * * * for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country * * *'' In this case, the actual amounts incurred and realized by Shah and Jyoti for profits, in connection with their sales of the foreign like product, are based on Shah and Jyoti's respective single home market sales. However, as discussed above, we have determined that these home market sales are not an appropriate basis for normal value because a particular market situation exists. Accordingly, these sales are not an appropriate basis for calculating CV profit. Therefore, as no other actual profit amounts realized by Shah and Jyoti in connection with sales of the foreign like product are available, we have used an alternative calculation method.

The decision to use an alternative method to determine profit and the selection of the appropriate method depends on the facts of each case. Therefore, the decision to use alternative CV profit data must be made on a case-by-case basis. Based on the facts of the present case, in accordance with section 773(e)(2)(B)(i) of the Act, we calculated the respondents' respective profit based on the respondents' sale of merchandise that is in the same general category of products as the subject merchandise. That is, we calculated profit based on the respondents' respective total sales of all merchandise produced, as reflected in the companies' 1997–1998 audited financial statements.

Preliminary Results of Review

As a result of our comparison of EP and NV, we preliminarily determine the following weighted-average dumping margins:

Manufacturer/Exporter	Period	Margin (percent)
Jyoti	2/1/98–7/31/98	0.00
Parekh	2/1/98–7/31/98	21.02
Shah	2/1/98–7/31/98	0.00

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 2 days after the deadline for filing rebuttal briefs unless the Secretary alters the date. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed no later than 5 days after the deadline for filing case briefs. The Department will issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 90 days of issuing these preliminary results.

Upon completion of this new shipper review, the Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales made to the total entered value of the examined sales. In order to estimate the entered value, we subtracted international movement expenses (*e.g.,* international freight) from the gross sales value. This rate will be assessed uniformly on all entries made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

The following deposit requirement will be effective upon publication of the final results of this new shipper review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (''LTFV'') investigation, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 12.45 percent, the ''all others'' rate established in the LTFV investigation (59 FR 66915, December 28, 1994).

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties

[1] Parekh did not submit any information concerning the particular market situation issue.

occurred and the subsequent assessment of double antidumping duties.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act.

Dated: August 18, 1999.

Bernard Carreau,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–22083 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081799B]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a number of public meetings of its oversight committees and advisory panels in September, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held between September 7 and September 29, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: Meetings will be held in Danvers, MA and Warwick, RI. See **SUPPLEMENTARY INFORMATION** for specific locations.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION: Meeting Dates and Agendas

Tuesday, September 7, 1999, at 9:30 a.m.—Habitat Committee and Advisors Meeting.

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: 978–777–2500.

The committee and advisors will discuss proposed Mid-Atlantic Fishery Management Council Tilefish Fishery Management Plan (FMP) research criteria and objectives for Great South Channel area reserve; review the status of the draft inshore Gulf of Maine habitat area of particular concern and Long Island Sound essential fish habitat framework adjustment.

Wednesday, September 8, 1999, 10:00 a.m.—Whiting Committee meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: 978–777–2500.

The Committee will develop a framework adjustment to the Northeast Multispecies FMP that may include options for a whiting mesh size/possession limit category telephone call-in enrollment system as well as options for allowing the use of net strengtheners with 2.5–inch mesh. The Committee also will begin to review and discuss possible issues to be addressed in an upcoming amendment to the Northeast Multispecies FMP, which would remove whiting, red hake, and offshore hake from the Multispecies FMP and establish a separate FMP for these small mesh species.

Thursday, September 9, 1999, 9:30 a.m.—Groundfish Committee and Groundfish Advisory Panel Joint Meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

The committee and panel will review and finalize alternatives, and recommend a preferred alternative for a framework adjustment to the Northeast Multispecies FMP to implement mid-season adjustments to the management program for the Gulf of Maine cod fishery that could also carry forward to the 2000–2001 fishing year. The framework action will also modify the Georges Bank cod trip limit adjustment mechanism. The Council held the initial meeting for this framework adjustment on August 10–11, 1999, and identified options for consideration. It will hold the final meeting, to select measures for submission to the Secretary of Commerce, on September 21 –23, 1999.

Thursday, September 9, 1999, 10:00 a.m. –- Scallop Advisory Panel Meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: 978–777–2500.

The advisory panel will consider management adjustments for the 2000 fishing year, beginning March 1, 2000, based on biological, economic, and other information in the Stock Assessment and Fishery Evaluation (SAFE) report. Adjustments are needed to achieve the FMP objectives including preventing overfishing, rebuilding stock biomass, and producing optimum yield.

Friday, September 10, 1999, 9:30 a.m. –- Scallop Committee Meeting

Location: Sheraton Ferncroft Hotel, 50 Ferncroft Road, Danvers, MA 01923; telephone: 978–777–2500.

The Scallop Plan Development Team will present the annual monitoring SAFE report and from this information and advisor recommendations, the committee will develop management alternatives for consideration at the first framework meeting, scheduled for September 21–23, 1999. Adjustments are needed to achieve the FMP objectives including preventing overfishing, rebuilding stock biomass, and producing optimum yield.

Thursday, September 16 and Friday, September 17, 1999, at 8:00 a.m. –- Scientific and Statistical Committee Meeting

Location: New England Fishery Management Council Office, 5 Broadway, Saugus, MA 01906; telephone: 781–231–0422.

The Scientific and Statistical Committee will review the 1999 SAFE Report for Atlantic Sea Scallops, including the Scallop Plan Development Team recommendations for the annual adjustment to the Atlantic Sea Scallop FMP. The Committee will report its findings to the Council at the September 21–23, 1999 Council meeting in New Bedford, MA.

Tuesday and Wednesday, September 28–29, 1999, 9:30 a.m.–Scallop Committee Meeting

Location: Radisson Hotel, 2081 Post Road, Warwick, RI 02886; telephone: 401–739–3000.

Following an initial framework meeting where the Council will identify management alternatives for framework action, the committee will define and specify these alternatives for the Final Framework 12 document. After analysis by the plan development team, the alternatives will be considered for approval at a final framework meeting, scheduled on November 16–18, 1999.

Although other issues not contained in this notice may be discussed at these meetings, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during these meetings. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: August 19, 1999.

Gary C. Matlock,

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

[FR Doc. 99–22050 Filed 8–20–99; 3:19 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081799C]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet September 13–17, 1999. The Council meeting will begin on Monday, September 13, at 9 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 8:30 a.m. on Thursday, September 16 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Doubletree Hotel - Columbia River, 1401 North Hayden Island Drive, Portland, OR; telephone: (503) 283–2111.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order
1. Opening Remarks, Introductions, Roll Call
2. Approve Agenda
3. Approve April and June Meeting Minutes

B. Strategic Planning for the Groundfish Fishery

C. Coastal Pelagic Species Management
1. Status Report on Implementation of Limited Entry
2. Plan Amendment
3. Annual Management Cycle

D. Pacific Halibut Management
1. Status of 1999 Fisheries
2. Status of Bycatch Estimate and Testing of Bycatch Reduction Devices
3. Proposed Changes to the Catch Sharing Plan and Regulations

E. Habitat Issues

F. Salmon Management
1. Sequence of Events and Status of Fisheries
2. State Reports on Selective Fisheries
3. Status of Plan Amendment 14
4. Test Fishery Protocol

G. Groundfish Management
1. Staff Overview of Groundfish Agenda, Including Priorities and Schedules
2. Status of Federal Regulations, NMFS Activities and Applications for Exempted Fishing Permits
3. Fishery Management Plan Amendment for Stock Rebuilding and Specific Rebuilding Programs for Lingcod, Bocaccio, and Pacific Ocean Perch
4. Preliminary Harvest Levels and Other Specifications for 2000
5. Status Reports
6. Measures Required by the American Fisheries Act
7. Plan Amendment to Address Bycatch
8. Observer Program
9. Proposed Management Measures for 2000
10. Status of Fisheries and Inseason Adjustments
11. Rockfish Allocation
12. Groundfish Priorities and Schedules

H. Marine Reserves - Council Direction to Committee

I. Highly Migratory Species Management
1. Report of the Multilateral High-Level Conference
2. Coordination with Western Pacific and North Pacific Councils
3. Review of Issue Paper and Schedule of Scoping Sessions

J. Administrative and Other Matters
1. Report of the Budget Committee
2. Status of Legislation
3. Report of the Council Chairs' Meeting
4. Appointments to Advisory Groups
5. Draft Agenda for November 1999
6. Election of Officers

Advisory Meetings

The Groundfish Management Team (GMT) will convene on Sunday, September 12, at 11 a.m. and on Monday, September 13, at 8 a.m. to address groundfish issues on the Council agenda. They will continue to meet as necessary through September 17 to address groundfish issues on the Council agenda.

The Scientific and Statistical Committee will convene on Monday, September 13, at 8 a.m., on Tuesday, September 14, at 8 a.m., and on Wednesday, September 15 at 8 a.m. to address scientific issues on the Council agenda.

The Habitat Steering Group (HSG) meets at 9 a.m. on Monday, September 13, to address issues and actions affecting habitat of fish species managed by the Council.

The Groundfish Advisory Subpanel (GAP) will convene on Monday, September 13, at 10 a.m. and will convene at 8 a.m. Tuesday through Thursday to address groundfish management items on the Council.

The GMT/GAP/HSG will meet Monday 3:30 p.m. to 5:30 p.m. to develop a workplan to address fishing gear impacts and essential fish habitat.

The Ad-Hoc Salmon Mortality Committee will meet on Monday, September 13, at 7 a.m. to discuss estimation of hook-and-release mortality for ocean salmon fisheries.

The Ad-Hoc Marine Reserve Committee will meet Tuesday, 6:30 p.m. to continue development of recommendations to the Council.

The Budget Committee meets on Wednesday, September 15 after the Council recesses for that day to review the status of the 1999 Council budget and recommend a budget for 2000.

The Enforcement Consultants meet at 5:30 p.m. on Tuesday, September 14, to address enforcement issues relating to Council agenda items.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John S. Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: August 19, 1999.

Gary C. Matlock,

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

[FR Doc. 99–22078 Filed 8–24–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Petition of the Chicago Board of Trade, the Chicago Mercantile Exchange, and the New York Mercantile Exchange for Exemption Pursuant to Section 4(c) of the Commodity Exchange Act

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of petition for exemption and request for comment.

SUMMARY: The Chicago Board of Trade, the Chicago Mercantile Exchange, and the New York Mercantile Exchange have submitted a joint petition dated June 25, 1999, to the Commodity Futures Trading Commission requesting an exemption, pursuant to Section 4(c) of the Commodity Exchange Act, for all boards of trade that have been designed by the Commission as contract markets from certain statutory requirements concerning the contract market designation process for new contract submissions and the contract market rule review process. The Commission believes that publication of the petition for comment in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act and the Commission's regulations. The full text of the petition is reproduced at the end of this Notice.

DATES: Comments must be received on or before October 12, 1999.

ADDRESSES: Comments should be submitted to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Comments also may be sent by facsimile to (202) 418–5521 or by electronic mail to secretary@cftc.gov. Reference should be made to the ''Petition of the Chicago Board of Trade, the Chicago Mercantile Exchange, and the New York Mercantile Exchange for Exemption Pursuant to Section 4(c) of the Commodity Exchange Act.''.

FOR FURTHER INFORMATION CONTACT: Rebecca L. Creed, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Telephone number (202) 418–5430; electronic mail rcreed@ cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated June, 1999, and received June 28, 1999, the Chicago Board of Trade, the Chicago Mercantile Exchange, and the New York Mercantile Exchange (collectively referred to as the ''Exchanges'') submitted a joint petition to the Commodity Futures Trading Commission (''Commission'' or ''CFTC''), pursuant to Section 4(c) of the Commodity Exchange Act (''Act''),[1] requesting an exemption for all boards of trade that have been designated by the Commission as contract markets from certain statutory requirements. Specifically, the petition requests an exemption from the Act's requirements in three areas: (1) the contract market designation process for new contract submissions, set forth in Sections 5 and 6 of the Act and any related statutory provisions, including Section 2(a)(8)(B)(ii) of the Act; (2) the contract market rule review process, set forth in Section 5a(a)(12) of the Act; and (3) pertinent provisions of the Act that would otherwise prevent the immediate adoption and implementation of trading rules an procedures that are comparable to those of a competing foreign exchange.

The Exchanges' petition was filed in response to the Commission's Order dated June 2, 1999. That Order withdrew the Commission's proposed rules governing the use of automated trading systems in the United States (''U.S.'') which provide access to foreign electronic boards of trade.[2] The Order also directed Commission staff ''to begin immediately processing no-action requests from foreign boards of trade seeking to place trading terminals in the United States, and to issue responses where appropriate, pursuant to the general guidelines included in the Eurex (DTB) no-action process, or other guidelines established by the Commission, to be reviewed and applied as appropriate on a case-by-case basis.''[3] Finally, by the same Order, the Commission determined to ''commit to simultaneously initiate processes to address the comparative regulatory levels between U.S. and foreign electronic trading systems so as not to provide one with a competitive advantage.''

The Exchanges state that their petition for exemptive relief should be in order to avoid unfair competition from foreign exchanges that have been or will be permitted to place their electronic trading systems in the U.S. pursuant to no-action letters issued by Commission staff.[4] Since these foreign exchanges will not be required to obtain Commission designation as contract markets in order to operate in the U.S., the Exchanges state that they will not be

[1] Section 4(c) of the Act states in relevant part:

Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful for any person to offer to enter into, to enter into, to execute, to confirm the execution of, or to conduct any office or business anywhere in the United States, its territories or possessions, for the purpose of soliciting, or accepting any order for, or otherwise dealing in, any transaction in, or in connection with, a contract for the purchase or sale of a commodity for future delivery (other than a contract which is made on or subject to the rules of a board of trade, exchange, or market located outside the United States, its territories or possessions) unless—

(1) such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a 'contract market' for such commodity;

(2) such contract is executed or consummated by or through a member of such contract market; and

(3) such contract is evidenced by a record in writing which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery * * *.

Section 4(c) of the Act provides the Commission with the authority ''by rule, regulation, or order'' after notice and opportunity for hearing to exempt ''any agreement, contract, or transaction (or class thereof)'' from the requirements of Section 4(a) or from any other provision of the Act, with the exception of the Shad-Johnson Accord provisions of Section 2(a)(1)(B) (stock index futures).

[2] *See* 64 FR 14159 (March 24, 1999) (proposed rules); 64 FR 32829 (June 18, 1999) (announcement of withdrawal of proposed rules).

[3] In February 1996, the Commission's Division of Trading and Markets (''Division'') issued a no-action letter to the Deutsche Terminborse (''DTB''), an automated international futures and options exchange headquartered in Frankfurt, Germany. DTB has subsequently changed its name to Eurex Deutschland (''Eurex''). In this no-action letter, the Division agreed, subject to certain conditions, not to recommend enforcement action to the Commission if Eurex placed computer terminals in the U.S. offices of its members for principal trading and, where the Eurex member is also a futures commission merchant (''FCM'') registered with the Commission under the Act, for trading on behalf of U.S. customers as well, without Eurex being designated as a U.S. contract market. *See* CFTC Interpretative Letter No. 96–28 [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶26,669 (Feb. 29, 1996).

Subsequent to receiving the Exchanges' petition for exemptive relief, on July 23, 1999, the Division granted a no-action request submitted by LIFFE Administration and Management (which operates The London International Financial Futures and Options Exchange) to make its electronic trading and order matching system available to its members in the U.S. Similarly, on August 10, 1999, the Division granted the no-action requests submitted on behalf of Eurex, the Sydney Futures Exchange Limited, the New Zealand Futures and Options Exchange Limited, and the ParisBourse SBF SA with respect to the placement of their respective electronic trading and order matching systems in the U.S.

[4] Currently, U.S. customers can access the products offered by foreign exchanges by: (1) communicating through a U.S. registered FCM or introducing broker (''IB'') (where the FCM or IB would relay the cutomer's order for execution to a foreign member of the foreign exchange by telephone, facsimile transmission, or other means); (2) communicating with a foreign firm that has received an exemption from registration under Part 30 of the Commission's regulations; or (3) utilizing cross-exchange access programs or other trading links between U.S. contract markets and foreign exchanges (*see e.g.*, the trading of Marche a Terme International de France products through Chicago Mercantile Exchange Globex terminals located in the U.S.).

subject to the same statutory and regulatory requirements as existing U.S. contract markets. The Exchanges state that this no-action process severely hampers their ability to compete with such foreign exchanges.

The Commission wishes to emphasize that it has not made any prior judgment with respect to any element of the Exchanges' petition for exemptive relief and that it will give serious consideration to all of the issues raised by, and the comments received on, the petition. The Commission urges members of the interested public, including U.S. contract markets, market participants, Commission registrants and end-users, as well as other federal government regulators to comment on all aspects of the petition.

II. The Exchanges' Petition for Exemption

A. Contract Market Designation Process for New Contract Submissions

Through their petition, the Exchanges are requesting that all boards of trade designated by the Commission as contract markets be exempt from complying with the contract market designation process for new contract submissions set forth in Sections 5 and 6 of the Act as well as any related statutory provisions, including Section 2(a)(8)(B)(ii) of the Act. The Exchanges state that they need the ability to list new contracts without being subject to the Act's review and approval process in order to remain competitive with foreign exchanges that have been or will be allowed to place electronic trading systems in the U.S. without being designated as contract markets by the Commission.

B. Review of New Rules or Rule Amendments

Through their petition, the Exchanges request that all boards of trade designated by the Commission as contract markets be exempt from complying with the contract market rule review process set forth in Section 5a(a)(12) of the Act.[5] Instead, the Exchanges are proposing that U.S. contract markets be required to provide notice of new rules or rule amendments to the Commission ten days in advance of the effective date. New rules and rule amendments submitted pursuant to this exemptive procedure would not be stayed or delayed unless the Commission determined that the rule was likely to cause fraud, render trading readily susceptible to manipulation, or threaten the financial integrity of the market.

C. Immediate Adoption and Implementation of Contract Market Trading Rules and Procedures That Are Comparable to Those of Competing Foreign Exchanges

Finally, the Exchanges are requesting that all boards of trade designated by the Commission as contract markets be exempt from pertinent provisions of the Act that would otherwise prevent such contract markets from responding immediately to competition from a foreign exchange authorized to operate trading terminals in the U.S. Specifically, under the exemptive relief requested by the Exchanges in their petition, any designated contract market would be able to implement trading rules and procedures comparable to those of the competing foreign exchange, provided that such rules and procedures would only apply to contracts listed by the U.S. contract market that are subject to direct competition from a contract listed by such foreign exchange. Under this procedure, designated contract markets would be able to adopt and implement such trading rules and procedures immediately upon submission to the Commission of the following materials: (1) the text of the rules and procedures being adopted; and (2) a certification that a foreign exchange employs comparable rules and procedures for a contract that directly competes with a contract listed by the U.S. contract market.

III. Request for Comment

The Commission requests comment on all aspects of the Exchanges' petition for exemption, including the issues identified below.

(1) The no-action process by which foreign exchanges are allowed to place their electronic trading terminals in the U.S. permits these exchanges to have limited access to the U.S. markets. For example, when the Division recently granted a no-action request submitted on behalf of LIFFE to make its electronic trading system available in the U.S., the Division imposed certain conditions that, among other things, require LIFFE to adhere to periodic reporting requirements apprising the Commission of the level of its business activity in the U.S. Moreover, if LIFFE wishes to make new contracts or products available in the U.S. through its electronic trading system, LIFFE must request and obtain supplementary no-action relief from the Division. To the extent that LIFFE substantially increases the quantity or modifies the nature of its business activity within the U.S., the Division has the discretion to re-examine the relief granted to LIFFE and, if appropriate, the Commission could require it to become designated as a contract market under Section 5 of the Act. Do the limitations on the degree of access that foreign exchanges will have to the U.S. markets pursuant to no-action positions alter the need for any of the exemptive relief sought by the Exchanges in their petition?

(2) In their petition, the Exchanges specifically request that all boards of trade designated by the Commission as contract markets be exempt from complying with the contract market designation process for new contract submissions set forth in Sections 5 and 6 of the Act as well as any related statutory provisions, including Section 2(a)(8(B)(ii) of the Act. The Commission recently proposed a two-year pilot program to permit the immediate listing of certain new contracts for trading for a specified period of time prior to obtaining Commission approval.[6] Please discuss whether the Commission's proposed rulemaking addresses the Exchange's stated need for relief in this area.

(3) In their petition, the Exchanges specifically request that all boards of trade designated by the Commission as contract markets be exempt from complying with the contract market rule review process set forth in Section 5a(a)(12) of the Act. Alternatively, the Exchanges propose that contract markets be required to provide notice of new rules or rule amendments to the Commission ten days in advance of the effective date and that the review of such proposals not be stayed or delayed unless the Commission determined that the rule was ''likely to cause fraud, render trading readily susceptible to manipulation, or threaten the financial integrity of the market.''

(a) Is this standard sufficient for the Commission to carry out its statutory obligations?

(b) In additional to fraud, manipulation, and financial integrity issues, are there any other issues which the Commission should address when determining whether to stay or delay the immediate implementation of proposed contract market rules or rule amendments?

(4) Please discuss the impact of any legal uncertainty on contract markets and market users if the Commission were to undertake disapproval of

[5] In their petition, the Exchanges indicate they are not requesting relief from those provisions of Section 5a(a)(12) of the Act which related to emergency rules. The Commission presumes that the Exchanges are not seeking an exemption from the contract market rule disapproval provisions of Section 5a(a)(12).

[6] *See* 64 FR 40528 (July 27, 1999).

contract market rules after their implementation.

(5) In their petition, the Exchanges specifically request that all boards of trade designated by the Commission as contract markets be exempt from pertinent provisions of the Act that would otherwise prevent such contract markets from responding immediately to competition from those foreign exchanges authorized to operate trading terminals in the U.S. Specifically, under this area of requested exemptive relief, contract markets would be able to adopt and implement trading rules and procedures comparable to those of competing foreign exchanges immediately upon their submission to the Commission along with certain accompanying certifications when the foreign exchanges are offering contracts in direct competition with those of a U.S. exchange.

(a) Under the proposal, it might be possible for a single U.S. contract to be subject to rules drawn from a number of different competing foreign exchanges. It also might be possible for different contracts trading side-by-side at a particular U.S. contract market to be subject to different sets of rules based upon the rules of competing foreign exchanges. Please discuss the implications of these possibilities, including their impact, if any, upon the ability of the Commission, the contract markets, or Commission registrants to discharge their regulatory responsibilities.

(b) The Exchanges preface their specific requests for exemptive relief with the general request that the ''Commission exercise its authority under Section 4(c) of the Act and grant certain exemptions from provisions of the Act except for . . . the provisions that prohibit manipulation.'' If the Commission were to grant the exemptive relief requested, could the Commission and the contract markets ensure that such comparable trading rules and procedures were not inconsistent with the Act's prohibitions against fraud and manipulation?

(c) Implicit in the Exchanges' petition is the notion that rules established for electronic trading on foreign exchanges could be applied to open outcry markets. Are there any public interest issues raised by applying rules designed for electronic trading systems to open outcry markets?

(6) The Commission's public comment process provides an opportunity to interested parties, both private and governmental, to comment on any issues related to proposed contracts and significant contract market rule changes (*e.g.*, electronic trading systems, alternative execution procedures). Under the Exchanges' petition, proposals in each of the three areas of requested relief would not be subject to a public comment period. Please discuss whether the lack of a public comment process would have any impact on the ability of the Commission to discharge its regulatory responsibilities in these areas.

(7) In their petition, the Exchanges indicate that U.S. contract markets may be disadvantaged by the ability of foreign exchanges to pay for order flow and/or provide inducements for market makers or customers to trade their products. What are the differences between foreign exchange rules related to order flow and liquidity programs and the U.S. contract market rules that the Commission has approved in these areas? [7]

(8) In their petition, the Exchanges state that, in contrast to foreign exchanges, U.S. contract markets are unable to adopt certain trading methodologies that provide guaranteed price and/or execution quantity. In June 1999, the Commission issued an Advisory on Alternative Execution, or Block Trading, Procedures for the Futures Industry,[8] in which it announced its intention to consider contract market proposals to adopt similar alternative execution methodologies. Please discuss whether there are any modifications that could be made to the Commission's Advisory that would further address the Exchanges' concerns in this regard. Please also discuss the extent to which such changes would be consistent with the Commission's responsibilities for ensuring the integrity and economic utility of futures markets and protecting market participants against manipulation, abusive trade practices, and fraud.

(9) In their petition, the Exchange states that U.S. contract markets are not permitted to delay the reporting of transaction information in order to accommodate market participants who desire to withhold relevant information about their transactions until they have been able to act in another market or execute additional transactions. The Exchanges believe that the ability of foreign exchanges to delay the reporting of certain types of transactions, such as block trades, to the general marketplace will enable them to capture market share from U.S. contract markets. Please discuss whether there are any modifications that could be made to the Commission's Block Trading Advisory that would further address the Exchanges' concerns in this regard. Please also discuss the extent to which such change would be consistent with the Commission's responsibilities as described in question 8 above.

(10) In their petition, the Exchanges state that the Commission, in its review of U.S. contract markets' electronic trading systems, requires account identification information to be entered into trading terminals prior to the execution of customer orders. The Exchanges believe that U.S. contract markets may lose market share to competing foreign exchanges that are not subject to such a requirement. The Commission has allowed bunched orders for certain eligible customers to be placed on a contract market without specific customer account identification, either at the time of order placement or at the time of reporting order execution.[9] Please discuss whether there are modifications that could be made to the approach taken by the Commission in this regard that would be responsive to the Exchanges' concerns. Please also discuss the extent to which such changes would be consistent with the Commission's responsibilities as described in question 8 above.

(11) In their petition, the Exchanges state that U.S. contract markets may not launch new products on their electronic trading systems pending the Commission's review and approval of system performance, capacity and security tests. The Exchanges further state that their foreign competitors will not be subject to the same review and approval process. The Commission notes that its review of newly created electronic trading systems has been, and continues to be, based on principles developed by the international regulatory community—specifically the International Organization of Securities Commissions (''IOSCO'').[10] Should the Commission's review of electronic trading systems be based on standards

[7] *See, e.g.*, Coffee Sugar & Cocoa Exchange Registered Market Maker Program (approved by the Commission on April 30, 1991); Chicago Board of Trade Modified Market Maker Program for the Wilshire Small Cap Index Futures Contract (allowed into effect without prior Commission approval on June 18, 1993); Chicago Mercantile Exchange Principal Market Maker Program (approved by the Commission on April 20, 1995); New York Mercantile Exchange Specialist Market Maker Program (approved by the Commission on July 8, 1998).

[8] *See* FR 31195 (June 10, 1999); 64 FR 34851 (June 29, 1999) (corrections).

[9] *See* 63 FR 45699 (August 27, 1998).

[10] *See* IOSCO, Report of the Technical Committee, *Screen-Based Trading Systems for Derivative Products* (June 1990).

other than or different from those contained in the IOSCO principles?

IV. Conclusion

As noted above, the full text of the Exchanges' petition is reproduced below.

Issued in Washington, DC, on August 19, 1999 by the Commission.

Catherine D. Dixon,

Assistant Secretary of the Commission.

Chicago Mercantile Exchange

June 25, 1999.

Ms. Jean A. Webb,

Office of the Secretariat, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581

Re: *Petition for Exemption Pursuant to Section 4(c).*

Dear Ms. Webb:

On behalf of the Chicago Board of Trade, Chicago Mercantile Exchange and New York Mercantile Exchange, I am submitting the enclosed petition to the Commission pursuant to Section 4(c) of the Commodity Exchange Act.

Very truly yours,

Carl A. Royal.

Enclosure.

Petition for Exemption Pursuant to Section 4(c) of the Commodity Exchange Act

June 25, 1999

Pursuant to Section 4(c) of the Commodity Exchange Act (''Act''), the Chicago Board of Trade (''CBOT''), Chicago Mercantile Exchange (''CME'') and New York Mercantile Exchange (''NYMEX''), designated contract markets with their principal places of business in the United States (the ''Exchanges''), respectfully petition the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') for exemptive relief. This petition seeks exemptions necessary to promote responsible innovation and fair competition. This request is made in response to the Commission Order dated June 2, 1999, instructing CFTC staff ''to begin immediately processing no-action requests from foreign boards of trade seeking to place trading terminals in the United States. . . .''

Granting this petition is essential to permit the Exchanges to avoid unfair competition in the United States from foreign exchanges that have been and will be permitted to establish trading facilities in this country pursuant to no-action letters issued by CFTC staff. Those foreign exchanges have not sought designation to operate as contract markets in the United States and therefore will not be required to comply with the Commodity Exchange Act.

The Exchanges requested that this petition be processed and approved in an expedited fashion to comply with the terms of the Commission's Order of June 2, 1999, and with Senator Richard Lugar's letter to the Commission dated May 6, 1999. It is essential that the relief afforded to U.S. exchanges be timed so that foreign exchanges are not afforded any unfair competitive advantage. Some of those foreign exchanges are subject to far less regulation than U.S. exchanges and employ trading rules and procedures that are prohibited by the Act. If foreign exchanges receive no-action relief before this petition is granted, the Exchanges will be placed at a severe competitive disadvantage.

I. Relief Sought

The Exchanges seek permission to respond, without delay, to any new contract, contract amendment, advantageous trading practice, or less costly regulatory device offered or likely to be offered by foreign exchanges on U.S. based trading terminals. This principle means that the Exchanges must to be able to list new contracts and amend existing contracts without being delayed by a lengthy CFTC approval process. The Exchanges must be free to offer any trading methodology, including prearranged trades, cross trades, block trades, etc., offered any trading methodology, including prearranged trades, cross trades, block trades, etc., offered by a foreign exchange, and such trades must be accompanied by the same reporting requirements that might make the foreign exchange a more attractive venue. The Exchanges must be free to offer the same order entry procedures employed by such foreign exchanges if those order entry and customer identification procedures make it more attractive to trade on the foreign exchange. The Exchanges must be free to operate and modify their trading systems with no more governmental interference than is imposed on the foreign exchanges.

In order to promote responsible innovation and fair competition, the Exchanges hereby respectfully requests that the Commission exercise its authority under Section 4(c) of the Act and grant certain exemptions from provisions of the Act except for Sections 4(a), 2(a)(1)(B), and the provisions that prohibit manipulation. The Exchanges request that the exemption be granted in the following form:

Pursuant to its powers under Section 4(c)(1) of the Commodity Exchange Act, the Commission hereby determines, consistent with the public interest and in order to promote responsible economic or financial innovation and fair competition, that notwithstanding any other provision of law, rule, regulation or order of the Commission:

Boards of trade that have been designated as contract markets:

1. Shall be exempted, to the extent of the Commission's power under Section 4(c)(1), from complying with the contract market designation process for new contract submissions under sections 5 and 6 of the Act as well as any related regulations or statutory provisions, including section 2(a)(8)(B)(ii) of the Act.

2. Shall be exempted, to the extent of the Commission's power under Section 4(c)(1), from the rule approval provisions of section 5a(a)(12) of the Act and related regulations, except the provisions relating to emergency rules, if the contract market provides notice of new rules or rule changes to the Commission 10 days in advance of the effective date. Rules submitted pursuant to this exemption shall not be stayed or delayed unless the Commission finds that the rule is likely to cause fraud, render trading readily susceptible to manipulation or threaten the financial integrity of the market. The Commission's power to alter or supplement any rule change implemented pursuant to this exemption shall not be diminished.

3. Shall be exempted, to the extent of the Commission's power under section 4(c)(1), to permit such contract market to respond to competition from any foreign exchange authorized to locate trading terminals in the U.S. Any designated contract market may implement trading rules and procedures comparable to those of the competing foreign exchange, provided that such rules and procedures shall apply only to contracts listed by the contract market that are subject to direct competition from contract listed by such foreign exchange. The contract market may adopt and implement such rules and procedures immediately upon its submission to the Commission of (i) the text of the rules and procedures being adopted and (ii) its certification that the foreign exchange employs comparable rules and procedures for trading a contract that competes directly with the contract listed by the contract market.

II. Statutory Background

On October 28, 1992, the Futures Trading Practices Act of 1992 (the ''1992 Act') was signed into law. The 1992 Act added new Section 4(c)(1) to the Act and authorized the Commission, by rule, regulation or order, to exempt any agreement, contract or transaction, or class thereof, from the exchange-trading requirements of Section 4(a) or any other requirement of the Act other than Section 2(a)(1)(B) of the Act. In granting exemptive authority to the CFTC under Section 4(c), the Conferees states: ''The Conferees intend that the Commission, in considering fair competition, will implement this provision in a fair and even-handed manner to products and systems sponsored by exchanges and non-exchanges alike.''[1]

III. Standards for Exemptive Relief

Section 4(c)(1) of the Act provides that the Commission may exempt any agreement, transaction or contract from any provisions of the Act (except Section 2(a)(1)(B)) if the Commission determines that the exemption would be consistent with the public interest. In this regard, the Conferees stated that the ''public interest'' under Section 4(c) includes the ''national public interests noted in the Act, the prevention of fraud and the preservation of the financial integrity of the markets, as well as the promotion of responsible economic or financial innovation and fair competition.'' The Conference Report noted that the reference to the purposes of the Act was intended ''to underscored [the] expectation that the Commission will assess the impact of a proposed exemption on the maintenance of the integrity and soundness of markets and market participants.''[2]

The Commission was granted authority to: ''exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection 9a) of this section [the

[1] House Conference Report No. 102–978 to H.R. 707. p. 78.

[2] *Id.*

exchange trading requirement] (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for states periods and either retroactively or prospectively, or both, from any of the requirements of subsection (a) of this section, or from any other provision of this chapter (except section 2a of this title), if the Commission determines that the exemption would be consistent with the public interest.''

In plain language, the Commission was authorized to grant a designated contact market an exemption from any provision of the CEA, other than the exchange trading requirements and the Shad/Johnson Accord, if the Commission determined that the ''exemption would be consistent with the public interest.'' The exchange trading requirements set forth in Section 4(a) are:

1. such transaction is conducted on or subject to the rules of a board of trade which has been designated by the Commission as a ''contact market'' for such commodity;

2. such contract is executed or consummated by or through a member of such contract market; and

3. such contract is evidenced by a record which shows the date, the parties to such contract and their addresses, the property covered and its price, and the terms of delivery: Provided, That each contract market member shall keep such record for a period of three years from the date thereof, or for a longer period if the Commission shall so direct, which record shall at all times be open to the inspection of any representative of the Commissioner or the Department of Justice.

Finally, Section 15 of the Act provides, in pertinent part, that the CFTC must consider the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives, policies, and purposes of the Act in adopting any exemption under Section 4(c) of the Act. As set forth below, approval of the petition is in accordance with the standards enumerated in the Act, while denial of this petition would clearly violate the strictures of Section 15.

IV. The Petition Satisfies the Statutory Standards for Relief

The Commission has apparently decided to permit foreign futures exchanges to operate electronic trading systems in the U.S. without seeking designation as contract markets or an exemption from designation. In consequence, U.S. futures exchanges face a devastating, unfair challenge. U.S. exchanges will be required to compete in the U.S. under the burden of a heavy regulatory handicap that does not apply to foreign exchanges offering U.S. customers clone contracts on identical trading facilities.

The pending no-action letters are sought to immunize foreign exchanges from the same provisions of the Commodity Exchange Act that constrain U.S. exchanges' ability to respond to competition. For example, some foreign exchanges will be able to list new products and change contract terms and conditions without waiting for approval from any regulator. Foreign exchanges could clone and trade the most important contracts traded on U.S. exchanges and capture U.S. exchange business by using competitive devices that are not available to U.S. exchanges. For example, some foreign exchanges could pay for order flow, permit pre-arranged trades, facilitate block trades with delayed price reporting, dispense with strict audit trail rules, and allow large traders to escape reporting requirements.

Open systems allow customers to chose between comparable contracts listed by competing exchanges available for trading on the same terminal. Minor differences between the regulatory environments of the competing exchanges can have enormous impacts on order flow. While every exchange must accept the verdict that will be rendered in a fair competitive environment, no exchange should be forced to compete with severe constraints on its ability to offer equivalent trading practices.

Therefore, the Commission should not admit foreign exchanges without acting to permit U.S. based exchanges to compete on the same regulatory terms with the foreign exchanges. The Commission should immediately exercise its power under Section 4(c) of the Act to permit the U.S. futures exchanges to operate under the same standards and conditions that govern such foreign exchanges admitted into the U.S.

The following issues, which are illustrative of a far longer list, are among those that need to be addressed by exempting U.S. exchanges from the constraints of the Act in order to respond to foreign competition. Eventually, these issues should be resolved by statutory amendment.

1. Pre-approval of Contracts, Contract Amendments and Rules: The competitive impact of permitting foreign exchanges to clone and list U.S. exchange contract inventions while U.S. exchanges are trapped in a lengthy approval process is devastating. The same is true with respect to rules regarding new trading methods or even changes to existing contracts.

2. Payment for Order Flow: Even if a U.S. exchange has a tangibly better trading environment for customers, the lure of payment for order flow and the difficulty of demonstrating actual damages to customers is likely to decide a competitive battle. If U.S. exchanges cannot counter competitive attacks based on such payments, the focus of liquidity is likely to move. Once moved, it cannot easily be recaptured, especially if the foreign exchange has no constraint on its ability to respond.

3. Inducements to Make Markets or Trade: Customer business ordinarily follows liquidity. A short-term program to buy liquidity, if it cannot be matched by the U.S. exchange for regulatory reasons, can change the long-term location of markets without any benefit to customers.

4. Guaranteed Pricing or Execution: U.S. exchanges cannot permit the type of prearrangement involved in guaranteeing price or execution quantity. The philosophy of the Act is to discover accurate prices through open competition. Firms that profit more from arranging such trades than the commission that would be earned through bringing a customer to an open outcry market will divert business to the foreign exchange that permits such practices.

5. Large Trade Reporting, Position Limits: Position limits are controlled by Section 4a of the Act. The statutory limitations do not apply to foreign exchanges that trade contracts that directly impact interstate commerce. The Commission imposed large trader reporting requirements by regulation on contracts traded on designated exchanges. See parts 16, 17 18, 19 and 21. Such limits will not apply to U.S. customers trading on foreign exchange terminals in the U.S. even if the contracts are clones of U.S. exchange contracts. Position limits and reporting requirements have been seen to impact the choice of trading venue by sophisticated customers. Many large sophisticated traders can be expected to transfer their business to foreign exchanges to avoid limits and disclosure.

6. Price Reporting: Many significant customers would rather withhold information about their trades until they have been able to act in another market or execute additional transactions. The Commission has precluded U.S. markets from delaying price reports for such purposes. The Act does not require real time price reports. If a competing foreign exchange, operating on the same terminal as a U.S. exchange, offers to delay reporting of large block trades, it is predictable where such trades will be registered. In fact LIFFE permits block traders to delay price reports.

7. Account Identification: Neither the Act nor the Regulations specifically require that the account identifying number be entered into the trading terminal prior to execution of the customer order. However, the CFTC staff has imposed such a requirement as a condition of approval of U.S. exchange electronic trading systems. Orders are being entered on foreign exchange trading terminals in the U.S. without first entering an account identifier. If the same contract can be traded on two exchanges, and one slows order entry with technical requirements, it is clear which exchange will get the business.

8. System Performance, Capacity and Security: In addition to burdening U.S. exchanges by requiring that new contracts and trading rules be approved in advance, the Commission has precluded U.S. exchanges from launching new products on their electronic trading systems until it has reviewed and approved performance and capacity tests. Foreign competitors will not be equally constrained under the proposed no-action approach.

V. Conclusion

The exemptive relief requested by this petition should be granted immediately. If the Commission grants the pending no-action requests of foreign exchanges to install trading terminals in the U.S. before the Exchanges achieve regulatory parity, the Exchanges would be placed at a severe competitive disadvantage. Granting no-action relief to foreign exchanges while refusing to grant commensurate relief to the U.S.

Exchanges would violate both Section 4(c) and Section 15 of the Act.

[FR Doc. 99–22013 Filed 8–24–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Application of the New York Mercantile Exchange in Mid-Columbia Electricity Futures Contracts Submitted Under 45-Day Fast Track Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The New York Mercantile Exchange (NYMEX or Exchange) has applied for designation as a contract market in Mid-Columbia electricity futures contracts. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purpose of the Commodity Exchange Act.

DATES: Comments must be received on or before September 9, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the NYMEX Mid-Columbia electricity futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Joseph Storer of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, telephone (202) 418–5282. Facsimile number: (202) 418–5527. Electronic mail: jstorer@cftc.gov.

SUPPLEMENTARY INFORMATION: The proposed designation application was submitted pursuant to the Commission's Fast Track procedures for streamlining the review of futures contract rule amendments and new contract approvals (62 FR 10434). Under those procedures, the proposal, absent any contrary action by the Commission, may be deemed approved at the close of business on October 4, 1999, 45 days after receipt of the proposal. In view of the limited review period under the Fast Track procedures, the Commission has determined to publish for public comment notice of the availability of the terms and conditions for 15 days, rather than 30 days as provided for proposals submitted under the regular review procedures.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the internet on the CFTC website at www.cftc.gov under ''What's New & Pending''.

Other materials submitted by the NYMEX in support of the proposal may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data views, or arguments on the proposals, or with respect to other materials submitted by the NYMEX should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on August 19, 1999.

John R. Mielke,

Acting Director.

[FR Doc. 99–22012 Filed 8–24–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB review; comment request

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Form Number, and OMB Number: Application for the U.S. Army ROTC 2-Year and 3-Year Scholarship; ROTC Cadet Command Form 166–R; OMB Number 0702–0083.

Type of Request: Reinstatement.

Number of Respondents: 3,870.

Responses per Respondent: 1.

Annual Responses: 3,870.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 1,935.

Needs and Uses: The application is used in the selection process for 2-year and 3-year ROTC scholarships. The ROTC scholarship is an incentive to attract men and women to pursue educational degrees in the academic disciplines required by the Army. The applications are available to students of colleges and universities that host Army ROTC. Completed applications are submitted to Headquarters, Cadet Command for review, screening, and selection of scholarship recipients.

Affected Public: Individuals or Households.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building , Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: August 19, 1999.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–21969 Filed 8–24–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Panel Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

DATES: 8 September 1999 (8 am to 4 pm).

ADDRESSES: The Defense Intelligence Agency, 3100 Clarendon Blvd, Arlington, VA 22201–5300.

FOR FURTHER INFORMATION CONTACT: Maj. Donald R. Culp, Jr., USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code, and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: August 19, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–21968 Filed 8–24–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Grant an Exclusive License to Stevens Institute of Technology

AGENCY: Department of the Army, DoD.

ACTION: Notice of Intent.

SUMMARY: In compliance with 37 CFR 404 et seq., the Department of the Army hereby gives notice of its intent to grant to Stevens Institute of Technology, an educational institution having its principle place of business at Castle Point on Hudson, Hoboken, NJ 07030, an exclusive license relative to patent applications concerning a jointly developed and jointly owned technology. The specific applications are PCT Application No. PCT/US99/02158 and provisional U.S. Patent Application S/W 60/073403; entitled ''Methods and Apparatus for Detecting Lesion-Induced Resonances in Deoxyribonucleic Acid Via Millimeter or Submillimeter Wave Spectroscopy''. Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg. 433. Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–22071 Filed 8–24–99; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Team 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 24, 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 Team 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: August 19, 1999.

William E. Burrow,

Team Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: National Assessment of Educational Progress (NAEP) Year 2000 Field Test and Year 2001 Main Assessment of World Geography and U.S. History.

Frequency: Annually.

Affected Public: Individuals or households; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 9,600

Burden Hours: 9,870

Abstract: The Congressionally mandated 2001 National Assessment of Educational Progress will assess world geography knowledge and knowledge of U.S. History among 4th, 8th, and 12th graders. To provide contextual information to interpret the assessment information relevant background characteristics of the students and their schools and teachers are gathered as well. The clearance package provides all of the background questions and supporting information for the field test and the main study. The results of the main study will be used to provide descriptive information about programs and practices in the teaching of history and geography; suggest relationships between characteristics and assessment results; serve as a basis for monitoring change over time.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, 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 OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 202–708–9902. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Annual Performance Reporting Form for OIE Local.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 1,272

Burden Hours: 171,600

Abstract: This data collection will be conducted annually to obtain program and performance information from OIE local grantees on their project activities. The information collected will assist federal OIE staff in responding to GPRA. Data will primarily be collected through an internet form. Grantees without internet access will complete a paper version of this form.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, 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 OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 202–708–9902. 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. 99–21992 Filed 8–24–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Team 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 24, 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 Team 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: August 20, 1999.

William E. Burrow,

Team Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Combined Application and Combined Announcement for the OERI Visiting Scholars Fellowship Program.

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 45.

Burden Hours: 630.

Abstract: The OERI Visiting Scholars Fellowship provides support to scholars, researchers, policymakers, educational practitioners, librarians, and statisticians to engage in the use, collection, and dissemination of information about education and education research to work at OERI in Washington, DC. The information collected in the application will be used to determine who is selected for these fellowships. This program is administered by the National Research Council.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (OMB Control No. 1890–0001). Therefore, this 30-day public comment period notice will be the only public comment notice published for this information collection.

[FR Doc. 99–22108 Filed 8–24–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Draft Environmental Impact Statement for the Proposed JEA Circulating Fluidized Bed Combustor Project at Jacksonville, Florida

AGENCY: Department of Energy.

ACTION: Notice of Availability.

SUMMARY: The Department of Energy (DOE) announces the availability for public review and comment of the Draft Environmental Impact Statement (EIS) for the JEA Circulating Fluidized Bed Combustor Project (DOE/EIS–0289), at Jacksonville, Florida. The Draft EIS was prepared pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321 *et seq.*), Council on Environmental Quality NEPA regulations (40 CFR parts 1500–1508), and the DOE NEPA regulations (10 CFR part 1021). The Draft EIS analyzes the environmental impacts that could result from a proposal under DOE's Clean Coal Technology Program to construct and operate a nearly 300 megawatt-electric, coal-and petroleum coke-fired, circulating fluidized bed combustor and boiler to repower an existing steam turbine at JEA's Northside Generating Station. DOE's proposed action is to provide cost-shared funding of approximately $73.1 million (about 24 percent of the estimated total cost of $309 million) for construction of the combustor and boiler and for a 24-month period of demonstration testing of the technology.

The proposed project would demonstrate technology that is capable of cost-effectively reducing nitrogen oxide, sulfur dioxide, and particulate emissions, while producing power more efficiently and at less cost than conventional coal combustion technologies. Information and experience developed from this project could provide the basis for demonstrating the potential of utility scale, circulating fluidized bed technology as a practical alternative to conventional coal-fired power plant technologies.

DATES: DOE invites the public to comment on the Draft JEA EIS. Comments should be submitted by October 15, 1999 (see **ADDRESSES** section for more details) to ensure

consideration. DOE will consider comments submitted after October 15, 1999, to the extent practicable. A public hearing on the Draft JEA EIS will be held as follows: Florida Community College at Jacksonville, North Campus, Thursday, September 16, 1999, Times: 12 pm to 3 pm (Information Session) and 6 pm to 9 pm (Public Hearing).

The hearing will provide an opportunity for information exchange and discussion among DOE and the public, as well as opportunities for the public to present oral or written comments.

ADDRESSES: Comments may be submitted by mail, fax, telephone, or electronically to: Ms. Lisa Hollingsworth, NEPA Document Manager, U.S. Department of Energy, Federal Energy Technology Center, P.O. Box 880, Morgantown, WV 26507–0880, Telephone: 304–285–4992; Fax 304–285–4403, leave a message at 1–800–276–9851, lisa.hollingsworth@fetc.doe.gov.

Requests for copies of the Draft JEA EIS or other information regarding this environmental analysis should be addressed to Ms. Hollingsworth at the address above. The Draft EIS will be available under the DOE NEPA Analysis link from the DOE NEPA Web Site at http://tis.eh.doe.gov/nepa/.

FOR FURTHER INFORMATION CONTACT: For further information on the proposed project or the environmental impact statement, please contact Ms. Hollingsworth as directed above. For general information on the Department's NEPA process, please contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Ms. Borgstrom may be contacted by calling 202–586–4600 or by leaving a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

On November 13, 1997, the Department published a Notice of Intent (62 FR 60889) to prepare an environmental impact statement for the proposed JEA Circulating Fluidized Bed Combustor Project, in Duval County, Jacksonville, Florida. The purpose of the Notice of Intent was to inform the public of the proposed scope of the EIS, to solicit public input, and to announce a public scoping meeting that was held on December 3, 1997, in Jacksonville, FL. The Notice invited comments and suggestions on the proposed scope of the environmental impact statement, including environmental issues and alternatives, and invited public participation in the NEPA process. Comments and feedback received during the public scoping process were used in preparing the Draft EIS. The scoping period closed on December 31, 1997.

Alternatives Considered

The Draft EIS evaluates a proposed action and a no-action alternative. DOE's proposed action is to provide JEA with cost-shared funding of approximately $73.1 million (24 percent of the estimated total cost of $309 million) for the construction and operation of a combustor and boiler to repower a steam turbine and generator that have been out of service since 1983 at JEA's Northside Generating Station. In analyzing the proposed action (the preferred alternative), the Draft EIS also evaluates JEA's plans to repower a second, currently operating, steam turbine without cost-shared funding from DOE.

In addition to analyzing the environmental impacts of the proposed action, the Draft EIS analyzes the potential impacts of a No-Action Alternative. Under the No-Action Alternative, the Draft EIS analyzes three scenarios that JEA could pursue in the absence of DOE funding. The scenarios considered are: (1) JEA would construct the proposed project without DOE funding; (2) JEA would construct a new gas-fired combined cycle facility at Northside Generating Station or another location; and (3) JEA would purchase electricity from other utilities to meet JEA's projected demand. The Draft EIS compares the environmental impacts that could be expected to occur from repowering the two steam turbines with new circulating fluidized bed combustors under the proposed action with the impacts that would be likely from each of the three scenarios under the No-Action Alternative.

The Draft EIS focuses on impacts from construction and operation of the proposed project on: Human health, air quality, surface water, groundwater, ecological resources, socioeconomic resources, environmental justice, noise, and traffic. In addition, impacts on land use, floodplains, wetlands, waste management, and cultural resources are considered.

Availability of the Draft EIS

DOE has distributed copies of the Draft EIS to appropriate Members of Congress, State and local government officials in Florida, Federal agencies, and other interested parties. Copies of the document may be obtained by contacting DOE as provided in the section of this notice entitled, **ADDRESSES.** Copies of the Draft EIS are also available for inspection at the locations identified below:

(1) U.S. Department of Energy, Freedom of Information Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

(2) U.S. Department of Energy, Federal Energy Technology Center, 3610 Collins Ferry Road, Morgantown, WV 26507–0880.

(3) U.S. Department of Energy, Federal Energy Technology Center, 626 Cochrans Mill Road, Pittsburgh, PA 15236–0940.

(4) Highlands Branch Library, 1826 Dunn Avenue, Jacksonville, FL 32218.

After the public comment period ends on October 15, 1999, DOE will consider all comments received, revise the Draft EIS as appropriate, and issue a Final EIS. DOE will consider the Final EIS, along with other information, such as economic and technical factors, in deciding whether or not to provide funding for the construction and operation of the proposed coal-fired, circulating fluidized bed combustor and boiler.

Issued in Washington, DC, this 19th day of August 1999.

Robert S. Kripowicz,

Principal Deputy Assistant Secretary for Fossil Energy.

[FR Doc. 99–22007 Filed 8–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science Financial Assistance Program Cancellation of Notice 99–19: Computational Structural Biology

AGENCY: Department of Energy (DOE).

ACTION: Cancellation Notice.

The Office of Biological and Environmental Research (OBER) of the Office of Science (SC), U.S. Department of Energy (DOE), hereby cancels its Notice 99–19, Computational Structural Biology as published in FR, Vol. 64, No. 88, page 24628, Friday, May 7, 1999.

The Notice is canceled to enable DOE to prepare a more comprehensive Notice that encompasses aspects of both computational structural biology and experimental structural biology, including current and developing needs in structure determination, instrumentation, automation, and computation. Notice 99–19 represented only one part of the reorganization of DOE's structural biology program.

FOR FURTHER INFORMATION CONTACT: Dr. Roland F. Hirsch, SC–73, Mail Stop F–237, Medical Sciences Division, Office of Biological and Environmental Research, Office of Science, U.S. Department of Energy, 19901 Germantown Road, Germantown, MD 20874–1290, telephone: (301) 903–9009, fax: (301) 903–0567, E-mail: roland.hirsch@science.doe.gov.

Issued in Washington, DC, on August 18, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–22006 Filed 8–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science

Office of Science Financial Assistance Program Notice 99–25: Division of Nuclear Physics Outstanding Junior Investigator Program

AGENCY: Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of Nuclear Physics of the Office of Science (SC), U.S. Department of Energy, announces the initiation of an Outstanding Junior Investigator Program in nuclear physics and invites grant applications for support. Applications should be from tenure-track faculty who are currently involved in experimental or theoretical nuclear physics research, and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of individual research programs of outstanding scientists early in their careers. The full range of activities currently supported by the Division of Nuclear Physics is eligible for support under this program.

DATES: To permit timely consideration of awards in fiscal year 2000, formal applications submitted in response to this notice should be received by November 16, 1999.

ADDRESSES: Complete formal applications referencing Program Notice 99–25 should be forwarded to: U.S. Department of Energy, Office of Science, Grants and Contracts Division, SC–64, 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 99–25. The above address must also be used when submitting applications by U.S. Postal Service Express Mail, any other commercial mail delivery service, or when hand carried by the applicant. An original and seven copies of the application must be submitted. Due to the anticipated number of reviewers, it would be helpful for each applicant to submit an additional four copies of the application.

FOR FURTHER INFORMATION CONTACT: Dr. Dennis G. Kovar, Division of Nuclear Physics, SC–23 (GTN), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–3613. Fax: (301) 903–3833. E-Mail: dennis.kovar@science.doe.gov

SUPPLEMENTARY INFORMATION: This is the first year of an Outstanding Junior Investigator Program in Nuclear Physics supported by the Department of Energy's Office of Science. A principal goal of this program is to identify exceptionally talented new nuclear physicists early in their careers and facilitate the development of their research programs. Eligibility for awards under this notice is restricted to non-tenured investigators in academic institutions who are conducting experimental or theoretical nuclear physics research. The program is expected to contribute importantly to the vigor of the U.S. Nuclear Physics program. Applicants should request support under this notice for the normal research project costs required to conduct the proposed research.

The DOE expects to make two to four awards in the first year to meet the objectives of the program. The actual number of awards will be determined by the number of excellent applications and the total amount of funds available for this program. It is anticipated that a total of up to $250,000 will be available for the first year funding of the program, subject to availability of appropriated funds, and that awards would be for three to five year terms. At the end of the initial term, these grants may be renewed, subject to appropriate external peer review at the time of renewal, as long as the recipient's tenure status is unchanged.

Applications will be subjected to scientific merit review (peer review) and will be evaluated against the following criteria, listed in descending order of importance as codified at 10 CFR 605.10 (d):

1. Scientific and/or technical merit of the project;
2. Appropriateness of the proposed method or approach;
3. Competency of applicant's personnel and adequacy of proposed resources; and
4. Reasonableness and appropriateness of the proposed budget.

General information about development and submission of applications, eligibility, limitations, evaluation and selection processes, and other policies and procedures are contained in the Application Guide for the Office of Science Financial Assistance Program and 10 CFR part 605. The latest version of SC's Application Guide is available on the world wide web at: *http://www.er.doe.gov/production/grants/grants.html*

The catalog of Federal Domestic Assistance Number for this program is 81.049, and the solicitation control number is ERFAP 10 CFR part 605.

Issued in Washington, DC, on August 16, 1999.

John Rodney Clark,

Associate Director of Science for Resource Management.

[FR Doc. 99–22005 Filed 8–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 93–34–NG]

TransCanada Pipelines Limited; Order Amending Long-Term Authorization To Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice that on August 19, 1999, it issued DOE/FE Order No. 795–A (Order 795–A) which amends TransCanada PipeLines Limited's (TransCanada) natural gas import and export authorization granted April 30, 1993 by DOE/FE Order No. 795 (1 FE ¶ 70,787). The amendment permits TransCanada to increase the volumes of natural gas it is authorized to import and export from and to Canada from 1,405,000 Mcf per day to 1,717,000 Mcf per day for the remaining authorization term through November 1, 2005. The additional gas will be imported near Noyes, Minnesota, for storage in the United States and subsequent export back to Canada. The gas is transported by the pipeline system of Great Lakes Gas Transmission Limited Partnership across northern Minnesota, Wisconsin, and Michigan to two export points on the international boundary near St. Clair and Sault Ste. Marie, Michigan. The gas will be sold by TransCanada to its customers in eastern Canada. In all other respects the terms and conditions

of the previous authority would remain unchanged.

Order 795–A may be found on the FE web site at http://www.fe.doe.gov, or on our electronic bulletin board at (202) 586–7853. It is also available for inspection and copying in the Office of Natural Gas & Petroleum Import & Export Activities docket room, 3E–033, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0334, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, August 19, 1999.

John W. Glynn,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import & Export Activities, Office of Fossil Energy.

[FR Doc. 99–22004 Filed 8–24–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3942–000]

Alliance for Cooperative Energy Services Power Marketing LLC; Notice of Filing

August 19, 1999.

Take notice that on August 2, 1999, Alliance for Cooperative Energy Services Power Marketing LLC tendered for filing a transaction report for quarter ended 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 30, 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. 99–22011 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3705–000]

Metropolitan Chicago Healthcare Council Shared Services; Inc.; Notice of Filing

August 19, 1999.

Take notice that on August 10, 1999, Metropolitan Chicago Healthcare Council-Shared Services, Inc. (MCHC-Shared Services, Inc.), tendered for filing its amended petition to the Commission for acceptance of MCHC-Shared Services, Inc.'s Rate Schedule FERC Tariff No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market based rates; and waiver of certain Commission Regulations.

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 30, 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. 99–22008 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3909–000]

Northern Indiana Public Service Company; Notice of Filing

August 19, 1999.

Take notice that on July 30, 1999, Northern Indiana Public Service Company LLC tendered for filing a transaction report for short-term transactions for the second quarter of 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 30, 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. 99–22010 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–599–000]

Paiute Pipeline Company; Notice of Application

August 19, 1999.

Take notice that on August 11, 1999, Paiute Pipeline Company (Paiute), P.O. Box 94197, Las Vegas, Nevada 89193–4197, filed in Docket No. CP99–599–000, an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations for an order granting a certificate of public convenience and necessity, and permission and approval to abandon facilities. Paiute proposes to replace a segment of deteriorating pipeline on its Carson Lateral and at the same time enhance the capacity on its Carson Lateral to meet the growth requirements of its shippers served by that portion of Paiute's mainline system, 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).

Paiute proposes to replace a deteriorated portion of the original 10-inch transmission line on its Carson Lateral. Paiute states that due to the existing and projected load growth in the areas served by the Carson Lateral,

it also proposes to enhance the capacity of its Carson Lateral facilities by replacing the deteriorated segment with 20-inch diameter pipeline and by installing two new loop pipeline segments. Specifically, Paiute proposes to: (1) construct and operate approximately 5.5 miles of 20-inch replacement pipeline between mileposts 31.85 and 37.34 on the Carson Lateral in Lyon County, Nevada; (2) abandon in place approximately 5.5 miles of existing 10.75-inch pipeline between mileposts 31.85 and 37.34 on the Carson Lateral in Lyon County, Nevada; (3) construct and operate approximately 2.3 miles of 20-inch loop pipeline between mileposts 2.95 and 5.25 on the Carson Lateral in Storey and Lyon Counties, Nevada; and (4) construct and operate approximately 1.9 miles of 12.75-inch loop pipeline between mileposts 14.28 and 16.18 on its South Tahoe Lateral in Douglas County, Nevada.

Paiute states that in response to a general open season held early this year, Southwest Gas Corporation-Northern Nevada (Southwest-Northern Nevada) indicated that there had been a significant shift in its forecasted requirements and it requires additional delivery capability from Paiute downstream of the Wadsworth Junction in order to meet its projected winter peak day load profile for northern Nevada. Paiute further states that under the service agreement with Southwest-Northern Nevada, Paiute is not obligated to transport more than 65,350 Dth per day of gas for Southwest-Northern Nevada through the Wadsworth Junction. Southwest-Northern Nevada requested that level to be increased by 10,800 Dth to 76,150 Dth.[1] Paiute also states that Sierra Pacific Power Company wants to have the capability to have transported and delivered to the Fort Churchill Power Plant up to the full contractual maximum daily quantity for that delivery point on a winter peak demand day. Paiute states that in order to maintain such capability and to meet the requirements of its other firm shippers served by the Carson Lateral, Paiute needs to install the proposed facilities.

The estimated cost of the proposed facilities is $5,425,000. The cost to abandon in place the existing 10.75-inch pipeline segment is estimated to be $22,000. Paiute states that it proposes to finance the above-described costs through ongoing regular financing programs and internally generated funds. Paiute requests the Commission to make a determination that the costs of the proposed facilities can be rolled into Paiute's systemwide rates in Paiute's next general rate case under Section 4 of the NGA. Paiute states that the proposed construction satisfies each of the three criteria required by the Policy Statement for rolled-in pricing. Paiute requests authorization no later than March 1, 2000, so that the proposed facilities can be constructed and placed in service by November 1, 2000.

Any questions regarding this application should be directed to Edward C. McMurtrie at (702) 876–7178, Paiute Pipeline Company, P.O. Box 94197, Las Vegas, Nevada 89193–4197.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 9, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 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 NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining he 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 intervenors. 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 interenvor 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. Commenters 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 NGA 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 Paiute to appear or to be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21986 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

[1] Paiute states that the proposed facilities will add a nominal quantity of capacity on the Carson Lateral of 10,800 Dth on a design winter peak day. Paiute also states that upon placing the facilities in service, it intends to amend its service agreement with Southwest-Northern Nevada to increase by 10,800 Dth the limit on the quantity of gas that Paiute is obligated to transport for Southwest-Northern Nevada through the Wadsworth Junction.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3890–000]

Sithe Mystic LLC, Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, Sithe West Medway LLC, Sithe Wyman LLC; Notice of Filing

August 19, 1999.

Take notice that on July 30, 1999, Sithe Mystic LLC, Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, Sithe West Medway LLC, and Sithe Wyman LLC tendered for filing a transaction report for the second quarter of 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, 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 30, 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. 99–22009 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–8–001]

South Georgia Natural Gas Company; Notice of Compliance filing

August 19, 1999.

Take notice that on August 13, 1999, South Georgia Natural Gas Company (South Georgia) tendered for filing data analysis in compliance with a Commission Letter Order dated June 30, 1999 which accepted the primary sheets filed and directed South Georgia to report by August 15, 1999.

South Georgia states that they have conducted additional tests at the meter station, with gas flowing at delivery conditions. Based on these tests and analysis of system volume data by delivery point, South Georgia suspects that a strainer installed in April 1998, upstream of the meter, caused a mismeasurement of gas measured on that meter. The strainer design was unlike others on the South Georgia system and was removed in July 1999. Once the strainer was removed, the analysis of system volume data for the month of July appears to confirm the theory that this strainer was the source of the mismeasurement. In order to confirm this hypothesis, South Georgia plans to continue monitoring the monthly volume data at the meter run with the strainer removed. Following completion of further tests, South Georgia proposes to file a report with the Commission within thirty days and no later than December 31, 1999.

South Georgia states that a copy of its filing was served on all of South Georgia's jurisdictional customers and interested state commissions.

Any person desiring to protest this 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 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21988 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC99–104–000, et al.]

Illinois Power Company, et al.; Electric Rate and Corporate Regulation Filings

August 17, 1999.

Take notice that the following filings have been made with the Commission:

1. Illinois Power Company AmerGen Energy Company, L.L.C.

[Docket Nos. EC99–104–000, ER99–754–001, ER99–4034–000, and EL99–83–000]

Take notice that on August 9, 1999, Illinois Power Company (Illinois Power) and AmerGen Energy Company, L.L.C. (AmerGen), tendered for filing a joint application under Section 203 of the Federal Power Act for authorization for Illinois Power to sell, and AmerGen to purchase, certain assets subject to the jurisdiction of the Federal Energy Regulatory Commission.

Comment date: September 8, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. EC99–105–000]

Take notice that on August 10, 1999, Southern California Edison Company (SCE) tendered for filing in accordance with Part 33 of the Federal Energy Regulatory Commission's Regulations (18 CFR 33), an application for authority to sell jurisdictional transmission facilities to the City of Anaheim, California. The transmission facilities primarily consist of metering and metering-related facilities at Lewis Substation. The proposed sale will have no effect on SCE's other jurisdictional facilities or services and is compatible with the public interest.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator Corporation, and the City of Anaheim.

Comment date: September 9, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. PP&L Montana, LLC

[Docket No. EG99–184–000]

Take notice that on August 10, 1999, PP&L Montana, LLC, 11250 Random Hills Road, Suite 400, Fairfax, Virginia 22030–6044, filed with the Federal Energy Regulatory Commission, an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations (18 CFR Part 365).

PP&L Montana, LLC, a Delaware limited liability company, proposed to own and operate generating facilities in Montana being acquired from Montana Power Company. PP&L Montana, LLC filed its application for EWG status on July 1, 1999. In its amendment to the application, PP&L Montana, LLC clarified its intent to engage exclusively in the activities permitted for entities holding the status of an exempt wholesale generator pursuant to Section 32 of the Public Utility Holding Company Act of 1935.

Comment date: September 7, 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 amended application.

4. PP&L Montana, LLC

[Docket No. EG99–185–000]

Take notice that on August 10, 1999, PP&L Montana, LLC, 11250 Random Hills Road, Suite 400, Fairfax, Virginia 22030–6044, filed with the Federal Energy Regulatory Commission, an amendment to its application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations (18 CFR Part 365).

PP&L Montana, LLC, a Delaware limited liability company, proposed to

own and operate generating facilities in Montana being acquired from Montana Power Company. PP&L Montana, LLC filed its application for EWG status on July 1, 1999. In its amendment to the application, PP&L Montana, LLC clarified its intent to engage exclusively in the activities permitted for entities holding the status of an exempt wholesale generator pursuant to Section 32 of the Public Utility Holding Company Act of 1935.

Comment date: September 7, 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 amended application.

5. CU Power Canada Limited Nicole Energy Services, Inc.

[Docket Nos. ER99–3282–001, and ER98–2683–004]

Take notice that on August 10, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

6. Niagara Mohawk Power Corporation

[Docket No. ER99–4037–000]

Take notice that on August 10, 1999, the above-mentioned public utility filed its quarterly reports for the quarter ending June 30, 1999.

Comment date: August 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER99–4045–000]

Take notice that on, August 10, 1999, Pacific Gas and Electric Company (PG&E) tendered for filing the Small Facilities Authorization Letter No. 2, submitted pursuant to the Procedures for Implementation (Procedures) of Section 3.3 of the 1987 Agreement between PG&E and the City and County of San Francisco (City). This is PG&E's first quarterly filing submitted pursuant to Section 4 of the Procedures, which provides for the quarterly filing of Facilities Authorization Letters.

The Small Facilities Authorization Letter No. 2 streamlines the procedures for filing numerous Facilities, and facilitates payment of PG&E's costs of designing, constructing, procuring, testing, placing in operation, owning, operating and maintaining the customer-specific Facilities required for firm transmission and distribution service requested by City under this Facilities Authorization Letter.

PG&E has requested permission to use automatic rate adjustments whenever the California Public Utilities Commission (CPUC) authorizes a new Electric Rule 2 Cost of Ownership Rate but cap the monthly transmission-level rates, respectively, at 0.58% and 1.19% for customer-financed and PG&E-financed Facilities, and cap the monthly distribution-level rates, respectively, at 0.77% and 1.34% for customer-financed and PG&E-financed facilities.

Copies of this filing have been served upon City and the CPUC.

Comment date: August 30, 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21983 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2364–003, et al.]

San Diego Gas & Electric Company, et al.; Electric Rate and Corporate Regulation Filings

August 18, 1999.

Take notice that the following filings have been made with the Commission:

1. San Diego Gas & Electric Company

[Docket No. ER97–2364–003

Take notice that on August 9, 1999, San Diego Gas & Electric Company (SDG&E), tendered for filing a refund report in compliance with the Commission order, dated March 12, 1999, approving its settlement transmission rates.

Copies of this filing have been served upon all parties in Docket ER98–2364–000, including the California Public Utilities Commission, the California Independent System Operator, California Independent System Operator-registered Scheduling Coordinators, Pacific Gas and Electric Company, and Southern California Edison Company.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Southern Indiana Gas & Electric

[Docket No. ER99–3573–000]

Take notice that on July 15, 1999, Southern Indiana Gas & Electric Company (SIGECO), tendered for filing two (2) Service Agreements for market based rate power sales under its Market Based Rate Tariff with DTE Energy Trading, Inc., and East Kentucky Power Cooperative, Inc.

Copies of the filing were served upon each of the parties to the Service Agreements.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. MidAmerican Energy Company

[Docket No. ER99–3887–000]

Take notice that on August 10, 1999, MidAmerican Energy Company tendered for filing changes to its open access transmission tariff filed on July 30, 1999.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Utilities Service Company

[Docket No. ER99–4028–000]

Take notice that August 9, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement to provide Network Integration Transmission Service to the New Hampshire Electric Co-op under the NU System Companies' Open Access Transmission Service Tariff No. 9.

NUSCO states that a copy of this filing has been mailed to the New Hampshire Electric Co-op.

NUSCO requests that the Service Agreement become effective August 1, 1999.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Long Island Lighting Company; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange & Rockland Utilities, Inc.; Rochester Gas & Electric Corp.; Power Authority of the State of New York; and New York Power Pool

[Docket Nos. ER97–1523–012, OA97–470–011, and ER97–4234–009]

Take notice that on August 10, 1999, the New York Independent System Operator, Inc. (NYISO), tendered a detailed proposal for an installed capacity auction. The NYISO requests an effective date of September 15, 1999.

A copy of this filing was served upon all persons on the Commission's official service lists in Docket Nos. ER97–1523–000, OA97–470–000 and ER97–4234–000 (not consolidated), and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.

[Docket No. ER98–4510–002]

Take notice that on August 9, 1999, Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc., and its jurisdictional subsidiaries (O&R), tendered for filing revised tariff sheets amending the Consolidated Edison Operating Companies FERC Electric Tariff Original Volume No. 1 (Joint OATT).

The proposed tariff sheets were filed in compliance with the requirement of the January 27, 1999, order in this proceeding (86 FERC 61,063) that Con Edison and O&R establish rates to apply under the Joint OATT in the event that the New York Independent System Operator (NY ISO) was not operational by the date of the Con Edison and O&R merger.

The revised tariff sheets would become effective on October 8, 1999 if the NY ISO is not operational by that date.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. California Independent System Operator Corporation

[Docket No. ER99–1971–003]

Take notice that on August 11, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a Notice to Market Participants, dated August 10, 1999, which specifies that the software required to implement the following elements of Amendment No. 14 to the ISO Tariff will be uploaded to production for Day-Ahead scheduling on Tuesday, August 17, 1999 for Operating Day Wednesday, August 18, 1999: Metered Demand, Use Of Replacement Reserves, Rational Buyer, Regulation Up and Regulation Down, and Effective Price for Uninstructed Deviations.

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 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. North American Electric Reliability Council

[Docket No. ER99–2997–001]

Take notice that on August 9, 1999, the North American Electric Reliability Council tendered for filing a compliance filing in this docket.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Consolidated Edison Energy, Inc.

[Docket No. ER99–3248–001]

Take notice that on August 9, 1999, Consolidated Edison Energy Massachusetts, Inc. (CEEMI), tendered for filing its compliance filing with respect to Consolidated Edison Energy Massachusetts FERC Electric Tariff No. 1, Market Based Rates Tariff.

CEEMI states that a copy of this filing has been served by mail upon The New York State Public Service Commission.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Power Management Co., LLC

[Docket No. ER99–3275–000]

Take notice that on August 11, 1999, Power Management Co., LLC, tendered for filing an amendment to its July 16, 1999, Petition for Acceptance of Initial Rate Schedule, Waiver and Blanket Authority filed with the Commission in the above-referenced docket.

Comment date: August 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Tucson Electric Power Company

[Docket No. ER99–4029–000]

Take notice that on August 9, 1999, Tucson Electric Power Company (Tucson), tendered for filing an Umbrella Service Agreement between Tucson and Ajo Improvement Company for short-term power sales under Tucson's Market-Based Power Sales Tariff, FERC Electric Tariff Original Volume No. 3.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. Delmarva Power & Light Company

[Docket No. ER99–4041–000]

Take notice that on August 10, 1999, Delmarva Power & Light Company (Delmarva), tendered for filing an executed umbrella service agreement with Central Vermont Public Service Corporation (CVPS) under Delmarva's market rate sales tariff.

Delmarva requests an effective date of August 10, 1999.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Golden Spread Electric Cooperative, Inc.

[Docket No. ER99–4042–000]

Take notice that on August 10, 1999, Golden Spread Electric Cooperative, Inc. (Golden Spread), tendered for filing proposed changes to its FERC Rate Schedule Nos. 23–33. The purpose of the rate change is to implement a Load Reduction Rider to its existing Rate Schedules between itself and its Member Cooperatives.

Copies of this filing were served upon Golden Spread's eleven Member Cooperatives and the Public Utility Commission of Texas.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. ISO New England, Inc.

[Docket No. ER99–4043–000]

Take notice that on August 10, 1999, ISO New England Inc. (the ISO), tendered an Amendment to the ISO Tariff regarding Working Capital Allocation.

Copies of said filing have been served upon the Participants in the New England Power Pool, non-Participant transmission customers and to the New England State Governors and Regulatory Commissions.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. New England Power Pool

[Docket No. ER99–4030–000]

Take notice that on August 9, 1999, the New England Power Pool (NEPOOL), Participants Committee submitted revisions to Market Rule 15. This filing extends the effectiveness of Market Rule 15 and makes limited changes to this NEPOOL Market Rule.

NEPOOL has requested that Market Rule 15, as revised, be allowed to become effective as of August 1, 1999.

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 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Baltimore Gas and Electric Company

[Docket No. ER99–4031–000]

Take notice that on August 9, 1999, Baltimore Gas and Electric Company (BGE), tendered for filing a Service Agreement with Citizens Power Sales, under BGE's FERC Electric Tariff Original Volume No. 3 (Tariff). Under the tendered Service Agreement, BGE agrees to provide services pursuant to the provisions of the Tariff.

BGE requests an effective date of February 18, 1999, for the Service Agreements. BGE states that a copy of the filing was served upon the Public Service Commission of Maryland.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. The Detroit Edison Company

[Docket No. ER99–4035–000]

Take notice that on August 10, 1999, Detroit Edison Company (Detroit Edison), tendered for filing a Service Agreement for wholesale power sales transactions under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the WPS–2 Tariff) between Detroit Edison and Minnesota Power, Inc., dated as of July 22, 1999.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power Service Corporation, on behalf of West Penn Power Company (Allegheny Energy)

[Docket Nos. ER99–3492–000; ER99–3568–000; ER99–3581–000; ER99–3582–000; ER99–3583–000; ER99–3584–000; ER99–3646–000; ER99–3671–000; ER99–3675–000; ER99–3715–000; ER99–3716–000; ER99–3717–000; and ER99–3718–000]

Take notice that on August 9, 1999, Allegheny Power Service Corporation on behalf of West Penn Power Company (Allegheny Energy), tendered for filing a request to withdraw Amendments to Supplements to Market Rate and Standard Generation Service Tariffs filed on behalf of West Penn Power Company (Allegheny Energy) in the above-referenced dockets.

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 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power)

[Docket No. ER99–4033–000]

Take notice that on August 9, 1999, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Supplement No. 31 to add two (2) new Customers to the Market Rate Tariff under which Allegheny Power offers generation services.

Allegheny Power requests a waiver of notice requirements to make service available as of August 6, 1999, to Cargill-Alliant, LLC and Citizens Power Sales.

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 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. New York State Electric & Gas Corporation

[Docket No. ER99–4036–000]

Take notice that on August 10, 1999, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to part 35 of the Federal Energy Regulatory Commission's rules of practice and procedure, 18 CFR 35, service agreements (the Service Agreements) under which NYSEG may provide capacity and/or energy to TransAlta Energy Marketing (U.S.) Inc. (TransAlta), Huntley Power LLC (Huntley), Arthur Kill Power LLC (Arthur Kill), Astoria Gas Turbine Power LLC (Astoria), Dunkirk Power LLC (Dunkirk), and NRG Power Marketing, Inc. (NRG) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 3.

NYSEG has requested waiver of the notice requirements so that the Service Agreements with TransAlta, Huntley, Arthur Kill, Astoria, Dunkirk, and NRG become effective as of August 11, 1999.

NYSEG has served copies of the filing upon the New York State Public Service Commission, TransAlta, Huntley, Arthur Kill, Astoria, Dunkirk, and NRG.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Avista Corporation

[Docket No. ER99–4038–000]

Take notice that on August 10, 1999, Avista Corporation tendered for filing, with the Federal Energy Regulatory Commission pursuant to 18 CFR Section 35.13, an executed Mutual Netting Agreement allowing for arrangements of amounts which become due and owing to one Party to be set off against amounts which are due and owing to the other Party with City of Santa Clara, d/b/a Silicon Valley Power.

Avista Corporation requests waiver of the prior notice requirement and requests an effective date of July 1, 1999.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Southern California Edison Company

[Docket No. ER99–4039–000]

Take notice that on August 10, 1999, Southern California Edison Company (SCE), tendered for filing Amendment No. 1 to the Edison-Anaheim Interconnection Agreement (Amendment) between SCE and the City of Anaheim, California. The Amendment reflects a change in ownership and responsibility for metering facilities at the Lewis

Substation from SCE to the City of Anaheim.

Copies of this filing were served upon the Public Utilities Commission of the State of California, the California Independent System Operator Corporation, and the City of Anaheim.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Cleco Utility Group, Inc.

[Docket No. ER99–4040–000]

Take notice that on August 10, 1999, Cleco Utility Group, Inc. (Cleco), tendered for filing a service agreement under which Cleco will make market based power sales under its MR–1 tariff with the City of Gueydan, Louisiana.

Cleco states that a copy of the filing has been served on the City of Gueydan.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Sandia Resources Corporation

[Docket No. ER99–4044–000]

Take notice that on August 10, 1999, Sandia Resources Corporation (Sandia) petitioned the Commission for acceptance of Sandia Rate Schedule FERC No. 1, the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

Sandia intends to engage in wholesale electric power and energy purchases and sales as a marketer. Sandia is not in the business of generating or transmitting electric power. Sandia has no affiliates.

Comment date: August 30, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Public Service Company of New Mexico

[Docket No. ER99–4046–000]

Take notice that on August 11, 1999, Public Service Company of New Mexico (PNM), tendered for filing Amendment Number Two to the Wholesale Power Purchase Agreement between PNM and Navajo Tribal Utility Authority (NTUA), dated July 13, 1999. The purpose of the Amendment is to conform the Agreement with PNM's Settlement Rates for mandatory ancillary services accepted for filing by the Commission by Letter Order dated April 6, 1999.

PNM requests waiver of the Commission's notice requirements in order that the Amendment be effective retroactive to August 1, 1998.

Copies of this filing have been provided to NTUA, PNM Transmission Development and Contracts, PNM Wholesale Power Marketing, and the New Mexico Public Regulation Commission. PNM's filing is available for inspection at its offices in Albuquerque, New Mexico.

Comment date: August 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Ameren Services Company

[Docket No. ER99–4048–000]

Take notice that on August 11, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service between ASC and Illinova Energy Partners, Inc. (IEP). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to IEP pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER96–677–004.

Comment date: August 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

27. Ameren Services Company

[Docket No. ER99–4049–000]

Take notice that on August 11, 1999, Ameren Services Company (ASC), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Services between ASC and Illinova Energy Partners, Inc. (IEP). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to IEP pursuant to Ameren's Open Access Transmission Tariff filed in Docket No. ER 96–677–004.

Comment date: August 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

28. Idaho Power Company

[Docket No. ER99–4051–000]

Take notice that on August 11, 1999, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements for Non-Firm Point-to-Point Transmission Service and Firm Point-to-Point Transmission Service between Idaho Power Company and TXU Energy Trading Company.

Comment date: August 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

29. Ameren Services Company

[Docket No. ER99–4052–000]

Take notice that on August 11, 1999, Ameren Services Company (Ameren), tendered for filing Service Agreements for Market Based Rate Power Sales between Ameren and The Detroit Edison Company and Southern Minnesota Municipal Power Agency (the parties). Ameren asserts that the purpose of the Agreements is to permit Ameren to make sales of capacity and energy at market based rates to the parties pursuant to Ameren's Market Based Rate Power Sales Tariff filed in Docket No. ER98–3285–000.

Comment date: August 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

30. Southern Indiana Gas and Electric Company, Indiana Energy, Inc. and Vectren Corporation

[Docket No. EC99–106–000]

Take notice that on August 13, 1999, Southern Indiana Gas and Electric Company (SIGECO), Indiana Energy, Inc. (Indiana Energy) and Vectren Corporation (Vectren) submitted for filing, pursuant to section 203 of the Federal Power Act and Part 33 of the Commission's regulations, an application for approval of the merger of SIGECO's parent, SIGCORP, Inc. with Indiana Energy and into Vectren.

A copy of the filing has been served upon the regulatory agency of the affected state, the Indiana Utility Regulatory Commission.

Comment date: October 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

31. COSI Astoria, Inc.

[Docket No. EG99–211–000]

Take notice that on August 9, 1999, COSI Astoria, Inc. (Applicant), with its principal office at 111 Market Place, Suite 200, Baltimore, Maryland 21202, 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.

The Facilities consist of three generating stations located in New York City with a combined total summer net capacity of 1,855 MW. Electric energy produced by the Facilities is sold exclusively at wholesale.

Comment date: September 8, 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.

32. North American Energy Services Company

[Docket No. EG99–213–000]

Take notice that on August 12, 1999, North American Energy Services Company, a Washington corporation (Applicant), with its principal executive office at Bellevue, Washington, 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 (the Application).

Applicant has entered into an agreement with Wartsila NSD Operations, Inc. (Wartsila), a Maryland corporation, under which Applicant assumes Wartsila's obligations to IGC/ERI Pam-Am Thermal Generating Limited (Pan-Am), a stock company organized and existing pursuant to the laws of the Cayman Islands, to operate and maintain an electric power generating facility located at or near Chorrera, Panama (the Project) pursuant to an agreement for operation and maintenance services between Wartsila and Pan-Am. Project facilities include a 96 megawatt fuel oil-fired power generating station, supporting facilities located at the Site and necessary transmission facilities; all of which will be an eligible facility.

Comment date: September 8, 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.

33. California Independent System Operator Corporation

[Docket Nos. ER98–3594–002]

Take notice that on August 13, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a compliance filing in the above-referenced docket which included a number of revisions to the ISO Tariff. The ISO states that this filing was submitted to comply with the Commission's August 2, 1999 Order, 88 FERC ¶ 61,156 (1999), in the above-referenced docket.

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: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

34. PG Energy PowerPlus; PG&E Energy Services Corporation; West Georgia Generating Company L.P.

[Docket No. ER98–1953–002; Docket No. ER98–1953–003; Docket No. ER95–1614–020; Docket No. ER97–1686–007]

Take notice that on August 13, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

35. Southern Energy California, L.L.C.; UGI Power Supply, Inc.

[Docket No. ER99–1841–001; Docket No. ER96–2715–012; Docket No. ER96–2715–013]

Take notice that on August 12, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

36. Ameren Services Company

[Docket No. ER99–4047–000]

Take notice that on August 11, 1999, Ameren Services Company (ASC), tendered for filing an Interconnection Agreement ASC and Trigen-St. Louis Energy Corporation (Trigen). ASC asserts that the purpose of the Agreement is to establish Trigen's interconnection with Ameren's transmission system.

Comment date: August 31, 1999, in accordance with Standard Paragraph E at the end of this notice.

37. International Energy Consultants, Inc.

[Docket No. ER99–3130–000]

Take notice that on August 13, 1999, International Energy Consultants, Inc. filed an amendment to their petition that was filed on June 2, 1999.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

38. West Georgia Generating Company, L.P.

[Docket No. ER99–4065–000]

Take notice that on August 13, 1999, the above-mentioned affiliated power producer filed its quarterly report for the quarter ending June 30, 1999.

Comment date: September 2, 1999, in accordance with Standard Paragraph E at the end of this notice.

39. Arizona Public Service Company; Southern Energy Delta, L.L.C.; Southern Energy Potrero, L.L.C.

[Docket No. ER99–4066–000; Docket No. ER99–4075–000; Docket No. ER99–4076–000]

Take notice that on August 12, 1999, the above-mentioned affiliated power producers and/or public utilities filed their quarterly reports for the quarter ending June 30, 1999.

Comment date: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

40. California Independent System Operator Corporation

[Docket Nos. ER99–3301–001]

Take notice that on August 13, 1999, the California Independent System Operator Corporation (ISO), tendered for filing a compliance filing in the above-referenced docket which included a revision to the ISO Tariff. The ISO states that this filing was submitted to comply with the Commission's July 30, 1999 Order, 88 FERC ¶ 61,146 (1999), in the above-referenced docket.

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: September 1, 1999, in accordance with Standard Paragraph E at the end of this notice.

41. Northeast Utilities Service Company

[Docket No. OA97–237–009]

Take notice that on August 13, 1999, Northeast Utilities Service Company (NUSCO), tendered for filing a refund report in compliance with the Commission's order in *Northeast Utilities Service Company,* 88 FERC ¶ 61,006 (1999).

Comment date: September 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

42. Carville Energy LLC

[Docket No. QF98–83–001]

Take notice that on August 12, 1999, Carville Energy LLC located at Edens Corporate Center, 650 Dundee Road, Suite 350, Northbrook, IL 60062 filed with the Federal Energy Regulatory Commission an application for certification of a facility as a qualifying cogeneration facility pursuant to 292.207(b) of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility located at the Carville Energy Center is a gas turbine combined cycle cogeneration facility that uses natural gas as its fuel source. The facility includes two combustion turbine generators, each with a rated capacity of approximately 160,000 kW at ISO conditions, two heat recovery steam generators, and two condensing steam turbine generators, each rated at approximately 85,000 kW. The facility will be located in Iberville Parish, Louisiana.

The Facility will interconnect directly and with the transmission system of Entergy, located in New Orleans, Louisiana, and will sell its useful output at wholesale to various qualified buyers which may include Entergy. Entergy

will provide back-up and maintenance power to the Facility.

Comment date: September 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

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, 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 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21984 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–241–000]

ANR Pipeline Company; Notice of Availability of the Environmental Assessment for the Proposed Wisconsin Expansion Project

August 19, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline facilities proposed by ANR Pipeline Company (ANR) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Wisconsin Expansion Project including:

- about 3.0 miles of 42-inch-diameter pipeline loop at its Michigan Leg South System in Kendall County, Illinois; and
- about 0.11 mile of 16-inch-diameter pipeline from the Weyauwega Compressor Station to ANR's Marinette Junction tap site on its existing 24-inch-diameter mainline in Waupaca County, Wisconsin.

In addition, ANR proposes to install the following facilities:

- two 10,000-horsepower (hp) compressor units at its existing Woodstock Compressor Station in McHenry County, Illinois;
- one 1,500-hp compressor unit at its existing Weyauwega Compressor Station in Waupaca County, Wisconsin;
- one 1,500-hp compressor unit at its existing Janesville Compressor Station in Rock County, Wisconsin;
- one pig launcher on ANR's existing right-of-way at Lisbon Road in Kendall County, and other minor related facilities.

The purpose of the proposed facilities would be to install certain additional loop pipeline and expand the capacity of its facilities in Illinois and Wisconsin to increase its transmission capacity by up to 194 million Decatherms per day of natural gas between the ANR Joliet Hub and its Wisconsin market area.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2–A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket No. CP99–241–000; and
- Mail your comments so that they will be received in Washington, DC on or before September 20, 1999.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemarkings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21985 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

August 19, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Original Minor License.

b. *Project No.:* P–11797–000.

c. *Date Filed:* July 29, 1999.

d. *Applicant:* Grande Pointe Power Corporation.

e. *Name of Project:* Three Rivers Hydroelectric Project.

f. *Location:* On the St. Joseph River in the City of Three Rivers, St. Joseph County, Michigan. The project does not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Monroe E. Learn, Grande Pointe Power Corporation, 503 West Michigan Avenue, Three Rivers, MI 54601, (616) 273–8828.

i. *FERC Contact:* Any questions on this notice should be addressed to Mark Pawlowski, E-mail address mark.pawlowski@ferc.fed.us, or telephone 202–219–2795.

j. *Deadline for filing additional study requests:* September 27, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules and Practice and Procedure require all intervener filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *Description of the Project:* The project consists of the following existing facilities: (1) A right earthen embankment 750 feet-long and a left earthen embankment 200 feet-long, separated by a 283 foot-long gated spillway section with a crest elevation of 792.4.0 feet NGVD; (2) a 601-acre reservoir with a normal water surface elevation of 797.0 feet NGVD; (3) a powerhouse containing 3 vertical Francis turbines each connected to generator units for a total installed capacity of 900 kW; and (4) appurtenant facilities. The average annual energy generation is 3,844,920 kWh. Power generated by the project will be sold to a local utility.

m. *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 the web at 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 address in item h above.

n. With this notice, we are initiating consultation with the State Historic Preservation Officer as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–21987 Filed 8–24–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6428–1]

Agency Information Collection Activities—Proposed Collection; Comment Request; RCRA Section 3007 Questionnaire of the Paint Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is soliciting comment on the Information Collection Request (ICR) entitled ''RCRA section 3007 Questionnaire of the Paint Manufacturing Industry.'' EPA is currently in the process of making a determination whether certain waste streams generated from the manufacture of paint in the United States should be regulated as listed hazardous waste under the Resource Conservation and Recovery Act (RCRA). This document describes the proposed information collection efforts and their expected burden and cost.

DATES: Comments must be submitted on or before October 25, 1999.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–1999–PMIP–FFFFF to RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the Arlington, VA, address below. Comments may also be submitted electronically through the Internet to: <rcradocket@epa.gov>. Comments in electronic format should also be identified by the docket number F–1999–PMIP–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically.

The ICR is available on the Internet. Follow these instructions to access the information electronically:

WWW: http://www.epa.gov/epaoswer/hazwaste/id/paint/index.htm
FTP: ftp.epa.gov
Login: anonymous
Password: your Internet address
Files are located in /pub/epaoswer

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the ''**Federal Register**''. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For more detailed information on specific aspects of this effort, contact David J. Carver, Office of Solid Waste, Mailcode 5304W, U.S. Environmental Protection Agency, 401 M Street, S.W. (5304W), Washington, D.C., 20460, (703) 308–8603, by fax (703) 308-0514, by EMAIL at carver.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Title: Paint Manufacturing Waste Industry Survey (EPA ICR No. 1925.01).

Abstract: The paint manufacturing waste streams (or residuals) on which

the Agency is obligated to make a hazardous waste listing determination is specified in the December 4, 1994, consent decree, as amended (EDF v. Browner, Civ. No. 89–0598) and includes the following waste streams from the manufacture of paint: (1) Solvent cleaning wastes, (2) water/caustic cleaning wastes, (3) wastewater treatment sludge, (4) emission control dust or sludge, and (5) off-specification production wastes.

This Information Collection Request (ICR) describes the types of information collection necessary for EPA to analyze how solid and hazardous waste is currently managed in the United States Paint Manufacturing Industry. It proposes the following information collection efforts.

- A section 3007 questionnaire pursuant to sections 3001 and 3004 of RCRA.
- Process flow diagram requests for no more than 100 facilities.
- Clarifications and updates to the section 3007 questionnaire and process flow diagram requests.
- Facility site visits which will include sampling and analysis.

If EPA concludes that certain waste streams should be regulated as listed hazardous waste, then the information collected may also be applied to (1) A Land Disposal Restrictions (LDR) and Capacity Analysis, (2) a source reduction and/or recycling analysis, (3) a supporting risk assessment, and (4) an economic analysis.

EPA intends to send a RCRA section 3007 Questionnaire to all U.S. paint facilities that manufacture paint. The section 3007 Questionnaire proposes to collect the following information.

- Corporate/facility data—name, location, EPA hazardous waste generator identification number (if applicable), and facility contact information.
- Residual generation information and residual management practices; and
- Residual characterization information—residual constituents and concentrations;

This information is necessary since the Agency will use waste types, concentrations, and current management practices to support its final listing decision.

If approved by OMB, facilities will be required to respond to the Agency within 30 days of receipt of this questionnaire. A facility is only required to respond to a questionnaire that displays a currently valid OMB control number and expiration date. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

In addition to the RCRA section 3007 questionnaire, this ICR proposes to allow EPA to (1) Clarify and update, when and where appropriate, information received from facilities, (2) request paint manufacturing process descriptions or schematics from no more than 100 facilities, and (3) conduct site visits to no more than 25 facilities which could include sampling and analysis of residual streams under study. EPA will only clarify and update information received from either the RCRA section 3007 Questionnaire or from the Process descriptions. The Agency will always request additional information if the Agency requires more information to understand residual generation, residual characterization, and/or residual management practices.

EPA will send paint manufacturing process description requests to no more than 100 facilities via a RCRA section 3007 letter. These letters will request information such as process flow diagrams. The Agency requires this information to better understand (1) The paint manufacturing processes and (2) the exact points of generation for each identified residual meeting the scope of this listing determination. Finally, EPA proposes to visit no more than 25 paint manufacturing facilities to evaluate paint manufacturing residual generation and management processes. These site visits may include sampling and analysis should the Agency consider it necessary.

Burden Statement: This ICR seeks approval for the Agency to require the following from paint manufacturers: (1) Respond to a section 3007 Questionnaire, (2) provide manufacturing process information in response to section 3007 letters, (3) provide clarifications and updates to the section 3007 questionnaires and letters, and (4) support EPA site visits. For purposes of this analysis, burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal Agency. This burden estimate includes the time required to:

- Review instructions.
- Develop, acquire, install, and utilize technology 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 to train personnel to be able to respond to a collection of information.
- Search available data sources.
- Complete and review the collected information.
- Transmit or otherwise disclose the information to the Agency.

The total burden of this ICR on the entire paint manufacturing industry is estimated at 34,450 hours. This estimated total burden is derived from the following: 33,600 burden hours for the 3007 questionnaire, 600 burden hours for the process description requests, and 250 burden hours for the site visits. The total burden is calculated using an estimated industry size of 1200 respondents. The methods and assumptions used to estimate the total burden estimate are located in the supporting statement to this ICR. The supporting statement is located in the RCRA docket for this ICR. Specifically, the average annual burden imposed by the RCRA section 3007 questionnaire is approximately 28 hours per respondent. The facility site trip burden is approximately 10 hours per respondent. EPA estimates that the Agency will be visiting 25 facilities. Also, EPA estimates that the total burden per respondent for responding to an EPA request for process flow diagrams is estimated to be 6 hours/respondent.

Comments: EPA is requesting comments on all aspects of this Information Collection Request. Specifically, EPA requests comments on (1) The RCRA section 3007 Questionnaire (2) the appropriateness of this ICR, (3) the accuracy of the provided burden estimates, and (4) any suggested methods for minimizing respondent burden, including the use of automated collection techniques.

Dated: August 16, 1999,

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 99–22045 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6427–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Emission Defect Information Reports and Voluntary Emission Recall Reports for On-Highway, Light-Duty Motor Vehicles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces

that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Emission Defect Information and Voluntary Emission Recall Reports for On-Highway, Light-Duty Motor Vehicles, formerly OMB #2060–0048, expires 11/30/99. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 24, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260-2740, by email at farmer.sandy@epamail.epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1916.01.

SUPPLEMENTARY INFORMATION:

Title: Emission Defect Information and Voluntary Emission Recall Reports for On-Highway, Light-Duty Motor Vehicles (EPA ICR No. 1916.01, previously EPA ICR No. 282.10 and OMB Control No. 2060–0048; which is being split into two collections. This one is only for on-highway, light-duty motor vehicles.) expiring 11/30/99. This is an extension of a currently approved collection.

Abstract: Some manufacturers of motor vehicles are required to submit two different reports under 40 CFR part 85. These reports are only required where certain conditions involving emission defects or voluntary recalls occur.

The ''defect information report'' (DIR) contains data regarding the class or engine family and number of vehicles on which a defect has been found, and a description of the defect and its effects on vehicle performance and emissions. The Agency uses the DIR to help identify emission-related defects or classes of vehicles which may not comply with federal emissions standards.

The ''voluntary emission recall'' (VER) report contains data on voluntary recall campaigns conducted by manufacturers, including the procedures used by the manufacturers to conduct voluntary recall campaigns, the identification of vehicles or engines affected by the campaign, and the repair to be completed on recalled vehicles. Progress or quarterly updates of the VER reports track the number of vehicles repaired. The Agency uses the VER report and progress reports to ensure that manufacturers are following acceptable procedures when conducting recalls and to track the progress and effectiveness of voluntary recall campaigns. 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. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 5/21/99 (64 FR 27780); no comments were received.

Burden Statement: The estimated cost to the public of this ICR is 1256 hours and $85,007. A respondent's burden for a defect information report is estimated to be 14 hours per report. The estimated frequency per respondent is expected to average 5.1 responses per year. It is estimated that there will be an average of 12 respondents submitting defect information reports per year.

A respondent's burden for a voluntary emissions recall report and the follow-up progress reports is estimated to be 3.5 hours and 14 hours, respectively. The estimated frequency per respondent is expected to average 3.8 voluntary recall reports per year. It is estimated that there will be an average of 6 respondents submitting voluntary emissions recall reports per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1916.01 in any correspondence.

Ms. Sandy Farmer, United States Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 19, 1999.

Richard T. Westlund,

Acting Division Director, Regulatory Information Division.

[FR Doc. 99–22043 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34193; FRL 6098–8]

Notice of Receipt of Requests for Amendments to Delete Uses in 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 request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on February 22, 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 #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (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 of 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–34193], (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 Rm., 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 Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the three pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before February 22, 2000 to discuss withdrawal of the applications for amendment. This 180-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion. (Note: Registration number(s) preceded by * indicate a 30-day comment period).

TABLE 1—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
001965–00011	Vancide 89	Soap, wallpaper flour paste	Captan
*002724–00478	Mavrik Aquaflow Insecticide	Fluvalinate	Commercial, residential turf
005905–00529	Barrage HF	Acetic acid	Aquatic uses

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 AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
001965	R.T. Vanderbilt Co., Inc., 30 Winfield Street, Norwalk, CT 06855.
002724	Wellmark International, Regulatory Affairs, 1000 Tower Lane, Suite 245, Bensenville, IL 60106.
005905	Helena Chemical Company, Crescent Center, 6075 Poplar Avenue, Suite 500, Memphis, TN 38119.

IV. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: August 12, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–21943 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–887; FRL–6096–1]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–887, must be received on or before September 24, 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 PF–887 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Bipin Gandhi, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–8380; and e-mail address: gandhi.bipin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing

Categories	NAICS	Examples of potentially affected entities
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table 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 might apply to certain entities. If you have 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 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. *In person.* The Agency has established an official record for this action under docket control number PF–887. 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?

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 PF–887 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 8:30 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 PF–887. 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?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 17, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The

summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Cabot Corporation

PP 9E6017

EPA has received a pesticide petition (PP 9E6017) from Cabot Corporation, 75 State Street, Boston, MA 02109 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for dimethyl silicone polymer with silica (TS-720) when used in accordance with good agricultural practices as an inert ingredient in pesticide formulations applied to growing crops in or on the raw agricultural commodity after harvest or to animals. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

No residue chemistry data are presented in the petition as the Agency does not generally require these data to rule on the exemption from the requirement of a tolerance for an inert ingredient.

B. Toxicological Profile

The Agency has established a set of criteria which identifies categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compounds compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Cabot Corporation believes that TS-720 conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria used to identify a low risk polymer.

1. TS-720 is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. TS-720 contains as an integral part of its composition the atomic elements carbon, silicon, hydrogen and oxygen.

3. TS-720 does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. TS-720 is not designed, nor is it reasonably anticipated to substantially degrade, decompose or depolymerize prior to, during, or after use.

5. TS-720 is not manufactured or imported from monomers and/or reactants that are not included on the Toxic Substances Control Act (TSCA) substance inventory or manufactured under an applicable TSCA section 5 exemption.

6. TS-720 is not a water absorbing polymer with a number average molecular weight greater than or equal to 10,000.

7. TS-720 has an minimum-average molecular weight of 1,100,000 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

8. TS-720 has a minimum-average molecular weight of 1,100,000 daltons. TS-720 meets the requirements for molecular weight distribution of oligomer contents of less than 5% with molecular weights less than 1,000 and less than 2% with molecular weights less than 500. Attached is a description of the molecular weight determination of TS-720.

Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-720. No toxicology data are being submitted as the Agency does not generally require these data to rule on the exemption from the requirement of a tolerance for an inert ingredient. Because TS-720 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with toxicity.

C. Aggregate Exposure

1. *Dietary exposure*. TS-720 is not absorbed through the intact gastrointestinal tract and is incapable of eliciting a toxic response.

2. *Drinking water*. TS-720 is not soluble in water and therefore there is no reason to expect human exposure to residues in water.

3. *Non-dietary exposure*. For most uses of TS-720 the primary route of exposure is dermal. TS-720, with a molecular weight significantly greater than 400, is not absorbed through the intact skin.

D. Cumulative Effects

Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-720. Because TS-720 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with cumulative effects.

E. Safety Determination

1. *U.S. population*. Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-720. Because TS-720 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with any potential exposure to adults.

2. *Infants and children*. Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-720. Because TS-720 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with exposure to infants and children.

2. Cabot Corporation

PP 9E6018

EPA has received a pesticide petition (PP 9E6018) from Cabot Corporation, proposing, pursuant to section 408(d) of 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for silane, dichloromethyl-, reaction product with silica (TS-610) when used in accordance with good agricultural practices as an inert ingredient in pesticide formulations applied to growing crops in or on the raw agricultural commodity after harvest or to animals. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

No residue chemistry data are presented in the petition as the Agency does not generally require these data to rule on the exemption from the requirement of a tolerance for an inert ingredient.

B. Toxicological Profile

The Agency has established a set of criteria which identifies categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compounds compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Cabot Corporation believes that TS-610 conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria used to identify a low risk polymer.

1. TS-610 is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. TS-610 contains as an integral part of its composition the atomic elements carbon, silicon, hydrogen and oxygen.

3. TS-610 does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. TS-610 is not designed, nor is it reasonably anticipated to substantially degrade, decompose or depolymerize prior to, during, or after use.

5. TS-610 is not manufactured or imported from monomers and/or reactants that are not included on the TSCA substance inventory or manufactured under an applicable TSCA section 5 exemption.

6. TS-610 is not a water absorbing polymer with a number average molecular weight greater than or equal to 10,000.

7. TS-610 has an minimum-average molecular weight of 3,340,000 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

8. TS-610 has a minimum-average molecular weight of 3,340,000 daltons. TS-610 meets the requirements for molecular weight distribution of oligomer contents of less than 5% with molecular weights less than 1,000 and less than 2% with molecular weights less than 500.

Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-610. No toxicology data are being submitted as the Agency does not generally require these data to rule on the exemption from the requirement of a tolerance for an inert ingredient. Because TS-610 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with toxicity.

C. Aggregate Exposure

1. *Dietary exposure*. TS-610 is not absorbed through the intact GI tract and is incapable of eliciting a toxic response.

2. *Drinking water*. TS-610 is not soluble in water and therefore there is no reason to expect human exposure to residues in water.

3. *Non-dietary exposure*. For most uses of TS-610 the primary route of exposure is dermal. TS-610, with a molecular weight significantly greater than 400, is not absorbed through the intact skin.

D. Cumulative Effects

Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-610. Because TS-610 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with cumulative effects.

E. Safety Determination

1. *U.S. population*. Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-610. Because TS-610 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with any potential exposure to adults.

2. *Infants and children*. Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-610. Because TS-610 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with exposure to infants and children.

3. Cabot Corporation

PP 9E6019

EPA has received a pesticide petition PP 9E6019 from Cabot Corporation, proposing, pursuant to section 408(d) of 21 U.S.C. 346a(d), to amend 40 CFR part 180 to establish an exemption from the requirement of a tolerance for hexamethyldisilizane, reaction product with silica (TS-530) when used in accordance with good agricultural practices as an inert ingredient in pesticide formulations applied to growing crops in or on the raw agricultural commodity after harvest or to animals. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

No residue chemistry data are presented in the petition as the Agency does not generally require these data to rule on the exemption from the requirement of a tolerance for an inert ingredient.

B. Toxicological Profile

The Agency has established a set of criteria which identifies categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) identify polymers that are relatively unreactive and stable compounds compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Cabot Corporation believes that TS-530 conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria used to identify a low risk polymer.

1. TS-530 is not a cationic polymer, nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. TS-530 contains as an integral part of its composition the atomic elements carbon, silicon, hydrogen and oxygen.

3. TS-530 does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(iii).

4. TS-530 is not designed, nor is it reasonably anticipated to substantially

degrade, decompose or depolymerize prior to, during, or after use.

5. TS-530 is not manufactured or imported from monomers and/or reactants that are not included on the TSCA substance inventory or manufactured under an applicable TSCA section 5 exemption.

6. TS-530 is not a water absorbing polymer with a number average molecular weight greater than or equal to 10,000.

7. TS-530 has an minimum-average molecular weight of 645,000 daltons. Substances with molecular weights greater than 400 generally are not absorbed through the intact skin, and substances with molecular weights greater than 1,000 generally are not absorbed through the GI tract. Chemicals not absorbed through the skin or GI tract generally are incapable of eliciting a toxic response.

8. TS-530 has a minimum-average molecular weight of 645,000 daltons. TS-530 meets the requirements for molecular weight distribution of oligomer contents of less than 5% with molecular weights less than 1,000 and less than 2% with molecular weights less than 500. Attached is a description of the molecular weight determination of TS-530.

Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-530. No toxicology data are being submitted as the Agency does not generally require these data to rule on the exemption from the requirement of a tolerance for an inert ingredient. Because TS-530 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with toxicity.

C. Aggregate Exposure

1. *Dietary exposure.* TS-530 is not absorbed through the intact GI tract and is incapable of eliciting a toxic response.

2. *Drinking water.* TS-530 is not soluble in water and therefore there is no reason to expect human exposure to residues in water.

3. *Non-dietary exposure.* For most uses of TS-530 the primary route of exposure is dermal. TS-530 with a molecular weight significantly greater than 400 is not absorbed through the intact skin.

D. Cumulative Effects

Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-530. Because TS-530 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with cumulative effects.

E. Safety Determination

1. *U.S. population.* Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-530. Because TS-530 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with any potential exposure to adults.

2. *Infants and children.* Cabot Corporation believes that sufficient information has been submitted to assess the hazards of TS-530. Because TS-530 conforms with the definition of a polymer and meets the criteria of a polymer under 40 CFR 723.250, Cabot Corporation believes there are no concerns for risks associated with exposure to infants and children.

[FR Doc. 99–22049 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–882; FRL–6093–7]

Notice of Filing a Pesticide Petition to Establish a Tolerance for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–882, must be received on or before September 24, 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 PF–882 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Tompkins, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–5697; and e-mail address: tompkins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table 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 might apply to certain entities. If you have 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 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. *In person.* The Agency has established an official record for this action under docket control number PF–882. 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?

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 PF–882 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 8:30 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 PF–882. 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?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 10, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Entek Corporation

PP 9F5095

EPA has received a pesticide petition (PP 9F5095) from Entek Corporation, 6835 Deerpath Road, Suite E, Elkridge, MD 21075 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180 by revising the existing tolerance regulation for glyphosate to allow application of glyphosate (in its acid form) on raw agricultural commodities (RAC). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of the residue in plants is adequately understood and consists of the parent, glyphosate and its metabolite, aminomethylphosphonic acid (AMPA). Only the glyphosate parent is to be regulated in plant and animal commodities since the metabolite AMPA is not of toxicological concern in food.

2. *Analytical method*. Glyphosate food residues can be measured using high pressure liquid chromatography

(HPLC) with fluorometric detection. This method is adequate for enforcement purposes; the methodology has been published in the pesticide analytical manual (PAM), Vol II. The method has a limit of detection (L0D) of 0.05 parts per million (ppm), which allows monitoring of food with residues at or above the tolerance levels.

3. *Magnitude of residues*. Adequate data concerning glyphosate residues on RAC has previously been submitted to the Agency. Accordingly, the available residue data for glyphosate support the proposed revision of the tolerance expression for glyphosate. As noted above, this revision will permit glyphosate residues from the application of glyphosate in the acid form. In addition, any secondary residues occurring in liver, or kidney of cattle, goats, horses, and sheep, and liver and kidney of poultry will be covered by existing tolerances.

B. Toxicological Profile

1. *Acute toxicity*. Glyphosate is practically non-toxic by the oral route of exposure since the acute oral LD_{50} for glyphosate is greater than 5,000 milligrams/kilograms (mg/kg).

2. *Genotoxicty*. Glyphosate was evaluated in the standard battery of mutagenicity screening tests and all assays were negative. The individual genotoxicity studies are: *in vitro* chromosomal aberration (no aberrations in Chinese hamster ovary cells were caused, with or without S9 activation); DNA repair in rat hepatocytes; *in vivo* bone marrow cytogenic test in rats; rec-assay with *B. subtilis*; reverse mutation test with *S. typhimurium*; Ames Test with *S. typhimurium*; and the dominant-lethal mutagenicity test in mice.

3. *Reproductive and developmental toxicity*. Developmental toxicity studies were conducted with glyphosate in the rat and mouse. In the rat study, test animals were orally given doses of 0, 300, 1,000 and 3,500 mg/kg/day of glyphosate. The maternal no-observable adverse effect level (NOAEL) is 1,000 mg/kg/day based on clinical signs of toxicity, body weight effects and mortality and the fetal NOAEL is 1,000 mg/kg/day based on reduced body weights and delayed sternebrae maturation at the highest dose tested (HDT), 3,500 mg/kg/day.

In the rabbit study, test animals were orally given doses of 0, 75, 175 and, 350 mg/kg/day of glyphosate. The maternal NOAEL is 175 mg/kg/day based on clinical signs of toxicity and mortality and the fetal NOAEL is 350 mg/kg/day based on no developmental toxicity at any dose tested.

Two studies evaluating the reproductive effects of glyphosate were conducted in the rat. In a 3-generation study, rats were fed dosage levels of 0, 3, 10, and 30 mg/kg/day of glyphosate. The NOAEL for systemic and reproductive/developmental parameters is 30 mg/kg/day based on no-adverse effects noted at any dose level.

In a 2-generation reproduction study, rats were fed dosage levels of 0, 100, 500, and 1,500 mg/kg/day of glyphosate. The NOAEL for systemic and developmental parameters is 500 mg/kg/day based on body weight effects, clinical signs of toxicity in adult animals and decreased pup body weights and a reproductive NOAEL of 1,500 mg/kg/day.

4. *Subchronic toxicity*. Subchronic (90-day) feeding studies were conducted with the rat, mouse, and dog. In the rat study, the test animals were fed dosage levels of 0, 1,000, 5,000, and 20,000 ppm of glyphosate. The NOAEL is 20,000 ppm based on no-effects at the HDT.

In the mouse study, the test animals were fed dosage levels of 0, 5,000, 10,000, and 50,000 ppm of glyphosate. The NOAEL is 10,000 ppm based on body weight effects at the HDT.

In the dog study, the test animals were given glyphosate, via capsule, at doses of 0, 200, 600, and 2,000 mg/kg/day. The NOAEL is 2,000 mg/kg/day based on no-effects at the HDT.

5. *Chronic toxicity/carcinogenicity*. In a 12–month oral study, dogs were given glyphosate, via capsule, at doses of 0, 20, 100, and 500 mg/kg/day. The NOAEL is 500 mg/kg/day based on no-adverse effects at any dose level.

In a 26–month chronic feeding/oncogenicity study, rats were fed glyphosate at dosage levels of 0, 3, 10, and 31 mg/kg/day (males) and 0, 3, 11, and 34 mg/kg/day (females). The NOAEL is 31 mg/kg/day (males) and 34 mg/kg/day (females) based on no carcinogenic or other adverse effects at any dose level.

In a 24–month chronic feeding/oncogenicity study, rats were fed glyphosate at dosage levels of 0, 89, 362, and 940 mg/kg/day (males) and 0, 113, 457, and 1,183 mg/kg/day (females). The systemic NOAEL is 362 mg/kg/day based on body weight effects in the female and eye effects in males. There was no carcinogenic response at any dose level.

In a mouse oncogenicity study, mice were fed glyphosate at dosage levels of 0, 150, 750, and 4,500 mg/kg/day with a NOAEL of 750 mg/kg/day based on body weight effects and microscopic liver changes at the HDT. There was no carcinogenic effect at the HDT of 4,500 mg/kg/day.

Glyphosate is classified as a Group E (evidence of non-carcinogenicity for humans). This classification is based on the following findings:

i. There were no treatment related tumor findings in three state-of-the-art long-term bioassays.

ii. Glyphosate was tested up to the limit dose in the rat and up to levels higher than the limit dose in mice.

iii. There is no evidence of genotoxicity for glyphosate.

6. *Animal metabolism*. The nature of the residue in animals is adequately understood and consists of the parent, glyphosate and its metabolite AMPA.

7. *Metabolite toxicology*. Only glyphosate parent is regulated in plant and animal commodities since the metabolite AMPA is not of toxicological concern.

8. *Endocrine disruption*. The toxicity studies required by EPA for the registration of pesticides measure numerous endpoints with sufficient sensitivity to detect potential endocrine modulating activity. No effects have been identified in subchronic, chronic or developmental toxicity studies to indicate any endocrine modulating activity by glyphosate. In addition, negative results were obtained when glyphosate was tested in a dominant-lethal assay. While this assay was designed as a genetic toxicity test, agents that can affect male reproduction function will also cause effects in this assay. More importantly, the multi-generation reproduction study in rodents is a complex study design which measures a broad range of endpoints in the reproductive system and in developing offspring that are sensitive to alterations by chemical agents. Glyphosate has been tested in two separate multi-generation studies and each time the results demonstrated that glyphosate is not a reproductive toxin.

C. Aggregate Exposure

1. *Dietary exposure—Food*. Dietary exposure was estimated using the Theoretical Maximum Residue Contribution (TMRC) from all present tolerances. The TMRC is obtained by multiplying the tolerance level residue for each food commodity by consumption data which estimates the amount of those products eaten by various population subgroups. In conducting this exposure assessment, very conservative assumptions are made: 100% of these crops will contain glyphosate residues and the residues will be at the tolerance level.

2. *Drinking water*. In examining aggregate exposure, the Food Quality Protection Act (FQPA) directs EPA to consider available information concerning exposures from the pesticide residue via drinking water. The lifetime health advisory and maximum contaminant level (MCL) for glyphosate are both 700 parts per billion (ppb) in the EPA Office of Drinking Water's ''Drinking Water Health Advisory - Pesticides.'' The MCL represents the level at which no known or anticipated adverse health effects will occur allowing for an adequate margin of safety and is based on the reference dose (RfD). Environmental fate data for glyphosate shows little potential for the chemical to migrate to drinking water. In addition, glyphosate is not highly mobile and not persistent in soil or water.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative boundary figure for the potential contribution of water-related exposures to the aggregate risk posed by a pesticide.

In developing a boundary figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints RfDs or acute dietary NOAELs and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for consumption of contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause glyphosate to exceed the RfD if the change in the tolerance expression being considered in this document is granted. The Agency has therefore concluded that the potential exposures associated with glyphosate in water, even at higher levels the Agency may consider a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the proposed tolerance revision is granted.

3. *Non-dietary exposure*. Glyphosate is registered for use on several non-food sites such as around ornamentals, shade trees, shrubs, walks, driveways, flowerbeds, home lawns, farmstead including building foundations, along and in fences, in dry ditches and canals, along ditch banks, farm roads, shelter belts, forestry, Christmas trees, and industrial sites and other non-crop or industrial areas such as airports, lumber yards, manufacturing sites, utility substations, parking areas, petroleum tank farms and pumping stations. Margins of Exposure (MOEs) are determined for non-dietary exposure based on toxicological endpoints and measured or estimated exposures. Since glyphosate is not a carcinogen, the 21–day dermal study lacked any observable effects at the limit dose; and no adverse effects were observed in developmental toxicity studies in rats up to 1,000 mg/kg/day and rabbits up to 175 mg/kg/day, no toxicological endpoints are applicable. Because available data indicate no evidence of significant toxicity via the dermal or inhalation routes, MOE's were not calculated and risk assessments are not required for non-occupational residential uses.

D. Cumulative Effects

EPA does not have, at this time, available data to determine whether glyphosate has a common mechanism of toxicity with other substances or how to include it in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on common mechanism of toxicity, glyphosate does not produce a toxic metabolite which is common to other substances.

For the purposes of this tolerance action, EPA has assumed that glyphosate does not have a common mechanism of toxicity with other substances. A condition of the registrations associated with these tolerances will be that registrants will provide common mechanism data in a timely manner when and if the Agency asks for it. After EPA develops methodologies for more fully applying common mechanism of toxicity issues to risk assessments, the Agency will develop a process to reexamine those tolerance decisions made earlier.

E. Safety Determination

1. *U.S. population*—i. *Acute dietary exposure*. Based upon available data, glyphosate does not pose any acute dietary risk and an acute dietary risk assessment is not required

ii. *Chronic dietary exposure*. Using the TAS Exposure I software and 1977-78 food consumption data, a chronic dietary exposure estimate has been performed based on 100% of the crops treated and all residues at tolerance levels. Based on this assessment, the total dietary exposure from glyphosate residues is 1.4% of the RfD for the overall U.S. population and 3.1% of the RfD for non-nursing infants, the most highly exposed population subgroup. As noted above, an additional risk assessment for residential uses was not required because there is no evidence of significant toxicity via dermal or inhalation exposure routes. Even though an appropriate bounding figure for consumption of contaminated water has not been determined, the ranges being examined are all below the level that would cause glyphosate to exceed the RfD. Generally, there is no concern for exposures below 100% of the RfD. Therefore, based on the completeness and reliability of the toxicology data and the conservative exposure assessment employed, there is a reasonable certainty that no harm will occur from aggregate exposure to glyphosate.

2. *Infants and children*. FFDCA section 408 provides than an additional tenfold MOE (safety) for infants and children in the case of threshold effects may be needed to account for prenatal, and postnatal toxicity and the completeness of the data base unless it is determined that a different MOE (safety) will be safe for infants and children. Reliable data support using the standard MOE (usually 100x for combined interspecies and intraspecies variability), without the additional tenfold MOE, when a complete data base under current guidelines exists and when the nature of the findings from these studies do not raise concerns regarding the adequacy of the standard MOE.

The toxicological data base for evaluating prenatal and postnatal toxicity for glyphosate is considered to be complete at this time. Risk to infants and children for glyphosate was determined by using two developmental toxicity studies in rats and rabbits and a 2-generation reproduction study in rats. The developmental toxicity studies evaluate the potential for adverse effects on the developing organism resulting from exposure during prenatal development. The reproduction study provides information relating to effects from exposure to the chemical on the reproductive capability of both (mating) parents and on systemic toxicity, in addition to information on prenatal development. The results of these studies indicate that glyphosate does not produce birth defects and is not a reproductive toxin.

In the rabbit, no developmental toxicity was observed at the HDT where significant maternal toxicity occurred (death and clinical signs at 350 mg/kg/day). Because no developmental toxicity was observed at any dose level, the developmental toxicity NOAEL is considered to be 350 mg/kg/day. In the rat developmental toxicity study, severe

maternal (systemic) and developmental toxicity was noted at 3,500 mg/kg/day, the HDT. It is important to note that the HDT in this study was 3.5 times higher than the limit dose currently required by EPA guidelines. The maternal and developmental (pup) NOAEL was 1,000 mg/kg/day. No effects on reproductive parameters were observed.

In the rat 2-generation study, prenatal toxicity was observed at 1,500 mg/kg day as soft stools, decreased food consumption, and body weight gain; therefore, the systemic NOAEL is considered to be 500 mg/kg/day. Developmental (pup) toxicity was only exhibited at 1,500 mg/kg/day as decreased body weight gain of the F1a, F2a, and F2b male, and female pups during the second and third weeks of lactation. Glyphosate did not affect the ability of rats to mate, conceive, carry or deliver normal offspring at any dose level.

The RfD is based on the NOAEL for maternal toxicity in the rabbit developmental toxicity study. No developmental effects were noted in the study; effects were noted only at doses 20-fold higher than the NOAEL used for the RfD. No prenatal or postnatal effects were seen in any study in the absence of maternal toxicity. In the rat reproduction study, developmental effects were noted at doses 5 times higher than the NOAEL used for the RfD. The Agency does not believe the effects seen in these studies are of such concern to require an additional safety factor. Accordingly, the Agency believes the RfD has an adequate margin of protection for infants and children. The dietary exposure from current uses of glyphosate range from 1% of the RfD for nursing infants (less than 1–year old) to 3% for non-nursing infants and children 1 to 6 years old. Therefore, there is reasonable certainty that no harm will occur to infants and children from aggregate exposure to glyphosate.

F. International Tolerances

Codex MRLs have been established for residues of glyphosate in or on several raw agricultural commodities.

2. Novartis Crop Protection, Inc.

PP 4F4336 and PP 5F4469

EPA has received pesticide petitions (PP 4F4336 and PP 5F4469) from Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419 proposing, pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.481 by extending time-limited tolerances for residues of prosulfuron, 1-(4-methoxy-6-methyl-triazin-2-yl)-3-[2-(3,3,3-trifluoropropyl)-phenylsulfonyl]-urea in or on the RAC cereal grains group (except rice and wild rice) grain at 0.01 ppm; cereal grains group (except rice and wild rice) forage at 0.10 ppm; cereal grains group (except rice and wild rice) fodder at 0.01 ppm; cereal grains group (except rice and wild rice) straw at 0.02 ppm; cereal grains group (except rice and wild rice) hay at 0.20 ppm; milk at 0.01 ppm; and meat, fat, kidney, liver and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm until December 31, 2001. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1 *Plant metabolism*. The metabolism of prosulfuron in corn is well understood. Significant pathways involve oxidation of the phenyl ring to give 5-hydroxy prosulfuron, which is followed by sugar conjugation. Hydrolytic cleavage of the sulfonylurea bridge occurs for both prosulfuron and 5-hydroxy prosulfuron yielding the corresponding sulfonamide and triazine amine moieties. The sulfonamide metabolites are subsequently conjugated with sugars. Demethylation of the triazine amine results in the formation of the corresponding hydroxy triazine, which is further hydrolyzed at the amino group to form the dihydroxy triazine.

2. *Analytical method*. Novartis Crop Protection, Inc has submitted practical analytical methods for the detection and measurement of residue levels of prosulfuron in or on RAC and processed commodities of cereal grains, and for meat, milk and eggs. The LOD for prosulfuron is 0.8 ng injected and the limit of quantitation (LOQ) is 0.01 ppm for crop commodities, processed fractions and milk, and 0.05 ppm for meat and eggs. The method is based on commodity-specific cleanup procedures followed by determination by high performance liquid chromatography with ultraviolet (UV) detection.

3. *Magnitude of residues*. Complete, full geography residue programs, including processing, have been conducted on corn, wheat and grain sorghum. A three-level dairy animal feeding study to determine the transfer of residues of prosulfuron from animal feed commodities to meat and milk has also been conducted.

B. Toxicological Profile

1. *Acute toxicity*. Studies conducted with the technical material of prosulfuron:

i. Rat acute oral toxicity study with a LD_{50} of 949 mg/kg for males and 546 mg/kg for females.

ii. Rabbit acute dermal toxicity study with a LD_{50} > 2,000 mg/kg.

iii. Rat acute inhalation toxicity study with a LC_{50} > 5.4 milligrams per liter (mg/L).

iv. Rabbit eye irritation study showing slight irritation (Category III).

v. Rabbit dermal irritation study showing no irritation (Category IV).

vi. Guinea pig dermal sensitization study with the Buehler's method showing negative findings Guinea pig dermal sensitization study with the maximization method showing negative findings.

2. *Genotoxicty*. No genotoxic activity is expected of prosulfuron under *in vivo* or physiological conditions. The compound has been tested in a bacterial reverse gene mutation assay with and without metabolic activation using different *S. typhimurium* and *E. coli* stains; in a mammalian gene mutation study using V79 cells; in an *in vitro* mammalian cytogenetic test using Chinese hamster ovary cells with and without metabolic activation; in a micronucleus test in mice; and in a DNA-repair using freshly isolated rat liver hepatocytes. All these tests were negative for mutagenicity.

3. *Reproductive and developmental toxicity*. FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base. While the final review of some of additional developmental data has not yet been completed, based on the current toxicological data requirements, the data base on prosulfuron relative to prenatal and postnatal effects for children is considered to be complete.

In assessing the potential for additional sensitivity of infants and children to residues of prosulfuron, Novartis considered data from teratogenicity studies in the rat and the rabbit and a 2-generation reproduction studies in the rat. The teratogenicity studies are designed to evaluate adverse effects on the developing embryo as a result of chemical exposure during the period of organogenesis. Reproduction studies provide information on effects from chemical exposure on the reproductive capability of mating animals and systemic and developmental toxicity from *in-utero* exposure.

In the rat teratology study, prosulfuron was administered at dose levels of 0, 5, 50, 200 and 400 mg/kg during days 6 to 15 of gestation. Evidence of maternal toxicity (decreased body weight gain and reduced food consumption) and developmental toxicity (increased incidence of skeletal variations that was not significantly different from the historical control) was found at the maximum tolerated dose of 400 mg/kg. There was no evidence of teratogenicity at any dose, and the maternal and developmental no observed adverse effect levels (NOAELs) were established at 200 mg/kg.

Prosulfuron was administered to rabbits at dose levels of 0, 1, 10, and 100 mg/kg during days 7 to 19 of pregnancy. Maternal toxicity (decreased body weight gain and reduced food consumption) was observed in the 100 mg/kg dose group. There was no evidence of teratogenicity at any dose.

Since a range-finding rabbit teratology study had seen additional clinical findings and fetotoxicity at maternally toxic doses (≧ 150 mg/kg) but not in the definitive study at up to 100 mg/kg, a second rabbit teratology study was conducted at doses of 0, 20, 100, and 200 mg/kg/day. Maternal toxicity was observed at 200 mg/kg. The developmental NOAEL was 100 mg/kg and the maternal NOAEL was 20 mg/kg in this study. There was no evidence of teratogenicity at any dose.

Prosulfuron was administered to rats at dose levels of 0, 0.67, 13.3, 136, or 278 (males), and 0, 0.76, 15.3, 152, or 311 mg/kg/day (females) throughout two consecutive generations. The reproductive and systemic NOAELs of 13.3 mg/kg/day were based on decreased mean body weights and body weight gain observed at 136 mg/kg/day for both pups and parental animals. No treatment- related effects on reproductive performance (i.e., to produce, deliver or raise litters), litter sizes, viability of pups and necropsy findings in parental animals and offspring were noted up to the highest dose level.

Based on all these teratology and reproduction studies, the lowest NOAEL for developmental toxicity is estimated to be 13.3 mg/kg while the lowest NOAEL in the subchronic and chronic studies is 1.84 mg/kg/day (from the dog chronic study). Therefore, no additional sensitivity for infants and children to prosulfuron is suggested by the data base.

4. *Subchronic toxicity*. The liver was identified as a target organ at high doses in the rat, mouse and dog as indicated by slightly increased liver enzymes and liver weights. No histomorphologic correlates of liver damage was noted in the 90–day studies except in the mouse study where centrilobular hypertrophy was found in males at feeding levels ≧ 1,750 ppm and in females at levels ≧ 3,500 ppm. Effects of prosulfuron on the hematopoietic system (anemia) were noted in the dog at feeding levels ≧ 1,500 ppm and myocardial lesions were found in the 3,000 ppm animals in the 90–day study. Myocardial vacuolative degeneration was observed in male mice fed prosulfuron for 90 days at levels ≧ 3,500 ppm and in females at 7,000 ppm.

In general, NOAELs for target organ effects were established at doses that were much higher than overall study NOAELs, which were based on other indicators of toxicity such body weight gain.

5. *Chronic toxicity*. Prosulfuron was fed to dogs at dosages of 0, 0.33, 1.95, 18.6 or 41.0 mg/kg/day (males) and 0, 0.31, 1.84, 20.2, or 48.8 mg/kg/day (females) for 1–year. The NOAEL was 1.84 mg/kg/day based on hematologic and clinical chemistry effects and incidence of lipofuscin accumulation in the liver at 18.6 mg/kg/day.

In an 18–month mouse carcinogenicity study, prosulfuron was administered at dose levels of 0, 1.71, 81.4, 410 or 832 mg/kg/day (males), and 0, 2.11, 100, 508 or 1,062 mg/kg/day (females). There was no evidence of carcinogenic effects up to 1,062 mg/kg/day, the HDT. The NOAEL was 1.71 mg/kg/day in males, and 100 mg/kg/day in females based on increased incidence/severity of centrilobular hepatocellular hypertrophy. A 2–year chronic feeding/carcinogenicity study in rats fed dosages of 0, 0.4, 7.9, 79.9 or 160.9 (males), and 0, 0.5, 9.2, 95.7 or 205.8 mg/kg/day (females) was conducted. There was uncertain evidence of carcinogenicity with slight increases in the incidence of mammary gland adenocarcinomas in females at 95.7 and 205.8 mg/kg/day, slight increase in incidence of benign testicular interstitial cell tumors at 79.9 and 160.9 mg/kg/day (significant trend only). A systemic NOAEL of 7.9 mg/kg/day was based on decreased body weight and body weight gain, hematopoietic effects (males), and possibly increased serum GGT and decreased liver, kidney and adrenal weights (females) at 79.9 mg/kg/day.

6. *Carcinogenicity*. The HED RfD/Peer Review Committee (PRC) classified this chemical as a Class D oncogen based on the conclusion that there was uncertain evidence of carcinogenicity. No relevant treatment-related oncogenic potential was observed in rats and mice. The slightly increased incidence of testicular interstitial cell tumors in male rats at ≧ 79.9 mg/kg/day and the slightly increased incidence of mammary gland adenocarcinoma in females at ≧ 95.7 mg/kg/day was not significant when the increased survival in these groups was considered. Furthermore, the overall incidence of mammary tumors was essentially identical in all groups including the control. There was no evidence of carcinogenicity in mice and dosages in both studies were sufficient for identifying a cancer risk. In the absence of carcinogenicity, it is appropriate that a RfD approach be used for quantitation of human risks.

7. *Animal metabolism*. Prosulfuron is rapidly absorbed from the gastrointestinal tract of rats and is rapidly excreted. Approximately 90% of the administered dose is excreted during the first 48 hours, predominately via urine. Tissue residues are low. Prosulfuron is metabolized primarily via hydroxylation at side chain and phenyl ring positions and O-demethylation of the triazyl methoxy group. Minor pathways include unsaturation of the trifluoropropyl side chain, hydrolysis of the phenylsulfonylurea bridge and oxidative/hydrolytic cleavage of the triazine ring system.

In the goat, the orally administered prosulfuron is quickly eliminated primarily via the urine as prosulfuron. The metabolism of prosulfuron in the goat follows a similar pathway as observed in the rat although not as extensive. Accordingly, the biotransformation is limited to oxidation of the triazinyl methyl, O-demethylation of the triazinyl methoxy group and hydrolytic cleavage of the sulfonylurea bridge. The majority of the residues were accounted for as prosulfuron, the triazine amine, which results from bridge hydrolysis (CGA-150829) and the triazinyl hydroxymethyl metabolite (CGA-273437). In the hen, metabolism is similar to that observed in the rat and goat. The major residues found in edible tissues and eggs were prosulfuron, and the triazine amine (CGA-150829) and the sulfonamide (CGA-159902) which results from hydrolysis of the sulfonylurea bridge. In conclusion, the major metabolic pathways in the rat, goat, and hen are similar.

7. *Metabolite toxicology*. Metabolic pathways of prosulfuron in plants and animals are comparable and no (detectable) residues are found in or on crops. All relevant plant metabolites are observed in the animals and are thus toxicologically covered. The remaining plant metabolites are toxicologically insignificant. Therefore, no analytical method for metabolite determination is necessary for routine residue monitoring. For enforcement purposes

(e.g., high overdose or application too close to harvest) parent prosulfuron is the appropriate compound for analytical monitoring.

8. *Endocrine disruption*. Prosulfuron does not belong to a class of chemicals known for having significant adverse effects on the endocrine system. Developmental toxicity studies in rats and rabbits and reproduction study in rats gave no indication that prosulfuron might have any effects on endocrine function related to development and reproduction. The subchronic and chronic studies also showed no evidence of a long-term effect related to the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*. Acute and Chronic dietary exposure assessments were conducted for prosulfuron using tolerance values published in 40 CFR part 180.481. In both assessments it was assumed that 100% of all corn and cereal grains were treated with prosulfuron (100% market share). The exposure analyses was conducted using food consumption data from USDA's 1994-96 Continuing Survey of Intake by Individuals (CSFII) and Novigen Sciences, Inc. Dietary Exposure Evaluation Model (DEEMTM). Chronic exposure was compared to a RfD of 0.02 mg/kg based on a NOAEL of 1.84 mg/kg in a dog feeding study and a 100-fold uncertainty factor. This exposure analysis showed that the U.S. population had an exposure of less than 1% of the chronic RfD. The most sensitive sub-population was children (1-6 years old) with a chronic exposure of 2.4%.

Acute exposure was compared to an acute RfD of 0.1 mg/kg, which was based on a NOAEL of 10 mg/kg from an acute neurotoxicity study in the rat and a 100-fold uncertainty factor. The most sensitive sub-population was all infants with an exposure of 2.2% of the acute RfD. The U.S. population showed an exposure of 1.5% of the RfD.

These results show that there is more than a reasonable certainty of no harm, through exposure to prosulfuron residues in the diet.

ii. *Drinking water—estimated surface drinking water concentrations*. The GENEEC estimated surface water concentrations of prosulfuron were 1.86 ppb on the Peak Day-0 and 1.40 ppb on the average 56–day. According to the EPA ''OPP's Interim Approach for Addressing Drinking Water Exposure,'' the average 56–day value is divided by three when correcting for overestimation of the GENEEC model. This resulted in a corrected potential drinking water exposure via surface water of 1.40 ppb / 3 =0.4667 ppb.

These concentrations were not adjusted for the estimated market share, regional soil characteristics or percentage of use area. The Peak Day-0 estimate, 1.86 ppb, was used in the acute exposure analysis and the corrected 56–day drinking water concentration of 0.4667 ppb was used in the chronic exposure analysis.

iii. *Estimated ground water concentrations*. The SCI-GROW estimated ground water concentration for the prosulfuron uses of 0.406585 ppb contributed little to the overall exposure. The estimated concentrations were not adjusted for the estimated market share or percentage of use area.

2. *Drinking water levels of concern*—

i. *Acute exposure*. The estimated ground and surface water concentrations of prosulfuron contributed little to the potential acute human exposure. The acute drinking water levels of concern ($DWLOC_{acute}$) for prosulfuron were based on the acute RfD, a MOE, the 99.9th percentile of the acute dietary exposure for U.S. population subgroups and the body weight - daily water consumption of each respective subgroup. The acute RfD of prosulfuron was 10 mg/kg/day based on the findings from the acute neurotoxicity rat study. The lowest MOE for any pesticide is 100 and this was used as a conservative approach. The dietary exposure estimates for subgroups of the U.S. population included the U.S. population all seasons, all infants (<1–year), nursing infants (< 1–year), non-nursing infants (< 1–year), children (1–6 years) and children (7-12 years). The dietary exposure estimates for all the subgroups were less than 0.0023 mg/kg/bodyweight/day. The calculated $DWLOC_{acute}$ values for these respective subgroups were 3447, 987, 980 and 978 ppb.

The estimated ground water concentration (0.406585 ppb) and the peak day-0 surface water concentration (1.86 ppb) of prosulfuron did not exceed the $DWLOC_{acute}$ values. Therefore, there is reasonable certainty that the residues of prosulfuron in the drinking water would not result in unacceptable levels of acute aggregate human health risk, and that such exposure would not exceed the exposure allowable by the risk cup.

ii. *Chronic exposure*. The estimated ground and surface water concentrations of prosulfuron contributed little to the potential chronic human exposure. The chronic (non-cancer) drinking water levels of concern ($DWLOC_{chronic}$) for prosulfuron were based on the chronic RfD, any estimated residential exposure, the chronic dietary exposure for select U.S. population subgroups and the body weight - daily water consumption of each respective subgroup. The chronic RfD for prosulfuron was 0.02 mg/kg/bwt/day based on the findings of a chronic dog study. There was no estimated residential exposure from the prosulfuron uses. The potential chronic dietary exposure estimates were calculated for the same subgroups selected for the acute exposure analysis. These potential chronic dietary values included 0.00172 mg/kg/bwt/day for the United States all seasons and < 0.0005 for the remaining subgroups (non-nursing infants < 1–year, children 1–6 years, and children 7–12 years). The calculated $DWLOC_{chronic}$ values for the respective subgroups were 694, 198, 195 and 197 ppb.

The GENEEC estimated concentration of prosulfuron in surface water at the average 56–day was 1.40 ppb. According to EPA ''OPP's Interim Approach for Addressing Drinking Water Exposure,'' the average 56–day value is divided by three when correcting for overestimation of the GENEEC model. This resulted in a corrected surface drinking water concentration of 1.40 ppb/3 = 0.4667 ppb.

The estimated ground water concentration (0.406585 ppb) and the corrected average 56–day surface water concentration (0.4667 ppb) of prosulfuron did not exceed the $DWLOC_{chronic}$ values. Therefore, there is reasonable certainty that the residues of prosulfuron in the drinking water would not result in unacceptable levels of chronic aggregate human health risk, and that such exposure would not exceed the exposure allowable by the risk cup.

3. *Non-dietary exposure*. Non-dietary exposure to prosulfuron is considered negligible as the chemical is registered for agricultural use only. For workers handling this chemical, acceptable MOE (in the range of thousands) have been obtained for both acute and chronic scenarios.

D. Cumulative Effects

Consideration of a common mechanism of toxicity is not appropriate at this time since there is no information to indicate that toxic effects produced by prosulfuron would be cumulative with those of any other types of chemicals. Furthermore, the triazine containing sulfonyl-urea is a new type of herbicide and no compound in this general chemical class currently has a significant market share. Consequently, it is considered appropriate to only

include the potential exposure to prosulfuron in an aggregate risk assessment.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data base for prosulfuron, Novartis has calculated aggregate exposure levels for this chemical. The calculation shows that less than 1% of the RfD will be utilized for the U.S. population based on chronic toxicity endpoints. 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. Novartis concludes that there is a reasonable certainty that no harm will result from aggregate exposure to prosulfuron residue.

2. *Infants and children*. No adverse effects on the ability to produce, deliver or rear offspring was observed in a 2-generation study in rats. Likewise, teratogenicity studies in rats and rabbits did not reveal any teratogenic, embryotoxic or fetotoxic potential of prosulfuron. The lowest observed adverse effect level (LOAEL) for developmental toxicity was established in the rat reproduction study at 13.3 mg/kg, which is higher than the chronic NOAEL of 1.84 mg/kg, on which the RfD is based.

Using the same conservative exposure assumptions as employed for the determination in the general population, Novartis has calculated that the percent of the RfD that will be utilized by aggregate exposure to residues of prosulfuron is only 2.4% for children (1–6 years old), the most impacted sub-population. Therefore, based on the completeness and reliability of the toxicity data base and the conservative exposure assessment, Novartis concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to prosulfuron residues.

F. International Tolerances

No Codex MRLs have been established for residues of prosulfuron.

[FR Doc. 99–21548 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–50861; FRL–6092–5]

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: Registration Division (7505C), 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:

241–EUP–141. Extension/Amendment. American Cyanamid Company, P.O. Box 400 Princeton, NJ 08543–0400. This experimental use permit allows the use of 1,600 pounds of the termiticide 4-bromo-2-(4-chlorophenyl)-1-(ethoxymethyl)-5-(trifluoromethyl)-1-pyrrole-3-carbonitrile, chlorfenapyr on 463 sites (structures) to evaluate the control of termites and other wood boring insects. The program is authorized only in the States of Alabama, Arizona, Arkansas, California, Connecticut, Delaware, District of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Washington. The experimental use permit is effective from June 30, 1999 to November 30, 2000. (Ann Sibold; Rm. 220, Crystal Mall #2; telephone: 703–305–6502; e-mail address: sibold.ann@epa.gov)

62719–EUP–44. Issuance. Dow AgroSciences LLC, 9330 Zionsville Road, Indianapolis, Indiana 46268–1054. This experimental use permit allows the use of 3,379,758 pounds of the soil fumigants 1,3-dichloropropene and chloropicrin from the product InLine on 15,000 acres of soil, treated using drip irrigation systems only, to be planted in cauliflower, cucumbers, eggplant, lettuce, melons, onions, peppers, pineapples, squash, strawberries, and tomatoes to evaluate the control of nematodes, symphylans, and certain soil-borne diseases. The program is authorized only in the States of Alabama, Arizona, California, Colorado, Florida, Georgia, Hawaii, Idaho, Oregon, and Washington. The experimental use permit is effective from June 25, 1999 to June 25, 2002. (Mary L. Waller; Rm. 249, Crystal Mall #2; telephone: (703) 308–9354; e-mail address: waller.mary@epa.gov)

Persons wishing to review these EUPs are referred to the designated contact person. Inquiries 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: August 10, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–21549 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6429–3]

Notice of Availability: Draft Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of draft guidance.

SUMMARY: Today's document makes available for public comment the draft Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations for public review and comment. This draft guidance is being published to meet one EPA's key action items in the recently released U.S. Department of Agriculture (USDA)–Environmental Protection Agency (EPA) Unified National Strategy for Animal Feeding Operations (March 1999). The draft guidance is intended to provide assistance to EPA and State permit writers, who are responsible for issuing NPDES permits to reduce risk to water quality and human health from animal feeding operations.

The Unified National Strategy set forth a range of flexible, common-sense actions that USDA and EPA plan to take over a multi-year period to promote proper management of animal manure and wastewater in order to minimize the water quality and public health impacts of animal feeding operations. In the short-term, EPA is focused on improving implementation of the NPDES permitting program consistent with existing regulations, including today's publication of this draft guidance manual. Over the long-term, EPA plans to revise its regulations to reflect substantial changes in the animal production industry over the past several decades. Throughout this multi-year process, EPA will provide opportunities for interested parties to offer comments on its draft guidance documents and proposed regulations.

A key objective of both the Unified National Strategy and this draft guidance is to accelerate issuance of sound, legally defensible NPDES permits for large CAFOs (e.g. operations with greater than 1,000 animal units) by January of 2000. The draft guidance being made available today is intended to aid EPA and State permitting authorities in meeting this goal. Consistent with the Unified National Strategy, USDA is currently in the process of developing an important companion document that will provide guidance on how to develop sound comprehensive nutrient management plans (CNMPs), which EPA and State permitting authorities will incorporate into NPDES permits as special conditions. USDA's draft guidance is expected to be available for public review and comment later this summer.

EPA believes that comments from a wide range of interested stakeholders is important to produce a final guidance document that will help EPA and State permitting authorities issue NPDES permits that achieve the goal of reducing risk to water quality and human health from animal feeding operations. EPA is interested in receiving comments from reviewers of the draft Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations, and will carefully consider this input as it prepares a final guidance document for publication later this year.

DATES: Written comments should be submitted by October 25, 1999 to the address below.

ADDRESSES: Address all comments to Gregory Beatty, US EPA, 401 M Street, SW, Mail Code 4203, Washington, DC 20460. Submit electronic comments to *beatty.gregory@epa.gov*.

SUPPLEMENTARY INFORMATION: Copies of the draft Guidance Manual and Example NPDES Permit for Concentrated Animal Feeding Operations may be obtained on the Internet at: *http://www.epa.gov/owm*. If you do not have Internet access, you may obtain a paper copy of the draft guidance by calling the Water Resources Center at (202) 260–7786. The draft guidance is also available in electronic format.

FOR FURTHER INFORMATION CONTACT: Gregory Beatty, (202) 260–6929 or Will Hall (202) 260–1458.

Dated: August 6, 1999.

J. Charles Fox,

Assistant Administrator for Water.

[FR Doc. 99–22157 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6428–2]

City of Key West No Discharge Zone Determination

The Environmental Protection Agency (EPA) Region 4 Regional Administrator concurs with the determinations of the State of Florida that adequate and reasonably available pumpout facilities exist around the waters (out to 600 feet from shore) of the Island of Key West. A petition was received from the State of Florida requesting a determination by the Regional Administrator, EPA, pursuant to section 312(f)(3) of Public Law 92–500 as amended by Public Law 95–217 and Public Law 100–4, that adequate facilities for the safe and sanitary removal of sewage from all vessels are reasonably available for the waters around the City of Key West to qualify as a No Discharge Zone.

This action is taken under section 312 (f)(3) of the Clean Water Act which states:

> After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply.

EPA's action allows prohibition regarding discharge from vessels to be applied by the State of Florida for the City of Key West. EPA found the following existing facilities available for pumping out vessel holding tanks in the City of Key West. Their address, telephone number, hours of operation and draft are as follows:

A. Galleon Marina; 619 Front Street, Key West, Florida 33040; 305–292–1292; 8 AM–6 PM 7 days/week; 45' draft.

B. Historic Seaport at Key West Bight; 201 William Street, Key West, Florida 33040; 305–293–8309; 7 AM–7 PM (summer) 7 AM-5 PM (winter) 7 days /week; 12' draft.

C. Key West Conch Harbor; 951 Caroline Street, Key West, Florida 33040; 305–294–2933; 6 AM-Sunset 7 days/week; 10' draft.

D. Garrison Bight Marina; Garrison Bight Causeway, Key West, Florida 33040; 305–292–8167; 24 hours/day 7 days/week; 7' draft; mobile pumpout barge operated 8 AM–5 PM Monday through Saturday; 1' draft.

E. Sunset Marina; 5555 College Road, Stock Island, Key West, Florida 33040; 305–296–7101; 7 AM-8 PM daily; 6.5' draft.

Additional pumpout facilities are being installed at several other marinas within city limits. The facilities at A & B Marina are scheduled for completion by September 1, 1999. The Key West Yacht Club is currently seeking permits for a pumpout facility. The Historic Seaport at Key West Bight has budgeted

funds for installation of dockside pumpouts for charterboats within the next fiscal year.

All of the vessel pumpout facilities that are in use within Key West City limits discharge directly into the collection system that delivers waste to the central waste treatment facility for Key West, otherwise known as the Richard Heyman Environmental Protection Facility. The plant achieves a secondary level of waste treatment and currently discharges the treated effluent into nearshore waters off Fort Zachary Taylor State Beach. However, the City is currently retrofitting the plant to achieve a level of advanced wastewater treatment and will be replacing the ocean outfall with deep injection wells. Currently, the City collection system is being rebuilt at a cost of several million dollars. Both the collection system improvements and the replacement of the outfall with deep injection wells will be completed within a few years pursuant to the provisions of a consent judgment with the State of Florida. The City has entered into an agreement with Reef Relief and Last Stand, two environmental organizations, to treat the effluent being injected to a level of advanced wastewater treatment to remove the nutrients prior to injection.

Thus all wastewater collected at the vessel pumpout facilities will be treated to meet existing standards for secondary treatment and will eventually meet the higher standard of advanced wastewater treatment. This action is being taken in consideration of the need to reduce nutrient loading to nearshore waters.

The number of boats with marine sanitation devices (MSD) varies seasonally. According to Key West marina operators, approximately 628 boats with heads is a reasonable average. Therefore, the ratio of boats with MSDs to pumpout facilities is 126 boats per pumpout facility, plus a mobile pumpout service.

Comments concerning this action may be filed on or before September 24, 1999. Such communications should be addressed to Wesley B. Crum, Chief, Coastal and Nonpoint Source Programs Section, USEPA, Region 4, Sam Nunn Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–3104. Telephone 404–562–9352.

John H. Hankinson, Jr.,

Regional Administrator, Region 4.

[FR Doc. 99–22044 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6425–2]

Draft Modification of the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges From Construction Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of Notice of draft modification of the NPDES general permit reissuance for storm water discharges from construction activities.

SUMMARY: The EPA, Region 4, published in the July 21, 1999 (64 FR 39136) **Federal Register**, a proposed modification of the general permit for the discharge of storm water from construction activities, issued on March 31, 1998. This document corrects a typographical error in the dates section. The deadline for submitting comments to EPA on the proposed modification is September 10, 1999. The proposed modification is not changed by this notice from the proposal in the July 21, 1999 **Federal Register**.

DATES: Comments on the proposed modification must be received or postmarked by September 10, 1999.

ADDRESSES: Notices of Intent (NOIs) submitted in accordance with this permit to receive coverage under this permit must be sent to Storm Water Notice of Intent (4203), 401 M Street, SW., Washington, DC 20460. The complete administrative record is available from the U.S. Environmental Protection Agency, Region 4, Freedom of Information Officer, 61 Forsyth St. SW., Atlanta, GA 30303. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Floyd Wellborn, telephone number (404) 562–9296, or Mr. Mike Mitchell, telephone number (404) 562–9303, or at the following address: United States Environmental Protection Agency, Region 4, Water Management Division, Surface Water Permits Section, Atlanta Federal Center, 61 Forsyth Street SW., Atlanta, GA 30303.

Public Comment Period

Public comments are being invited only for those specific modifications discussed within the proposed modification of the general permit for the discharge of storm water from construction activities, which was published in the July 21, 1999 **Federal Register**. The public should send their comments to the Surface Water Permits Section, Water Management Division, U.S. EPA, 61 Forsyth Street, SW., Atlanta, GA 30303, postmarked by midnight no later than September 10, 1999. To ensure that EPA can read, understand, and therefore properly respond to comments, the Agency requests commenters to type or print in ink any comments. Each comment should cite the page number and, where possible, the section(s) and/or paragraph(s) in the proposed permitting actions to which the comment relates. Commenters should use a separate paragraph for each issue discussed.

State Certification

EPA has requested certification of the proposed permit modification to the State of Florida and Indian Tribes where the proposed actions would be effective. The State of Florida and Tribes will review the proposed actions to ensure that they will not result in violations of water quality criteria. EPA will work with the State and Tribes to obtain their certification in accordance with section 401 of the Clean Water Act. EPA will prepare certifications for Indian lands where there is no approved Tribe or any Tribes which have not established water quality standards.

The Coastal Zone Management Act (CZMA) requires that all Federal licensing and permitting actions be reviewed for consistency with each approved State coastal zone management plan. The Federal Consistency Act requires that all NPDES permits be reviewed for consistency with the Endangered Species Act and the National Historic Preservation Act. EPA has also initiated these reviews.

Dated: August 17, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99–22046 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Science and Technology Policy

ACTION: Notice

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR 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 19, 1999.

FOR FURTHER INFORMATION OR A COPY CONTACT: Duncan T. Moore at the Office for Science and Technology Policy (OSTP), (202) 456–6032.

SUPPLEMENTARY INFORMATION:

Title: Office of Science and Technology Policy Evaluation of Performance as Required Under the Government Performance and Results Act.

Abstract: This notice describes a survey that will be conducted by the President's Committee of Advisors on Science and Technology (PCAST) to evaluate the performance of the Office of Science and Technology Policy (OSTP), as required under the Government Performance Results Act (GPRA).

Respondents/Affected Entities: The public; state and federal government.

Estimated number of respondents: 200.

Estimated Total Annual Burden on Respondents: 100 hours.

Frequency of Collection: Yearly.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following address: Duncan T. Moore, Office of Science and Technology Policy, Old Executive Office Building, Room 423, Washington, DC 20502.

Dated: August 19, 1999.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

[FR Doc. 99–22014 Filed 8–20–99; 1:16 pm]

BILLING CODE 3170–01–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, NW., 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.: 217–011673

Title: Space Charter Agreement Between Kambara Kisen Co., Ltd. and Mariana Express Liens Limited

Parties:

Kambara Kisen Co., Ltd.

Mariana Express Lines Limited

Synopsis: The proposed Agreement would permit the parties to charter space to one another in the trade between Hong Kong, Taiwan, and Southeast Asia and ports on the islands of Guam, Yap, Saipan, and Koror and inland points via all of the above.

Agreement No.: 203–011674

Title: Amazon/Trade Wind Lines' Agreement

Parties:

Amazon Lines Ltd.

Trade Wind Lines Limited

Synopsis: The proposed Agreement permits the parties to establish a vessel sharing, slot charter and sailing arrangement between them, to engage in joint service contract activities and, on a voluntary non-binding basis, to discuss and agree upon tariff rates and conditions.

Agreement No.: 217–011675

Title: DSEN/EMC Slot Charter Agreement

Parties:

DSR-Senator Lines GmbH (DSEN)

Evergreen Marine Corp., (Taiwan) Ltd.

Synopsis: The proposed Agreement permits DSEN to sell and EMC to purchase slots on vessels operated by or on behalf of DSEN in the trade between the U.S. East Coast and the Mediterranean ports of Italy, France and Spain.

Agreement No.: 224–200865–004

Title: Oakland-Hanjin Marine Terminal Use Agreement

Parties:

City of Oakland: Board of Port Commissioners

Hanjin Shipping Company, Ltd.

Synopsis: The proposed amendment extends the term of the agreement through December 31, 2000.

By order of the Federal Maritime Commission.

Dated: August 20, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–22090 Filed 8–24–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 99–17]

Imex Shipping Inc.—Possible Violations of Sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984; Investigation

Notice is given that the Commission, on August 19, 1999, served an Order of Investigation and Hearing on Imex Shipping Inc. (''Imex''), a tariffed and bonded non-vessel operating common carrier. The Order institutes a formal investigation to determine whether Imex violated sections 10(a)(1) and 10(b)(1) of the Shipping Act of 1984, 46 U.S.C. app. sections 1709 (a)(1) and (b)(1), by receiving rebates from a vessel-operating common carrier in the trade between the United States and South America, and assessing and collecting rates which did not appear in Imex's tariff. Should violations be found, the proceeding will determine whether to impose civil penalties, suspend Imex's tariff, suspend or revoke its license, and issue a cease and desist order. The full text of the Order may be viewed on the Commission's home page at www.fmc.gov, or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW, Washington, DC. Any person may file a petition for leave to intervene in accordance with 46 CFR 502.72.

Dated: August 20, 1999.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–22089 Filed 8–24–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection: Comment Request

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice.

SUMMARY: On June 1, 1999, the President of the United States requested that the Federal Trade Commission and the Department of Justice conduct a study on the marketing practices of the entertainment industry to determine whether and to what extent the industry markets age-restricted violent material to children. Before gathering this information, the FTC is soliciting public comments on proposed information requests to members of the following industries: (1) Motion picture; (2) recording; and (3) video, personal computer, and coin operated games. The FTC also is soliciting public comments on proposed consumer research. Comments will be considered before the FTC submits a request for Office of Management and Budget (OMB) review under the Paperwork Reduction Act.

DATES: Comments must be submitted on or before October 25, 1999.

ADDRESSES: Send written comments to Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania

Avenue, NW, Washington, DC 20580, or by e-mail to <entstudy@ftc.gov>. The submissions should include the submitter's name, address, telephone number, and , if available, FAX number and e-mail address. All submissions should be captioned ''Entertainment Industry Study''-FTC File No. P994511.''

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Sally Forman Pitofsky, Attorney, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. Telephone: (202) 326–3318, E-mail <spitofsky@ftc.gov>.

SUPPLEMENTARY INFORMATION: The FTC invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of the functions of the FTC, including whether the information will have practical utility; (2) the accuracy of the FTC's estimate of the burden of the proposed collections of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collecting information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. The FTC will submit the proposed information collection requirements to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

A. Survey of the Motion Picture, Recording, and Video Game Industries

1. Description of the Collection of Information and Proposed Use

The FTC proposes to send information requests to approximately 60 to 75 members of the motion picture industry, the recording industry, and the video, personal computer, and coin operated game industry (''industry members'') to examine: (1) The voluntary systems used by industry members to rate or designate violent content in movies, recordings, and video or computer games; (2) how industry members market or advertise movies, recordings, and video or computer games with violent content; and (3) whether industry members have policies or procedures to restrict access by children or teenagers under 18 to movies, recordings, and video or computer games having violent content. The information sought will be obtained by interviews and document requests. The information will be sought on a voluntary basis, although the FTC has authority to compel production of this information under Section 6(b) of the FTC Act, 15 U.S.C. 46(b).

2. Estimated Hours Burden

a. Interviews

Staff will conduct initial and follow-up interviews with individual industry members. The interviews will focus on the subject areas (1)—(3) above. The interviews should total no more than 20 hours for each industry member, for a maximum total of approximately 1,500 hours.

b. Document Requests

Staff will also ask each industry member to submit documents relating to the above subject areas. Because the members within each of the industries will necessarily vary in size, we have provided a range of the estimated hours burden. This range is between 225 hours and 450 hours per member depending on the size of each. The total estimated burden of producing such documents per member is based on the following:

Organize document retrieval—25–50 hours
Identify requested information—100–200 hours
Retrieve responsive information—50–100 hours
Copy requested information—50–100 hours

Thus, the cumulative hours burden to produce documents sought will be between: 16,875 (225 hours x 75 members) to 33,750 (450 hours x 75 members)

3. Estimated Cost Burden

a. Interviews

We have assumed that mid-management level personnel will handle the responses to interviews and have applied an average hourly wage of $150/hour for their labor. Thus, the total cost per member for the interviews should not exceed $3,000 or $225,000 for the 75 respondents. Staff further estimates that the capital costs associated with the industry interviews are minimal. The interviews are likely to require no capital expenditures.

b. Document Production

It is not possible to calculate with precision labor costs associated with this document production as they entail varying compensation levels of management, and/or support staff among many companies of different sizes and in different industries. Individuals among some or all of those labor categories may be involved in the information collection process. Nonetheless, we have assumed that mid-management level personnel will handle most of the tasks involved in gathering and producing responsive information, and have applied an average hourly wage of $150/hour for their labor. We also have applied an average hourly wage of $10 for the labor of clerical employees who will copy the responsive materials. Thus, the total labor cost per member should range between $26,750 and $53,500 per member depending on the size of each:

$26,750 (175 hours to assemble and review the production x $150 per hour +50 hours for copying x $10 per hour) to $53,500 (350 hours to assemble and review the production x $150 per hour + 100 hours for copying x $10 per hour).

Accordingly, the total labor costs for the 75 members should range between approximately $2 million and $4 million.

Staff estimates that the capital or other non-labor costs associated with the information requests are minimal. While the information requests may necessitate that industry members store copies of the requested information provided to the Commission, industry members should already have in place the means to do so. Even if an industry member should find it necessary to purchase a storage device—which conceivably might be served by a cardboard box or comparable item—the cost of any such device annualized over its useful life likely would be very minimal. In addition, industry members may have to purchase office supplies such as file folders, computer diskettes, photocopier toner, or paper in order to comply with the Commission's information requests. Staff estimates that each industry member would spend $500 for such costs regarding the information requests, for a total additional non-labor cost burden of $37,500 ($500 x 75 members).

B. Consumer Research

1. Description of the Collection of Information and Proposed Use

The FTC also proposes to conduct focus groups of 150 children between the ages of 13 and 16, and survey 1,000 parents having a child between the ages of 7 and 17 in order to gather specific information on their perceptions of the entertainment rating or labeling systems. This information will be collected on a voluntary basis, and the identities of the consumers will remain confidential. The FTC will contract with a consumer research firm to identify

consumers and conduct the focus groups and the survey. The results will assist the FTC in determining whether and how consumers use the rating or labeling systems of the motion picture, recording, and video, computer, and coin operated game industries.

2. Estimated Hours Burden

The FTC will contract with a survey firm to: (1) Identify and conduct focus groups on 150 children between the ages of 13 and 16; and (2) identify and survey 1,000 parents with children between the ages of 7 and 17. For the focus groups, the contractor will identify respondents either by drawing names from a pre-assembled teen list or by conducting telephone screening within the general population. If telephone screening, the contractor would contact parents and ask whether a child in the household between the ages of 13 and 16 will participate in a focus group. Staff estimates that the screener will be asked of approximately 2,500 respondents in order to obtain a large enough random sample for the focus groups.

For the parental telephone survey, the contractor will first identify respondents using a screening question in its monthly omnibus telephone survey and then ask whether respondents, with a child between the ages of 7 and 17, would participate in the survey. Allowing for non-response, the screener question will be asked of approximately 3,500 respondents, as screening that number will provide a large enough random sample for this survey.

The FTC staff estimates that the screening for the focus groups and the survey will consume no more than two minutes of each respondent's time. Thus, cumulatively, screening should require approximately 200 hours (6,000 total respondents x 2 minutes for each).

The FTC will pretest the parental survey on 24 respondents to ensure that all questions are easily understood. This pretest will take approximately 15 minutes per person. The hours burden imposed by the pretest will be approximately 6 hours (24 respondents x 15 minutes per survey). Participating in the focus groups will take approximately one hour per respondent, with a total burden of 150 hours. Answering the parental survey will impose a burden per respondent of approximately 15 minutes, totaling 250 hours for all respondents to the survey (1,000 respondents x 15 minutes per survey). Thus, total hours burden attributable to the consumer research will approximate 606 hours (200 + 6 + 150 + 250).

3. Estimated Cost Burden

The cost per respondent should be negligible. Participation is voluntary, and will not require any labor expenditures by respondents. There are no capital, start-up, operation, maintenance, or other similar costs to the respondents.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–22016 Filed 8–24–99; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Runaway and Homeless Youth Management Information System (RHYMIS).

OMB No.: 0970–0123.

Description: In the Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) Congress mandated that the Department of Health and Human Services (HHS) report regularly on the status of HHS-funded programs serving runaway and homeless youth. Organizations funded under the Runaway and Homeless Youth program are required by statute (42 U.S.C. 5712, 42 U.S.C. 5714–2) to meet several data collection and reporting requirements, including maintaining client statistical records and submitting annual program reports regarding the profile of the youth and families served and the services provided to them. The RHYMIS data supports these organizations as they carry out a variety of integrated, ongoing responsibilities and projects, including legislative reporting requirements, planning and public policy development for runaway and homeless youth programs, accountability monitoring, program management, research, and evaluation.

Respondents: Not-for-profit institutions.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Youth Program Status	400	185	.1	7,400
Youth Profile	400	185	.8	59,200
Agency Profile	400	1	.1	40
Program Profile	400	3	.5	600
Staff Profile	400	8	.5	1600
Coordinating Agency	400	3	.3	360
Community Education	400	5	.3	600
Promotional/Instructional Material	400	2	.2	160
Data Transfer	400	4	.5	800

Estimated Total Annual Burden Hours: 70,760.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: ACF Desk Officer.

Dated: August 19, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–22026 Filed 8–24–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Grant to City of Newark, New Jersey ACF/ACYF/CB–99–08

AGENCY: Administration on Children, Youth and Families, ACF, DHHS.

ACTION: Notice of award.

SUMMARY: Notice is hereby given that ACYF will award grant funds without competition to the City of Newark, New Jersey. This grant is a sole source award which will support a pilot program entitled Newark KIDS which seeks to assist children affected by domestic violence. This award is made noncompetitively after out review of a proposal by the City for a program which presents a unique opportunity to produce meaningful and useful results in an area of significant interest to ACF.

The Newark KIDS project is expected to assist children affected by domestic violence by helping them to access appropriate resources. The project proposes to test a model of service delivery for children who would not ordinarily be removed from their homes built on intensive case management with well-integrated wrap-around community-based services. The training and treatment components of the model will be coordinated by a local university or university hospital.

The project also includes an evaluation component that will be managed by a university partner. We therefore expect the project to generate findings which will allow us to assess the benefits of the model used, and which will help us to determine whether the Newark KIDS program can serve as a model for possible replication in other locations.

The project period will be for 24 months, beginning September 30, 1999 and ending September 29, 2001. The grantee will be awarded $200,000 for use during the first twelve months of the project period be awarded additional noncompetive continuation funding of up to $200,000 depending on the availability of funds, satisfactory performance by the grantee, and a determination that such continued funding would be in the best interest of the government.

Authority: This award will be made pursuant to the Child Abuse Prevention and Treatment Act, U.S.C. 5106. (CFDA 93.670)

FOR FURTHER INFORMATION CONTACT: Sally Flanzer, Childrens's Bureau, Administration on Children, Youth and Families, 330 C Street, SW, Room 2429, Washington, DC 20447; Telephone: (202) 205–8914.

Dated: August 19, 1999.

Patricia Montoya,

Commissioner, Administration on Children, Youth and Families.

[FR Doc. 99–22091 Filed 8–24–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2607]

Agency Information Collection Activities: Proposed Collection; Comment Request; Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a 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 reporting and recordkeeping requirements relating to the manufacture and distribution of hearing aid devices.

DATES: Submit written comments on the collection of information by October 25, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burdens 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 appropriate automated collection techniques, when appropriate, and other forms of information technology.

Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale—21 CFR 801.420 and 801.421 (OMB Control No. 0910–0171—Extension)

Under section 520(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(e)), the Secretary of the Department of Health and Human Services may, under certain conditions, require by regulation that a device be restricted to sale, distribution, or use only upon authorization of a licensed practitioner or upon other prescribed conditions. Sections 801.420 and 801.421 (21 CFR 801.420 and 801.421) implement this authority for hearing aids, which are restricted devices. The regulations require that the manufacturer or distributor provide to the user data useful in selecting, fitting, and checking the performance of a hearing aid

through distribution of a user instructional brochure. The user instructional brochure must also contain technical data about the device, instructions for its use, maintenance and care, a warning statement, a notice about the medical evaluation requirement, and a statement if the aid is rebuilt or used.

Hearing aid dispensers are required to provide the prospective user, before the sale of a hearing aid, with a copy of the user instructional brochure for the hearing aid model that has been, or may be, selected for the prospective user and to review the contents of the brochure with the buyer. In addition, upon request by an individual who is considering the purchase of a hearing aid, the dispenser is required to provide a copy of the user instructional brochure for that model hearing aid or the name and address or telephone number of the manufacturer or distributor from whom a user instructional brochure for the hearing aid may be obtained. Under conditions of sale of hearing aid devices, manufacturers or distributors shall provide sufficient copies of the user instructional brochure to sellers for distribution to users and prospective users and provide a copy of the user instructional brochure to any health care professional, user, or prospective users who request a copy in writing. The regulations also require that the patient provide a written statement that he or she has undergone a medical evaluation within the previous 6 months before the hearing aid is dispensed, although informed adults may waive the medical evaluation requirement by signing a written statement. Finally, the regulation requires that the dispenser retain for 3 years copies of all physician statements or any waivers of medical evaluations.

The information obtained through this collection of information is used by FDA to ensure that hearing aids are sold and used in a way consistent with the public health.

The information contained in the user instructional brochure is intended not only for the hearing aid user but also for the physician, audiologist, and dispenser. The data is used by these health care professionals to evaluate the suitability of a hearing aid, to permit proper fitting of it, and to facilitate repairs. The data also permits the comparison of the performance characteristics of various hearing aids. Noncompliance could result in a substantial risk to the hearing impaired because the physician, audiologist, or dispenser would not have sufficient data to match the aid to the needs of the user.

The respondents to this collection of information are hearing aid manufacturers, distributors, dispensers, health care professionals, or other for-profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
801.420(c)	40	24	960	102	97,920
801.421(b)	9,900	162	1,600,000	0.30	480,000
801.421(c)	9,900	5	49,700	0.17	8,449
Total					586,369

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
801.421(d)	9,900	62	1,600,000	0.25	400,000
Total					400,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Section 801.420(c) estimate assumes that 40 hearing aid manufacturers or distributors each will distribute 5 different models of hearing aids. Thus, the 40 hearing aid manufacturers or distributors will provide 5 different user instructional brochures to sellers for distribution to prospective users and users. The completion of each user instructional brochure is estimated to require 102 staff hours.

Section 801.421(b) estimate assumes that 9,900 hearing aid dispensers will have 162 sales annually. For all such sales, the dispenser must provide the prospective user a copy of the user instructional brochure and the opportunity to read and review the contents with him or her orally, or in the predominant method used during the sale. FDA estimates that this exchange will involve .30 staff hours.

Section 801.421(c) estimate assumes that 40 hearing aid manufacturers or distributors and 9,900 dispensers will provide copies of the user instructional brochure to any health care professional, user, or prospective user who requests a copy in writing. It is estimated that five written requests for copies of the brochures will be received by each hearing aid manufacturer or distributor and dispenser annually. It is estimated that each request for a brochure will take .17 staff hours to complete. This effort consists of the hearing aid manufacturer or distributor or hearing aid dispenser locating the appropriate user instructional brochure for the specific model and mailing the brochure to the requester.

Section 801.421(d) recordkeeping estimate assumes that 9,900 hearing aid dispensers will each retain 162 records. Each record documents the dispensing of a hearing aid to a hearing aid user. The recordkeeping entry is estimated to require 0.25 staff hours.

Dated: August 18, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–21964 Filed 8–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2549]

Agency Information Collection Activities: Proposed Collection; Comment Request; Cosmetic Product Voluntary Reporting Program; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of August 9, 1999 (64 FR 43188). The document announced that a proposed collection of information had been submitted to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995. The document was published with an incorrect docket number. This document corrects that error.

DATES: August 25, 1999.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In the FR Doc. 99–20359, appearing on page 43188 in the **Federal Register** of Monday, August 9, 1999, the following correction is made:

On page 43188, in the first column, ''[Docket No. 99N–0185]'' is corrected to read ''[Docket No. 99N–2549]''.

Dated: August 18, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–21967 Filed 8–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0297]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Draft Guidance for Industry on Formal Dispute Resolution; Appeals Above the Division Level

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by September 24, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Title: Draft Guidance for Industry on Formal Dispute Resolution; Appeals Above the Division Level

Description: FDA is issuing a draft guidance on the process for formally resolving scientific and procedural disputes in the Center for Drug Evaluation and Research (CDER) and the Center for Biological Evaluation and Research (CBER) that cannot be resolved at the division level. The draft guidance describes procedures for formally appealing such disputes to the office or center level and for submitting information to assist center officials in resolving the issue(s) presented. The draft guidance provides information on how the agency will interpret and apply provisions of the existing regulations regarding internal agency review of decisions (§ 10.75 (21 CFR 10.75)) and dispute resolution during the investigational new drug (IND) process (21 CFR 312.48) and the new drug application (NDA)/abbreviated new drug application (ANDA) process (21 CFR 314.103). In addition, the draft guidance provides information on how the agency will interpret and apply the specific Prescription Drug User Fee Act of 1992 (PDUFA) (Public Law 102–571) goals for major dispute resolution associated with the development and review of PDUFA products.

Existing regulations, which appear primarily in parts 10, 312, and 314 (21 CFR parts 10, 312, and 314), establish procedures for the resolution of scientific and procedural disputes between interested persons and the agency, CDER, and CBER. All agency decisions on such matters are based on information in the administrative file (§ 10.75(d)). In general, the information in an administrative file is collected under existing regulations in parts 312 (OMB Control No. 0910–0001), 314 (OMB Control No. 0910–0014), and part 601 (21 CFR part 601) (OMB Control No. 0910–0315), which specify the information that manufacturers must submit so that FDA may properly evaluate the safety and effectiveness of drugs and biological products. This information is usually submitted as part of an IND, NDA, or biologics license application (BLA), or as a supplement to an approved application. While FDA already possesses in the administrative file the information that would form the basis of a decision on a matter in dispute resolution, the submission of particular information regarding the request itself and the data and information relied on by the requester in the appeal would facilitate timely resolution of the dispute. The draft guidance describes the following collection of information not expressly specified under existing regulations: The submission of the request for dispute resolution as an amendment to the application for the underlying product, including the submission of supporting information with the request for dispute resolution.

Agency regulations (§ § 312.23(11)(d), 314.50, 314.94, and 601.2) state that information provided to the agency as part of an IND, NDA, ANDA, or BLA is to be submitted in triplicate and with an appropriate cover form. Form FDA 1571 must accompany submissions under IND's, and Form FDA 356h must accompany submissions under NDA's, ANDA's, and BLA's. Both forms have valid OMB control numbers as follows: Form FDA 1571, OMB Control No. 0910–0014, expires December 31, 1999; and Form FDA 356h, OMB Control No. 0910–0338, expires April 30, 2000.

In the draft guidance, CDER and CBER ask that a request for formal dispute resolution be submitted as an amendment to the application for the underlying product and that it be submitted to the agency in triplicate with the appropriate form attached, either Form FDA 1571 or Form FDA 356h. The agency recommends that a request be submitted as an amendment in this manner for two reasons: To ensure that each request is kept in the administrative file with the entire underlying application and to ensure that pertinent information about the request is entered into the appropriate

tracking data bases. Use of the information in the agency's tracking data bases enables the appropriate agency official to monitor progress on the resolution of the dispute and to ensure that appropriate steps will be taken in a timely manner.

CDER and CBER have determined and the draft guidance recommends that the following information should be submitted to the appropriate center with each request for dispute resolution so that the Center may quickly and efficiently respond to the request:

- A brief but comprehensive statement of each issue to be resolved, including a description of the issue, the nature of the issue (i.e., scientific, procedural, or both), possible solutions based on information in the administrative file, whether informal dispute resolution was sought prior to the formal appeal, whether advisory committee review is sought, and the expected outcome;
- A statement identifying the review division/office that issued the original decision on the matter and, if applicable, the last agency official that attempted to formally resolve the matter;
- A list of documents in the administrative file, or additional copies of such documents, that are deemed necessary for resolution of the issue(s); and
- A statement that the previous supervisory level has already had the opportunity to review all of the material relied on for dispute resolution. The information that the agency suggests submitting with a formal request for dispute resolution consists of : (1) Statements describing the issue from the perspective of the person with a dispute, (2) brief statements describing the history of the matter, and (3) documents previously submitted to FDA under an OMB approved collection of information (see previous discussion).

Based on FDA's experience with dispute resolution, the agency expects that most persons seeking formal dispute resolution will have gathered the materials listed previously when identifying the existence of a dispute with the agency. Consequently, FDA anticipates that the collection of information attributed solely to the guidance will be minimal.

Description of Respondents: A sponsor, applicant, or manufacturer of a drug or biologic product regulated by the agency under the act or section 351 of the Public Health Service Act who requests formal resolution of a scientific or procedural dispute.

Burden Estimate: Table 1 of this document provides an estimate of the annual reporting burden for requests for dispute resolution. In fiscal year (FY) 1998, 39 sponsors and applicants (respondents) submitted requests for formal dispute resolution to CDER and 12 respondents submitted requests for formal dispute resolution to CBER . Although the procedures for requesting formal dispute resolution that are set forth in the draft guidance were not in place in FY 1998, FDA estimates that the number of respondents who would submit requests for dispute resolution under the guidance would remain the same. The total annual responses are the total number of requests submitted to CDER and CBER in 1 year, including requests for dispute resolution that a single respondent submits more than one time. In FY 1998, CDER received approximately 49 requests and CBER received approximately 15 requests. The agency estimates that the total annual responses will remain the same, averaging to 1.26 responses per respondent. The hours per response is the estimated number of hours that a respondent would spend preparing the information to be submitted with a request for formal dispute resolution in accordance with this draft guidance, including the time it takes to gather and copy brief statements describing the issue from the perspective of the person with the dispute, brief statements describing the history of the matter, and supporting information that has already been submitted to the agency. Based on experience, FDA estimates that approximately 8 hours on average would be needed per response. Therefore, FDA estimates that 512 hours will be spent per year by respondents requesting formal dispute resolution under the guidance.

On Friday, March 9, 1999, FDA invited comments on this analysis of information collection burdens. FDA received one comment regarding the agency's estimate of the paperwork burden. The comment stated that FDA's estimate is a relatively accurate accounting of time used in administrative preparation of information for requests for dispute resolution of procedural matters. The comment stated that FDA underestimated the time required for creative writing and editing tasks associated with preparation of paperwork to resolve disputes of a scientific or technical nature.

The agency's estimates are based in part on the expectation that respondents will have already compiled for submission to the agency most of the data and information that is described in the guidance document. The agency anticipates that respondents will have submitted the information as part of the underlying product application. Therefore, the bulk of the paperwork burden is related to administrative tasks (i.e., gathering and copying brief statements describing the issue from the perspective of the person with the dispute and brief statements describing the history of the matter).

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Results for Formal Dispute Resolution	No. of Respondents	No. of Responses per Respondent	Total Annual Responses	Hours per Response	Total Hours
CDER	39	1.26	49	8	392
CBER	12	1.25	15	8	120
Total					512

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: August 18, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–21965 Filed 8–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2211]

Medical Devices; Draft Guidance for Industry on the Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance entitled ''Draft Guidance for Industry on the Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA.'' This draft guidance is intended to identify the elements for an investigational device exemption/premarket approval application (IDE/PMA) for any electro-optical sensor in vivo device for the detection of cervical cancer or its precursors. This draft guidance covers electro-optical devices applied to a woman's cervix in an in vivo setting that give a relatively instantaneous reading of test results for the purposes of detection of cervical cancer and its precursors. Many of these systems use complex signal discrimination algorithms and/or neural networks to differentiate abnormal from normal tissue. These new technologies, depending upon design and study results, may ultimately complement, as an adjunct, or replace the PAP smear, or it may serve to improve the results of colposcopy or biopsy. This draft guidance is neither final nor is it in effect at this time.

DATES: Written comments concerning this draft guidance must be submitted by November 23, 1999.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance. Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Draft Guidance for Industry on the Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA'' to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Colin M. Pollard, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1180.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance entitled, ''Draft Guidance for Industry on the Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA.'' This draft guidance is intended to identify the elements for an IDE and/or a PMA application for electro-optical sensors that are used in a clinical in vivo setting for the detection of cervical cancer or its precursors. This draft guidance is the result of several preliminary interactions between FDA and developers of this type of device, as well as input from experts at a meeting of FDA's advisory committee, the Obstetrics and Gynecology Devices Panel, on July 14 and 15, 1997. The draft guidance covers various types of hand-held probes that employ electro-optical sensor technology to optically interrogate the cervix uteri for cancer and its precursors. Many of these systems use complex signal discrimination algorithms and/or neural networks to differentiate abnormal from normal tissue; and, generally, these sensors provide a relatively instantaneous riding of test results. The new technology covered by this guidance document, depending upon design and study results, may complement, as an adjunct, or replace the PAP smear, or it may serve to improve the results of colposcopy or biopsy. These in vivo detection devices apply several different optical phenomena, including autofluorescence and Raman spectroscopy. Some may include bioelectrical phenomena.

This draft guidance document represents the agency's current thinking on the appropriate content of IDE/PMA applications for in vivo devices for the detection of cervical cancer and its precursors. 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 draft guidance document is issued as a level 1 guidance consistent with GGP's.

II. Electronic Access

In order to receive ''Draft Guidance for Industry on the Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA'' 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 (266) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that downloaded to a personal computer with access to the WWW. Updated on a regular basis, the CDRH home page includes the ''Draft Guidance for Industry on the Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA,'' 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''. The ''Draft Guidance for Industry on the Electro-Optical Sensors for the In Vivo Detection of Cervical Cancer and its Precursors: Submission Guidance for an IDE/PMA'' will be available at ''http://www.fda.gov/scripts/cdrh/ctdocs/cfggp/results.cfm''.

III. Comments

Interested persons may, on or before November 23, 1999, submit to the Dockets Management Branch (address

above) written comments regarding this draft guidance. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 28, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–21962 Filed 8–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2638]

Use of Medicated Feeds for Minor Species; Draft Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft compliance policy guide (CPG) entitled ''Use of Medicated Feeds for Minor Species.'' The purpose of the draft CPG is to provide guidance to the field concerning the agency's exercise of regulatory discretion with regard to the extra-label use of medicated feeds for minor species.

DATES: Written comments on the draft CPG may be submitted by November 23, 1999.

ADDRESSES: Submit written requests for single copies of the draft CPG entitled ''Use of Medicated Feed for Minor Species'' to the Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the draft CPG to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Judy A. Gushee, Center for Veterinary Medicine (HFV–232), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0150, e-mail ''jgushee@bangate.fda.gov''.

SUPPLEMENTARY INFORMATION:

I. Background

Prior to 1994, the Federal Food, Drug, and Cosmetic Act (the act) did not permit extra-label use of animal drugs, but FDA exercised regulatory discretion regarding extra-label use of animal drugs provided certain criteria were met. These criteria were published in CPG 7125.06 and were largely incorporated into the Animal Medicinal Drug Use Clarification Act of 1994 (AMDUCA). AMDUCA amended the act to permit extra-label uses under certain conditions. The AMDUCA regulations are codified in 21 CFR part 530. AMDUCA did not permit extra-label use of medicated feeds. However, there are some minor species that cannot be practically medicated in any other way other than through the use of medicated feeds. Furthermore, minor species such as fish and game birds have very few drugs approved for their use. In such situations, a veterinarian may determine that extra-label use of medicated feeds approved for use in other species can prevent suffering and death in these minor species. Before the implementation of AMDUCA, the agency occasionally exercised regulatory discretion for extra-label use of medicated feeds for minor species based on a medical need as long as the medicated feeds were formulated and labeled in accordance with their approved application. Because AMDUCA did not permit extra-label use of medicated feeds, FDA is providing this guidance to our field personnel when such extra-label use is encountered.

This level 1 draft guidance document is being issued consistent with FDA's good guidance practices (62 FR 9061, February 27, 1997). This draft CPG represents the agency's current thinking with regard to the extra-label use of medicated feeds for minor species. It does not 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 requirements of the applicable statute, regulations, or both.

II. Request for Comments

Interested persons may, on or before November 23, 1999, submit to the Dockets Management Branch (address above) written comments on the draft CPG entitled ''Use of Medicated Feeds for Minor Species.'' Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the draft CPG and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. The agency will review all comments, but in issuing a final CPG, need not specifically address every comment. The agency will make changes to the draft CPG in response to comments, as appropriate.

III. Electronic Access

Copies of the draft CPG may also be downloaded to a personal computer with access to the World Wide Web (www). The Office of Regulatory Affairs (ORA) and CVM home pages include the draft CPG and may be accessed at ''http://www.fda.gov/ora'' or ''http://www.fda.gov/cvm'', respectively. The draft CPG will be available on the compliance references or compliance information pages for ORA and CVM, respectively.

Dated: August 18, 1999.

Dennis E. Baker,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 99–21961 Filed 8–24–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–30]

Agency Information Collection Activities: Proposed Collection; Comment Request; Notice

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Information Collection Requirements in the Hospice Care Regulation, 42 CFR 418.22, 418.24, 418.28, 418.30, 418.56, 418.58, 418.70, 418.74, 418.83, 418.96 and 418.100;

Form No.: HCFA–R–30;

Use: These Information Collection Requirements establish standards for hospices who wish to participate in the Medicare program. The regulations establish standards for eligibility, reimbursement standards and procedures, and delineate conditions that hospices must meet to be approved for participation in Medicare.

Frequency: On occasion;

Affected Public: Business or other for-profit and Not-for-profit institutions;

Number of Respondents: 2,275;

Total Annual Responses: 2,275;

Total Annual Hours Requested: 6,042,834.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Dawn Willinghan, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 16, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–21974 Filed 8–24–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–137]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Internal Revenue Service/Social Security Administration/Health Care Financing Administration Data Match and Supporting Regulations in 42 CFR Section 411.20–411.206;

Form No.: HCFA–R–137 (OMB# 0938–0565);

Use: The purpose of this collection is to save the Medicare program, money. MSP is essentially the same concept known in the private insurance industry as coordination of benefits, and refers to those situations where Medicare assumes a secondary payer role (private insurance being the primary payer) for covered services provided to a Medicare beneficiary. It is HCFA's responsibility to implement the various Medicare Secondary Payer (MSP) provisions.;

Frequency: Annually;

Affected Public: Federal Government, Business or other for-profit, Not-for-profit institutions, Farms, State, and Local or Tribal Government;

Number of Respondents: 327,947;

Total Annual Responses: 327,947;

Total Annual Hours: 1,096,466.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 10, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–22070 Filed 8–24–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (''the Program''), as required by section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Court of Federal Claims, 717 Madison Place, N.W., Washington, D.C. 20005, (202) 219–9657. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 8A–46, Rockville, MD 20857; (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals

who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.*, provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated her responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at section 2114 of the PHS Act or as set forth at 42 CFR 100.3, as applicable. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by HRSA on January 7, 1999, through June 28, 1999.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

(a) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Table but which was caused by'' one of the vaccines referred to in the Table, or

(b) ''Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading ''For Further Information Contact''), with a copy to HRSA addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, Room 8–05, Rockville, MD 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Rhonda and Ron Rodriguez on behalf of Michael Rodriguez, Glendale, California, Court of Federal Claims Number 99–0009V
2. Karen Paseka on behalf of Dylan Haynes, Deceased, Houston, Texas, Court of Federal Claims Number 99–0010V
3. Angela Sirls on behalf of Nicholas Johnson, Deceased, Anaheim, California, Court of Federal Claims Number 99–0011V
4. Deborah Shartle on behalf of David Shartle, San Antonio, Texas, Court of Federal Claims Number 99–0020V
5. Monica and William Watt on behalf of Amanda Rose Watt, New York City, New York, Court of Federal Claims Number 99–0025V
6. James Leonard on behalf of Samantha Leonard, Lawrence, Massachusetts, Court of Federal Claims Number 99–0029V
7. Rachel Freedman on behalf of Joshua Rosen, Deceased, Scarsdale, New York, Court of Federal Claims Number 99–0030V
8. Gail Devonshire, Vienna, Virginia, Court of Federal Claims Number 99–0031V
9. James C. Davis, Oakland, California, Court of Federal Claims Number 99–0032V
10. Alva N. Vazquez on behalf of Eric Vazquez-Rueda, Deceased, Chicago, Illinois, Court of Federal Claims Number 99–0036V
11. Lori and James Ross on behalf of Robert Craig Ross, Rochester, New York, Court of Federal Claims Number 99–0039V
12. Leslie Brown on behalf of Lauren Brown, Deceased, Cleveland, Ohio, Court of Federal Claims Number 99–0044V
13. Jean King-Fray on behalf of Jasai Fray, Worcester, Massachusetts, Court of Federal Claims Number 99–0062V
14. Kristen and Robbie Cameron on behalf of Austin Cameron, Norwalk, Ohio, Court of Federal Claims Number 99–0065V
15. Jill Hackett on behalf of Taylor Glover, Andover, Massachusetts, Court of Federal Claims Number 99–0069V
16. Vanessa Martin on behalf of Terrell Martin, Hurst, Texas, Federal Claims Number 99–0077V
17. Gina Monroe on behalf of Christina Monroe, Vienna, Virginia, Court of Federal Claims Number 99–0079V
18. Joanna Wills, Boston, Massachusetts, Court of Federal Claims Number 99–0080V
19. Jodene and David Truax on behalf of Brian Truax, Deceased, Albany, New York, Court of Federal Claims Number 99–0084V
20. Debbie and Jeff Harmon on behalf of Curtis Harmon, Larned, Kansas, Court of Federal Claims Number 99–0090V
21. Shirley Newsome on behalf of Troy Newsome, Boston, Massachusetts, Court of Federal Claims Number 99–0092V
22. Alicia Walton and Chris Lambert on behalf of Cody Chance Lambert, Deceased, Pearl, Mississippi, Court of Federal Claims Number 99–0096V
23. Michelle and Timothy Ceballos on behalf of Ciara Ceballos, Orlando, Florida, Court of Federal Claims Number 99–0097V
24. Frank C. Grasso, Vienna, Virginia, Court of Federal Claims Number 99–0104V
25. Tara-Marie Mahootian, Washington, D.C., Court of Federal Claims Number 99–0105V
26. Robin and Bradley Goffe on behalf of Ty Dean Goffe, Salt Lake City, Utah, Court of Federal Claims Number 99–0108V
27. Stella and Scott Kautz on behalf of Jeffrey Kautz, Vienna, Virginia, Court of Federal Claims Number 99–0109V
28. Pauline Brister, Vienna, Virginia, Court of Federal Claims Number 99–0110V
29. Jeff Snyder, Vienna, Virginia, Court of Federal Claims Number 99–0111V
30. Theresa and Frederick Leber on behalf of Lydia K. Leber, Norwalk,

Ohio, Court of Federal Claims Number 99–0112V
31. Cindy Poehlman on behalf of Marie Poehlman, South Bend, Indiana, Court of Federal Claims Number 99–0116V
32. Catherine and Andrew Goetz, on behalf of Hayden L. Goetz, Durham, North Carolina, Court of Federal Claims Number 99–0127V
33. Jodell Bell on behalf of Anissa Bell, Lackland Air Force Base, Texas, Court of Federal Claims Number 99–0128V
34. Rozena Okyere on behalf of Felicia Okyere, Deceased, Boston, Massachusetts, Court of Federal Claims Number 99–0130V
35. Suzanne and Joseph Vaughn on behalf of Joseph Thomas Vaughn, III, Houston, Texas, Court of Federal Claims Number 99–0146V
36. Helen and William Carey on behalf of Ryan Carey, Flemington, New Jersey, Court of Federal Claims Number 99–0150V
37. Marie and Charles Noe on behalf of Charles Noe, III, Kaufman, Texas, Court of Federal Claims Number 99–0151V
38. Robin Marvin, Greely, Colorado, Court of Federal Claims Number 99–0152V
39. Karen Wynne, Spokane, Washington, Court of Federal Claims Number 99–0153V
40. Whitney Rich Shultz on behalf of Tamarin Shultz, Ocala, Florida, Court of Federal Claims Number 99–0156V
41. Cara B. Briggs, Rigby, Idaho, Court of Federal Claims Number 99–0157V
42. Elizabeth O. Schneider on behalf of John R. Schneider, Cuyahoga Falls, Ohio, Court of Federal Claims Number 99–0160V
43. Patricia Millsaps-Linger on behalf of Veronica Rae Linger, Akron, Ohio, Court of Federal Claims Number 99–0161V
44. Lauren and Blaise Aguirre on behalf of Isabel Aguirre, Brookline, Massachusetts, Court of Federal Claims Number 99–0175V
45. Deborah Bustamante on behalf of Dennen Bustamante, Anaheim, California, Court of Federal Claims Number 99–0178V
46. Linda Graham on behalf of LeGerald Graham, Deceased, Schweinfort, Germany, Court of Federal Claims Number 99–0181V
47. Cheryl Laird on behalf of Mark Andrew Laird, Vienna, Virginia, Court of Federal Claims Number 99–0187V
48. Anita Szpotowicz on behalf of Andrew Szpotowicz, Cleveland, Ohio, Court of Federal Claims Number 99–0192V
49. Jan Malloy on behalf of Laura Malloy, Hazelton, Pennsylvania, Court of Federal Claims Number 99–0193V
50. Lisa A. Lippa, Henderson, Kentucky, Court of Federal Claims Number 99–0202V
51. O. Lisa Persinger, Forsyth, Missouri, Court of Federal Claims Number 99–0204V
52. Marilyn Kirschner on behalf of Lindsay Kirschner, Vienna, Virginia, Court of Federal Claims Number 99–0206V
53. Phyllis Noe, Vienna, Virginia, Court of Federal Claims Number 99–0207V
54. April Oakes on behalf of Cassie Oakes, Vienna, Virginia, Court of Federal Claims Number 99–0208V
55. Roy Pearl on behalf of Traci Pearl, Vienna, Virginia, Court of Federal Claims Number 99–0209V
56. Scott Pearl, Vienna, Virginia, Court of Federal Claims Number 99–0210V
57. Nahla and Babekir Ahmed on behalf of Mohamed Babekir Ahmed, Alexandria, Virginia, Court of Federal Claims Number 99–0211V
58. Kim and Lamar Visarraga on behalf of Monica Marie Visarraga, deceased, Sacramento, California, Court of Federal Claims Number 99–0212V
59. Terry Withers on behalf of Parker Withers, Las Vegas, Nevada, Court of Federal Claims Number 99–0213V
60. Mary and Vernon Johnson on behalf of Hillary Johnson, Worcester, Massachusetts, Court of Federal Claims Number 99–0219V
61. Sherry and Michael Battisti on behalf of Anthony Battisti, Rochester, New York, Court of Federal Claims Number 99–0223V
62. Laurie J. Mabee, White Cloud, Michigan, Court of Federal Claims Number 99–0230V
63. Victoria and Scott Shelton on behalf of Taylor V. Shelton, Vienna, Virginia, Court of Federal Claims Number 99–0234V
64. Elizabeth Hyla, Buffalo, New York, Court of Federal Claims Number 99–0238V
65. Kalena Woolf on behalf of Tala Dawn Woolf, deceased, Texarkana, Texas, Court of Federal Claims Number 99–0259V
66. Tyler Hartman, Fairfield, Ohio, Court of Federal Claims Number 99–0260V
67. Jessie Mae Williams, San Antonio, Texas, Court of Federal Claims Number 99–0261V
68. Annette Nelson on behalf of Trevian Devante Nelson, Baton Rouge, Louisiana, Court of Federal Claims Number 99–0263V
69. George Guzman, Kirkland, Washington, Court of Federal Claims Number 99–0264V
70. Melissa Silva on behalf of Angelo Silva, Ruidoso, New Mexico, Court of Federal Claims Number 99–0270V
71. Serita L. Smith on behalf of Hunter James Smith Camp Pendleton, California, Court of Federal Claims Number 99–0271V
72. Elidia Chuatle on behalf of Argenis Herrera, Bronx, New York, Court of Federal Claims Number 99–0274V
73. Martin Brausewetter, Staten Island, New York, Court of Federal Claims Number 99–0278V
74. Kimberly and Thomas Francis on behalf of Victoria Francis, West Chester, Pennsylvania, Court of Federal Claims Number 99–0286V
75. Kelly and John Sanford on behalf of Arden Christina Sanford, West Palm Beach, Florida, Court of Federal Claims Number 99–0287V
76. Carole E. Rudd on behalf of David A. Rudd, Newburyport, Massachusetts, Court of Federal Claims Number 99–0291V
77. Michelle and John Jenkins on behalf of Jesse Lee Jenkins, Bedford, Indiana, Court of Federal Claims Number 99–0295V
78. Gerald Doffing, Frederic, Wisconsin, Court of Federal Claims Number 99–0304V
79. Michelle Green on behalf of Chelsey Green, Amarillo, Texas, Court of Federal Claims Number 99–0305V
80. Michael Hroncich on behalf of Brianna Nicole Hroncich, deceased, Westfield, New Jersey, Court of Federal Claims Number 99–0306V
81. Patricia Rodriguez, Vienna, Virginia, Court of Federal Claims Number 99–0307V
82. Nicole Hamelin-Garcia, Vienna, Virginia, Court of Federal Claims Number 99–0308V
83. Mike Morrill, Vienna, Virginia, Court of Federal Claims Number 99–0309V
84. Onelia Valdes, Vienna, Virginia, Court of Federal Claims Number 99–0310V
85. Jennifer Garland, Indianapolis, Indiana, Court of Federal Claims Number 99–0313V
86. Cary Vhugen and Ellen Hermanns on behalf of Erik H. Vhugen, Santa Monica, California, Court of Federal Claims Number 99–0314V
87. Dorothy Werderitsh, Indianapolis, Indiana, Court of Federal Claims Number 99–0319V
88. Debra May, Indianapolis, Indiana, Court of Federal Claims Number 99–0320V
89. Betty Fluck, Indianapolis, Indiana, Court of Federal Claims Number 99–0321V
90. Diana and Kerry D. Smith on behalf of Michael Randall Smith, Miami,

Florida, Court of Federal Claims Number 99–0325V
91. Courtney M. Lambert, Aliquippa, Pennsylvania, Court of Federal Claims Number 99–0327V
92. Judy Saari, Vienna, Virginia, Court of Federal Claims Number 99–0328V
93. Monique Kanadanian, Vienna, Virginia, Court of Federal Claims Number 99–0329V
94. Kristen Jennings on behalf of Dylan Jennings, Vienna, Virginia, Court of Federal Claims Number 99–0330V
95. Kim and Kenneth Smith on behalf of Bridget Smith, Edina, Minnesota, Court of Federal Claims Number 99–0331V
96. Laura Lichoff, Columbus, Ohio, Court of Federal Claims Number 99–0332V
97. Kelly and Ruben Lujan on behalf of Dominic A. Lujan, Las Vegas, Nevada, Court of Federal Claims Number 99–0333V
98. Sharon and Robert Tersen on behalf of Gregory Tersen, Fort Myers, Florida, Court of Federal Claims Number 99–0341V
99. Deborah Burns, Fort Worth, Texas, Court of Federal Claims Number 99–0353V
100. Debbie Kaye Hunt, Vienna, Virginia, Court of Federal Claims Number 99–0356
101. Carla and Parke Gramm on behalf of Parke Gramm, Irvington, New Jersey, Court of Federal Claims Number 99–0359V
102. Sue and Stuart Carter on behalf of Corey Carter, Vienna, Virginia, Court of Federal Claims Number 99–0362
103. Tamra and Curtis Poll on behalf of Nathan Curtis Poll, Ogden, Utah, Court of Federal Claims Number 99–0371V
104. Patricia and Brian Strickland on behalf of Justin Brian Strickland, deceased, Laurel, Mississippi, Court of Federal Claims Number 99–0374
105. Linda and Larrie Collura on behalf of Larrie S. Collura, North Brunswick, New Jersey, Court of Federal Claims Number 99–0377V
106. Joanne Griffin, Vienna, Virginia, Court of Federal Claims Number 99–0378V
107. Sharon Durham, Vienna, Virginia, Court of Federal Claims Number 99–0379V
108. Kari Andersen, Vienna, Virginia, Court of Federal Claims Number 99–0380V
109. Pat Gerard, Vienna, Virginia, Court of Federal Claims Number 99–0381V
110. Quinton O. Riggins, Jr., Vienna, Virginia, Court of Federal Claims Number 99–0382V
111. Tammy and Thomas Houston on behalf of Thomas Matthew Houston, Higginsville, Missouri, Court of Federal Claims Number 99–0391V
112. Anna Nicolas on behalf of Nathaniel Nicolas, Rumson, New Jersey, Court of Federal Claims Number 99–0393V
113. Amy and Dennis Ostermeier on behalf of Katelyn Ostermeier, Grand Forks, North Dakota, Court of Federal Claims Number 99–0394V
114. Natalie and David Hay on behalf of Trevor Hay, Orlando, Florida, Court of Federal Claims Number 99–0398V
115. Dorothy and Hugh Benson on behalf of Shekinah Benson, Boston, Massachusetts, Court of Federal Claims Number 99–0399V
116. Rebecca S. Baker, Indianapolis, Indiana, Court of Federal Claims Number 99–0404V
117. Janet and Gregory Brooks on behalf of Kelly Brooks, Henrietta, New York, Court of Federal Claims Number 99–0405V
118. Nathan House, Vienna, Virginia, Court of Federal Claims Number 99–0406V
119. Linda and Joseph Gross on behalf of Jessica Gross, Vienna, Virginia, Court of Federal Claims Number 99–0407V
120. Lori Barillaro, Vienna, Virginia, Court of Federal Claims Number 99–0408V
121. Cheryl and Rick Butcher on behalf of Taylor Butcher, Vienna, Virginia, Court of Federal Claims Number 99–0409V
122. Sue Cruz, Vienna, Virginia, Court of Federal Claims Number 99–0410V
123. Cheryl A. Castagna, Vienna, Virginia, Court of Federal Claims Number 99–0411V
124. Sonya and David Morris on behalf of Taylor Morris, Vienna, Virginia, Court of Federal Claims Number 99–0412V

Dated: August 19, 1999.

Claude Earl Fox,

Administrator.

[FR Doc. 99–22027 Filed 8–24–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Blackstone River Valley National Heritage Corridor Commission; Notice of Meeting

Notice is hereby given in accordance with section 552b of title 5, United States Code, that a meeting of the Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, September 16, 1999.

The Commission was established pursuant to Pub. L. 99–647. The purpose of the Commission is to assist federal, state and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the Corridor.

The meeting will convene at 7:00 PM at the ASA Waters Mansion, 123 Elm Street, Millbury, MA. for the following reasons:

1. Approval of Minutes
2. Approval of FY2000 Commission Budget
3. Executive Director's Report
4. Commission's Chair Report
5. Public Input

It is anticipated that about twenty people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Michael Creasey, Executive Director, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895, Tel.: (401) 762–0250.

Further information concerning this meeting may be obtained from Michael Creasey, Executive Director of the Commission at the aforementioned address.

Michael Creasey,

Executive Director BRVNHCC.

[FR Doc. 99–22076 Filed 8–24–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Comprehensive Conservation Plan; WA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: This notice informs the public that the comment period for the Draft Comprehensive Conservation Plan and Draft Environmental Impact Statement for Little Pend Oreille National Wildlife Refuge is extended.

DATES: Comments must be received by the new deadline of August 31, 1999, at the address listed below.

ADDRESSES: Address comments and requests for more information to: Refuge Manager, Little Pend Oreille National Wildlife Refuge, 1310 Bear Creek Road, Colville, Washington 99114, telephone (509) 684–8384; E-mail: FWS1Public__Comments__LPO@fws.gov; fax number (509) 684–8381.

FOR FURTHER INFORMATION CONTACT: Lisa Langlier, Refuge Manager, (509) 684–8384.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service (Service) published in the **Federal Register** of July 7, 1999 (Vol. 64, No. 129, pages 36712–36713), that comments were to be received on or before July 31, 1999. In response to public interest, the Service decided to provide more time for public comments. The new deadline for public comment is now extended to August 31, 1999.

Dated: August 18, 1999.

Thomas Dwyer,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 99–21996 Filed 8–24–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have 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.*):

PRT–016397.

Applicant: Leroy H. Chaney, Jr., Fort Worth, TX,

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–016395.

Applicant: Clark E. Linders, Manhattan, KS,

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–015907.

Applicant: University of California, Los Angeles, California,

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research. This notification covers activities conducted by the applicant for a five-year period.

PRT–016143.

Applicant: International Animal Exchange, Ferndale, MI,

The applicant requests a permit for foreign commerce to purchase 5 captive-born cheetah (*Acinonyc jubatas*) from Hoedspruit Research and Breeding Facility, Waterjkiif Ridge, Republic of South Africa, and sell to Beijing Badaling Wild Animal Park, Beijing, China, for the purpose of conservation education and breeding.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, 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, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: August 20, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–22069 Filed 8–24–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

National Cooperative Geologic Mapping Program (NCGMP) Advisory Committee

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 105–36, the NCGMP Advisory Committee will meet in Room 7000B of the Main Interior Building, 1849 C Street, NW, Washington, DC. The Advisory Committee, composed of scientists from Federal Agencies, State Agencies, academic institutions, and private companies, will advise the Director on planning and implementation of the geologic mapping program.

Topics to be reviewed and discussed by the Advisory Committee include the progress of the National Cooperative Geologic Mapping Program towards fulfilling the purposes of the National Geologic Mapping Act of 1992.

- Updates on the Federal, State, and educational components of the NCGMP.
- Reauthorization of the National Geologic Mapping Act by the 106th Congress.
- Strategic Goals.

DATES: September 21–22, 1999, commencing at 9 a.m. on September 21st and adjourning by 5 p.m. on September 22nd.

FOR FURTHER INFORMATION CONTACT: Martha N. Garcia, US Geological Survey, 908 National Center, Reston, Virginia 20192 (703) 648–6960.

SUPPLEMENTARY INFORMATION: Meetings of the National Cooperative Geologic Mapping Program Advisory Committee are open to the public.

Dated: August 12, 1999.

Linda C. Gundersen,

Associate Chief Geologist for Operations.

[FR Doc. 99–21975 Filed 8–25–99; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–09–1320–01; WYW139975]

Notice of Competitive Coal Lease Sale; Elk Mountain/Saddleback Hills Tract; WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that certain coal resources in the Elk Mountain/Saddleback Hills Tract, described below, in Carbon County, Wyoming, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale will be held at 10 a.m., on Wednesday, September 29, 1999. Sealed bids must be submitted on or before 4 p.m., on Tuesday, September 28, 1999.

ADDRESSES: The lease sale will be held in the First Floor Conference Room (Room 107) of the Wyoming State Office, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003. Sealed bids must be submitted to the Cashier, Wyoming State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Mavis Love, Land Law Examiner, or Melvin Schlagel, Coal Coordinator, at

307–775–6258 and 307–775–6257, respectively.

SUPPLEMENTARY INFORMATION: This coal lease sale is being held in response to a lease by application (LBA) filed by Ark Land Company, a subsidiary of Arch Coal, Inc. The coal resources to be offered consist of all reserves recoverable by a combination of conventional surface, highwall, and underground mining techniques in the following-described lands located in the east central portion of Carbon County approximately 10 miles southeast of Hanna, Wyoming, and about 3 miles north-northeast of Elk Mountain just north of the Medicine Bow River:

T. 20 N., R. 79 W., 6th P.M., Wyoming
Sec. 6: Lot 6;
T. 21 N., R. 79 W., 6th P.M., Wyoming
Sec. 20: Lots 1–10, NWNW, SWSW;
Sec. 30: Lots 5–20;
Sec. 32: Lots 2–5;
T. 20 N., R. 80 W., 6th P.M., Wyoming
Sec. 4: Lots 5–7;
Sec. 6: Lots 7, 8, 13–16;
Sec. 12: Lots 1 (N2), 2 (N2 & SW), 3;
T. 21 N., R. 80 W., 6th P.M., Wyoming
Sec. 22: Lots 1–16;
Sec. 24: Lots 1–16;
Sec. 26: Lots 1–16;
Sec. 28: Lots 1–12;
Sec. 32: Lots 1–6, 9–11;
Sec. 34: Lots 1–16.
Containing 5,205.565 acres.

There are no coal mining operations in the immediate area of the lease tract that would be able to include the LBA into an existing operation; therefore, development of the coal reserve will require a new mine start. There are no oil and gas wells or Federal oil and gas leases on the LBA tract.

The lease tract contains coal reserves in several seams but only the Johnson Group is considered to be economically recoverable. For mining purposes, the Johnson Group makes up a single seam on the lease tract. This seam averages just under 20 feet thick for the offered Federal coal but varies from about 8 feet thick at the outcrop in the southeast to about 28 feet thick underground in the northern portion of the proposed mine area. No significant splits or riders in this seam are apparent from current drilling information.

The overburden above the Johnson seam increases rapidly from the coal outcrop of the proposed mine area. The average stripping ratio for the LBA is 7.69:1 BCY/ton using a cut-off stripping ratio of 12:1 to define coal reserves recoverable by conventional surface mining techniques.

The LBA tract contains an estimated 65.78 million tons of recoverable coal using a combination of conventional surface, highwall, and underground mining techniques. The overall average quality for the LBA coal is 11,262 BTU/lb, 8.8 percent moisture, 9.2 percent ash, and 0.54 percent sulfur. These quality averages place the LBA coal reserves at or above the coal quality for the nearby Hanna Basin mines.

The tract will be leased to the qualified bidder of the highest cash amount provided that the high bid equals the fair market value of the tract. The minimum bid for the tract is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The bids should be sent by certified mail, return receipt requested, or be hand delivered. The Cashier will issue a receipt for each hand-delivered bid. Bids received after 4 p.m., on Tuesday, September 28, 1999, will not be considered. The minimum bid is not intended to represent fair market value. The fair market value of the tract will be determined by the Authorized Officer after the sale.

If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

The lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof, and a royalty payment to the United States of 12.5 percent of the value of coal produced by strip or augur mining methods and 8 percent of the value of the coal produced by underground mining methods. The value of the coal will be determined in accordance with 30 CFR 206.250.

Bidding instructions for the tract offered and the terms and conditions of the proposed coal lease are available from the Wyoming State Office at the addresses above. Case file documents, WYW139975, are available for inspection at the Wyoming State Office.

August 16, 1999.

Michael Madrid,

Acting Deputy State Director, Minerals/Lands Authorizations.

[FR Doc. 99–21641 Filed 8–24–99; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Gulf of Mexico Region, Eastern Gulf of Mexico, Proposed Destin Dome 56 Unit Development and Production Plan and Right-of-Way Pipeline Application

AGENCY: Minerals Management Service (MMS).

ACTION: Notice of availability of the draft Environmental Impact Statement (EIS) and locations and dates of public hearings for Chevron U.S.A. Inc.'s proposed Destin Dome 56 unit development and production plan offshore Florida and right-of-way pipeline application.

The MMS prepared a draft EIS on Chevron U.S.A. Inc.'s proposed natural gas development and production project on their Destin Dome 56 (DD56) Unit. The DD56 Unit is located on the Outer Continental Shelf approximately 26 miles from the Florida coastline near Pensacola. In November 1996, Chevron submitted a Development and Production Plan describing how they intend to produce, develop, and transport natural gas from the DD56 Unit. The MMS based the EIS analyses on estimates of the kinds and amounts of activity onshore and offshore that could result from constructing structures, drilling wells, transporting personnel and equipment offshore, and constructing pipeline facilities to bring the natural gas product to shore.

You may obtain single copies of the draft EIS from the MMS, Gulf of Mexico OCS Region, Attention: Public Information Office (MS–5034), 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana 70123–2394, or by calling 1–800–200–GULF. You may look at copies of the draft EIS in the following libraries:

Auburn University at Montgomery Library, 7300 University Drive, Montgomery, Alabama
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores, Alabama Marine Environmental Science Consortium, Dauphin Island Sea lab Library Dauphin Island, Alabama
Mobile Public Library, 701 Government Street, Mobile, Alabama
Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama
Thomas B. Norton Public Library, 221 West 19th Avenue, Gulf Shores, Alabama
University of Alabama Libraries, 809 University Boulevard, Tuscaloosa Alabama

University of South Alabama, 307 University Boulevard, Mobile, Alabama
Florida A&M University, Coleman Memorial Library, Martin Luther King Boulevard, Tallahassee, Florida
Florida Northwest Regional Library, Headquarters Bay County Public Library, 25 West Government Street, Panama City, Florida
Florida State University, Strozier Library, Call Street and Copeland Avenue, Tallahassee, Florida
Fort Walton Beach Public Library, 105 Miracle Strip Parkway, S.W., Fort Walton Beach, Florida Leon County Public Library, 200 West Park Avenue, Tallahassee, Florida
University of Florida Library, University Avenue, Gainesville, Florida
University of Florida, Holland Law Center Library, S.W. 25th Street and 2nd Avenue, Gainesville, Florida
University of West Florida, 1100 University Parkway, Pensacola, Florida
West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida
New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana
Plaquemines Parish Library, 35572 Highway 11, Buras, Louisiana
St. Bernard Parish Library, 1125 East St. Bernard Highway, Chalmette, Louisiana
Eudora Welty Library, Reference Section, 300 North State, Jackson, Mississippi
Gulf Coast Research Laboratory, Gunter Library, 703 East Beach Drive, Ocean Springs, Mississippi
Hancock County Library System, 312 Highway 90, Bay St. Louis, Mississippi
Harrison County Library, 14th and 21st Avenues, Gulfport, Mississippi
Jackson George Regional Library System, 3214 Pascagoula Street, Pascagoula, Mississippi

There will be three public hearings held to receive comments on the draft EIS. The hearings will provide us with information that will help in the evaluation of the potential of the proposed project. Hearings will be held in:

New World Landing, 600 South Palafox Street, Pensacola, Florida, Thursday, September 23, 1999, 3–6 p.m. and 7–10 p.m.
Marriot's Bay Point Resort, 4200 Marriot Drive, Panama City, Florida, Tuesday, September 28, 1999, 6–10 p.m.
Ramada Plaza Hotel, 600 South Beltline Hiway, Mobile, Alabama, Wednesday, September 29, 1999, 6–10 p.m.

If you wish to testify at a hearing, you may register beginning 1 hour prior to the meeting. Speakers will be limited to 5 minutes. Each hearing will recess when all speakers have had an opportunity to testify. If there are no additional speakers, we will adjourn the hearing immediately after the recess. Written statements submitted at a hearing will be considered part of the hearing record. If you are unable to attend the hearing, you may submit written statements until October 19, 1999. Send written statements to the Regional Director (MS–5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

Dated: August 18, 1999.

Thomas A. Readinger,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 99–22032 Filed 8–24–99; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–406 and 408 (Review)]

Electrolytic Manganese Dioxide from Greece and Japan

AGENCY: United States International Trade Commission.

ACTION: Notice of Commission determinations to conduct full five-year reviews concerning the antidumping duty orders on electrolytic manganese dioxide from Greece and Japan.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping duty orders on electrolytic manganese dioxide from Greece and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B); a schedule for the reviews will be established and announced at a later date.

For further information concerning the conduct of these reviews 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 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 5, 1999.

FOR FURTHER INFORMATION CONTACT: George Deyman (202–205–3197), 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).

SUPPLEMENTARY INFORMATION: On August 5, 1999, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (64 FR 23675, Mar. 3, 1999) was adequate with respect to both reviews, and that the respondent interested party group response was adequate with respect to Greece [1] but inadequate with respect to Japan. The Commission also found that other circumstances warranted conducting a full review with respect to Japan.[2] A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's web site.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

Issued: August 18, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22074 Filed 8–24–99; 8:45 am]

BILLING CODE 7020–02–P

[1] Chairman Bragg and Commissioners Crawford and Hillman dissenting.

[2] Chairman Bragg and Commissioners Crawford and Hillman dissenting.

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–415]

Certain Mechanical Lumbar Supports and Products Containing Same; Notice of Commission Determination not to Review a Final Initial Determination Finding no Violation of Section 337

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the final initial determination (ID) issued by the presiding administrative law judge (ALJ) on June 29, 1999, finding no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, in the above-captioned investigation. Accordingly, the Commission has terminated the investigation with a finding of no violation of section 337.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3104. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov). Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation of allegations of unfair acts in violation of section 337 in the importation and sale of certain mechanical lumbar supports on September 29, 1998. 63 FR 51949. The complaint alleged that five respondents had infringed two claims of U.S. Letters Patent 5,518,294 (the '294 patent) held by complainant McCord Winn Textron, Inc. (Textron) of Manchester, New Hampshire. The notice of investigation named the following respondents: Schukra Manufacturing Inc. and Schukra North America, Ltd., both of Canada, Schukra Berndorf GmbH of Austria, Schukra Automobil-Erstausstatungs GmbH, Germany, and Schukra U.S.A. of Plymouth, Michigan. On January 11, 1999, the Commission determined not to review an ID adding Advantage Technologies, Inc. of Plymouth, Michigan as a respondent. An evidentiary hearing was held March 22–26, 1999.

On June 29, 1999, the presiding ALJ issued her final ID, finding no violation of section 337, based on her finding that respondents were not infringing the asserted patent claims. On July 12, 1999, complainant petitioned for review of the claim construction and infringement issues. Also on that date, respondents filed a contingent petition for review of the issues of patent validity and unenforceability to be considered in the event that the Commission reviewed the claim construction and infringement issues. The Commission investigative attorney (IA) did not file a petition for review. On July 19, 1999, complainant, respondents, and the IA filed responses to the petitions for review.

Having reviewed the record in this investigation, including the parties' written submissions, the Commission determined not to review the ID or ALJ Order No. 41.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42 of the Commission's rules of practice and procedure, 19 CFR § 210.42.

Copies of the public version of the ID, and all other nonconfidential documents filed in connection with this investigation, are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000.

Issued: August 16, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22072 Filed 8–24–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–851 (Preliminary)]

Synthetic Indigo From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China of synthetic indigo, provided for in subheadings 3204.15.10, 3204.15.40, and 3204.15.80 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Commencement of Final Phase Investigation

Pursuant to § 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigation. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of an affirmative preliminary determination in the investigation under section 733(b) of the Act, or, if the preliminary determination is negative, upon notice of an affirmative final determination in that investigation under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigation need not enter a separate appearance for the final phase of the investigation. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Background

On June 30, 1999, a petition was filed with the Commission and Commerce by Buffalo Color Corporation, Parsippany, NJ, and the United Steelworkers of America, AFL-CIO/CLC, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of synthetic indigo from China. Accordingly, effective June 30, 1999, the Commission instituted antidumping investigation No. 731–TA–851 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of July 8, 1999 (64 FR 36921). The conference was held in Washington, DC, on July 22, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to

[1] The record is defined in § 207.2(f) of the Commission's rules of practice and procedure (19 CFR 207.2(f)).

the Secretary of Commerce on August 16, 1999. The views of the Commission are contained in USITC Publication 3222 (August, 1999), entitled Synthetic Indigo from China: Investigation No. 731–TA–851 (Preliminary).

Issued: August 18, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–22073 Filed 8–24–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Consistent with Departmental policy, 28 CFR § 50.7, 38 FR 19029, and 42 U.S.C. § 9622(d), notice is hereby given that on August 10, 1999, a proposed Consent Decree in *United States* v. *AlliedSignal Inc., et al.,* Civil Action No. 99–3766 WHW, was lodged with the United States District Court for the District of New Jersey. The proposed Consent Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9601, *et seq.,* on behalf of the U.S. Environmental Protection Agency (''EPA'') against defendants relating to the Chemsol, Inc. Superfund Site (''Site'') located in Piscataway, New Jersey. The Complaint alleges that each of the defendants is liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

Pursuant to the Consent Decree, the settling defendants agree and Settling Federal Agencies agree to reimburse to the United States $3,042,205.55 out of $5,457,205.55 in past response costs. Further, the settling work defendants, as defined in the Decree, agree to implement the remedy selected in the September 18, 1998 Record of Decision (''ROD'') for the Site, estimated to cost $17.7 million, and to reimburse the United States for all of its future response costs, as defined in the Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Any comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *AlliedSignal Inc., et al.,* Civil Action No. 99–3766 WHW, D.J. Ref. 90–11–3–06104.

The proposed consent decree may be examined at the Office of the United States Attorney, District of New Jersey, 970 Broad Street, Newark, NJ 07102 and at Region II, Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10007–1866 and at the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 3rd Floor, Washington, DC 20005. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $29.00 payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–21978 Filed 8–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Order Pursuant to the Clean Water Act and the Rivers and Harbors Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *Material Service Corporation,* Civil Action No. 95 C 3550, has been lodged with the United States District Court for the Northern District of Illinois on August 10, 1999.

The Consent Decree resolves claims alleged against defendant, Material Service Corporation (''Material Service''), under the Clean Water Act, 33 U.S.C. § 1251 *et seq.,* and the Rivers and Harbors Act, 33 U.S.C. § 403, that Material Service destroyed approximately 37 acres of high-quality wetlands and filled in parts of the Des Plaines River without a permit. Material Service has agreed to pay a civil penalty of $500,000 and to pay $7,000,000 to be used for restoration and preservation of degraded wetland areas in the lower Des Plaines and Kankakee River valleys similar to those impacted by the violation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044, and should refer to *United States* v. *Material Service Corporation,* D.J. Ref. 90–5–1–1–05381.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Northern District of Illinois, 219 S. Dearborn St., Chicago, Illinois 60604, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may also be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $4.75 (25 cents per page reproduction costs) payable to the ''Consent Decree Library.''

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 99–21977 Filed 8–24–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment and Training Administration

Testing Innovative Methods of Providing Reemployment Assistance and Training to Eligible Workers

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Solicitation for Grant Applications (SGA).

SUMMARY: The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces a demonstration program to test innovative methods of providing reemployment assistance and training to eligible workers. Through this notice, DOL seeks to identify a national group of vanguard sites committed to implementing Individual Training Accounts (ITAs as described in the WIA) and to the establishment of an Eligible Provider List process that is consistent with the WIA framework and informed by best practice and insight from the field. Awardees under this program will serve as innovative national laboratories for ITA implementation. Awardees will receive intensive technical assistance, test new approaches and practices and participate in a rigorous evaluation. In addition, they will participate in and help structure national DOL activities meant to identify and disseminate lessons learned. The demonstration project will inform ITA development as part of state and workforce system-building more generally.

The program will be funded with the Secretary's National Reserve funds

appropriated for Title III of the Job Training Partnership Act (JTPA) and administered in accordance with 29 CFR Parts 95 and 97 as applicable.

This notice describes the application submission requirements, the process that eligible entities must use to apply for funds covered by this solicitation, how awardees are to be selected and the technical assistance that will be provided prior to and following selection of awardees. It is anticipated that $6 million will be available for funding projects covered by this solicitation, that 10–12 projects will be selected for funding, and that the maximum grant award will not exceed $500,000 for a period of 18 months from the date of execution.

This notice contains all of the necessary information and forms needed to apply for grant funding. In addition, applicants interested in becoming a demonstration site are encouraged to attend a Bidders' Conference. Information about these conferences will be posted on the Internet (http://www.usworkforce.org) as soon as it is available.

DATES: Applications for grant awards will be accepted commencing August 25, 1999. The closing date for receipt of applications is Monday, November 8, 1999, at 4:00 p.m. (Eastern Time) at the address below. Telefacsimile (FAX) applications will not be honored.

ADDRESSES: Applications shall be mailed to: U.S. Department of Labor; Employment and Training Administration; Division of Federal Assistance; Attention: Marian Floyd, Reference: SGA/DFA 99–017; 200 Constitution Avenue, N.W., Room S–4203; Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Fax questions to Marian Floyd, Division of Federal Assistance at (202) 219–8739. This is not a toll-free number. All inquiries sent via fax should include the SGA number (DFA 99–017) and a contact name and phone number. This announcement is also being published on the Internet on the Employment and Training Administration's Home Page at http://doleta.gov. Award notifications will also be published on the Home Page.

SUPPLEMENTARY INFORMATION: This announcement consists of 5 parts. Part I describes the authority, purpose and goals of the demonstration program and identifies demonstration policy. Part II includes the statement of work for the demonstration projects. Part III describes the application process and provides guidelines for use in applying for demonstration grants. There is no separate application package. Part IV describes the selection process including the criteria used to select grantees and the process of application and award. Part V describes the Assurances required of grantees. Part VI describes the monitoring, reporting and evaluation activities that will be required of grantees. The Appendix includes application forms.

Part I. Authority

A. Background

Sections 322 through 324 of the JTPA authorizes the use for demonstration programs of funds reserved under Section 302 of JTPA (29 U.S.C. 1652) and provided by the Secretary for that purpose under Section 322 of JTPA (29 U.S.C. 1662a). Demonstration program awardees shall comply with all applicable federal and state laws and regulations in setting up and carrying out their programs.

B. Purpose

On August 7, 1998, President Clinton signed the Workforce Investment Act (WIA), which is comprehensive reform legislation that supersedes the Job Training Partnership Act (JTPA). The WIA reforms the Federal job training system programs and creates a new, comprehensive workforce investment system. The reformed system will be customer-focused, to help Americans access any tools they need to manage their own careers through timely and accurate labor market information and high quality services, and to assist U.S. companies in securing adequate numbers of skilled workers. This new law embodies several key principles, including:

Streamlining services through better integration at the street level through the One-Stop delivery system. Programs and providers will co-locate, coordinate and integrate activities and information, so that the system as a whole is coherent and accessible for individuals and businesses alike.

Empowering individuals in several ways. First, adults eligible for training are given their own financial power to use Individual Training Accounts (ITA's) at qualifying institutions. Institutions wishing to qualify for acceptance of the ITA's will go through a new process to be placed on an Eligible Provider list, and must be required to continually meet standards of performance to remain on the list. Secondly, individuals are further empowered, through this process, with greater levels of key information on the performance outcomes of all training and educations providers in the ITA system. This will come to be known as Consumer Reporting. Third, individuals are empowered through the advice, guidance, and support available through the One-Stop system, and its partners.

Universal access. Any individual will have access to the One-Stop system and to core employment-related services. Information about job vacancies, career options, student financial aid, relevant employment trends, and instruction on how to conduct a job search, write a resume, or interview with an employer is available to any job seeker in the U.S., or anyone who wants to advance his or her career. While training and the use of ITA's are not universal services, all customers will have access to the Consumer Report information gathered on training institutions in the area through the Eligible Provider process.

Increased accountability. The goal of the Act is to increase employment, retention, and earnings of participants, and in doing so, improve the quality of the workforce to sustain economic growth, enhance productivity and competitiveness in the American labor force, and reduce welfare dependency. Consistent with this goal, the Act identifies core indicators of performance that State and local entities managing the workforce development system will have to meet—or face economic sanctions. However, state and local entities exceeding the levels can receive incentive funds. Training providers and their programs will also have to demonstrate successful performance to remain eligible to receive funds under the Act. Participants, with their ITA's, have the opportunity to make training choices based on program outcomes. To survive in the market, training providers must make accountability for performance and customer satisfaction a top priority.

Strong role for local workforce investment boards and the private sector, with local, business-led boards acting as ''boards of directors'' focusing on long range strategic planning, policy development and oversight of the local workforce investment system. The active involvement of business and labor is critical to understanding what skills are in demand, what jobs are available, what career fields are expanding, and what types of training programs will best meet local employer needs.

Individual Training Accounts, as described in the Workforce Investment Act (WIA), embody several elements believed central to improving the effectiveness and efficiency of publicly-funded reemployment services as well as improving participant satisfaction. Through this notice, DOL seeks to identify a national group of vanguard

sites committed to implementing Individual Training Accounts (ITAs as described in the WIA) and to the establishment of an Eligible Provider List process that is consistent with the WIA framework and informed by best practice and insight from the field. Grantees under this program will serve as innovative national laboratories for ITA implementation. Partners will test new approaches and practices and participate in a rigorous evaluation. In addition, they will participate in and help structure national DOL activities meant to identify and disseminate lessons learned. The demonstration project will inform ITA development as part of state and workforce system-building more generally.

The establishment of the Eligible Provider List, and the use of ITA's to pay training costs has the potential to impact the quality of the workforce and the economic competitiveness of a state. The WIA includes these service elements in an effort to create a more market-oriented workforce development system. The foundation of this system is the Eligible Provider List and the Consumer Reports information which help the participant make an informed choice, based on his or her training needs, occupational interests, and vendor performance.

In such a system, it is hypothesized that training vendors can become more sharply focused on meeting the needs of individual customers. By taking into account the specials needs of various target groups that experience barriers to employment, including displaced homemakers, workers with limited English, individuals with disabilities, and those with basic skills deficits, the training vendors can structure their offerings to ensure that their enrollees are more likely to be successfully placed. Also, by being more responsive to the workforce development needs of employers, the vendors can structure their training so that employers get workers with skills that match their needs. Finally, it is also held that a market-driven ITA/Eligible Provider system can ultimately provide better consumer information, services and training opportunities to customers—and, in doing so, assist them in making successful employment transitions throughout their careers.

The potential for ITAs to support these goals and objectives is supported from demonstration data in the field. Through this demonstration, we seek to build on the lessons learned in previous training voucher demonstrations and the current knowledge base. One recent DOL-funded initiative, the Career Management Account (CMA) Demonstration, provides instructive lessons on the practices and processes of implementing an ITA-type approach for participants in Title III programs. Other demonstrations give lessons on how to structure a customer choice system for adult training. This knowledge base will be used to inform the programs developed by the sites selected to participate in this demonstration program.

The ITA Demonstration seeks to support the design and implementation of the Workforce Investment Act by testing approaches that best fuel the creation of a more market-like environment for adult worker re-training. In addition to this demonstration, the Department of Labor is undertaking a range of related activities including an Evaluation, the Exchange of Technical Assistance and Information, ITA Software Development, and the Expansion of ITA's in Labor-Management Training Partnerships. Information on these activities wil be posted on ETA's website as it becomes available.

C. Demonstration Project Goals

The chief goals of the demonstration include:

- Support of system-building at the state and local levels;
- Rigorous testing of several key models or approaches to the establishment of an Eligible Provider process and the ITA payment system;
- Identification of key components of effective ITA implementation;
- Support for demonstration ''learning laboratory'' sites in designing and implementing innovative ITA/Eligible Provider processes and systems;
- Development of a learning network and strategy for information sharing, as well as the provision of technical assistance between demonstration ''learning laboratory'' sites and other WIA implementation sites as the system moves toward full implementation by July 1, 2000.

D. Demonstration Policy

1. Grant Awards

DOL anticipates awarding ten to twelve grants. Successful applicants will receive grants of up to $500,000.

2. Eligible Applicants

Entities eligible to apply to participate in the ITA Demonstration Program include States, PICs/Workforce Investment Boards, and consortiums of PICs or Workforce Investment Boards.

3. Eligible Participants

The demonstration should include and service all persons eligible for WIA training. This demonstration is not for direct client services, however the products will benefit adult and dislocated worker training enrollment.

4. Allowable Activities

In general, grant funds may be used to support the research and development, planning and capacity-building activities involved in implementing the ITA/Eligible Provider system. Following are some examples of how these funds might be used to support implementation:

- development and delivery of inservice training courses that help case managers understand their new role in supporting individual customer decision making and choice;
- development and delivery of orientation sessions to help ensure that customers understand their responsibilities and opportunities within an ITA system;
- development and delivery of orientation sessions on ITAs and the Eligible Provider process for current and potential training providers;
- development of a system to track training provider performance;
- development of an ITA expenditure reporting system to provide individuals with information on the status of their account balances;
- other related costs associated with implementation of ITAs and Eligible Provider systems; and
- travel and other expenses related to participation in networking and dissemination activities offered in conjunction with the Demonstration grant program.

Demonstration funds are not intended to support direct training expenditures, as the demonstration is for building the ITA/Eligible Provider system itself. However, to supplement other funds available for this purpose, an applicant may budget no more than 20% of the total grant costs for training.

5. Coordination

Applicants will be expected to link demonstration project activities with other state and local WIA implementation activities. Evidence of collaboration should be included in the grant application.

6. Period of Performance

The period of performance shall be 18 months from the date of execution by the Government. Delivery of services to participants shall commence within 90 days of execution of a grant.

7. Option to Extend

Depending upon the availability of funds and awardee's performance, there

may be an option for extension of the grant award not to exceed a two program year period.

Part II. Statement of Work

DOL seeks innovative practitioners to collaborate with others in the development and refinement of various models of ITA application and in the establishment and use of a list of eligible training providers as envisioned in the WIA. Applicants should have a strong vision and passion for moving beyond current practices with and conceptions of these activities.

In order for applicants to successfully compete for and participate in the ITA Demonstration Program they must demonstrate their understanding of and commitment to a rigorous implementation of the ITA/Eligible Provider List system envisioned by the WIA.

At a minimum, successful applicants must demonstrate commitment to the implementation of an ITA/Eligible Provider system that:

- Clearly identifies and communicates the ITA/Eligible Provider process and goals to all eligible customers;
- Provides mechanisms for participant control over the use of the ITA account, and control over decision-making relative to individual training choices with the use of the Eligible Provider Listing;
- Provides a process for determining how a customer's training decision is approved;
- Provides an environment of information-sharing and related services to facilitate a market-based approach to training;
- Describes the eventual establishment of a ''Consumer Report'' on the performance of training providers on the Eligible Training Provider list.

The US DOL anticipates that the demonstration may test more than one design approach to ITA implementation. An overview of the key design elements of the demonstration is provided below. Applicant experience, ideas and proposals can be incorporated into the demonstration design.

A. Common Elements of the Demonstration

The ITA Demonstration Projects will include several common elements. In addition the demonstration will test several variations on how individual training accounts may be implemented across the country. While some of the design elements will constrain the design of the demonstrations to some degree, there are many other elements that are not specified here.

These include, for example, the provider eligibility criteria, payment mechanism, participant enrollment and assessment processes, and role of community-based organizations as service providers. The approach to such issues is left to the discretion of the applicants.

COMMON ELEMENTS OF ITA/ELIGIBLE PROVIDER DEMONSTRATIONS

Element	Approach
What particpants are included?	All Adult Training ITA particpants are included.
Do participants know the amount of the ITA?	Participants are informed of the dollar amount available in their ITA.
What provider information must be collected?	Provider performance data, consistent with WIA requirements, must be collected and disseminated to participants.
How are new providers brought in?	Inclusion of new providers must be allowed easily and quickly; participants allowed to ''nominate'' new providers.
How are providers paid?	Providers are paid for vouchers on a timely basis, that is, within 30 days.
How do staff learn about ITAs?	Staff receive orientation and training regarding the ITA process and the role they will play in implementation.
How will customer satisfaction be determined?	Sites must agree to administer a common customers satisfaction survey to all participants.
How will staff satisfaction be determined?	Sites must agree to administer a common customers satisfaction survey to all staff.
What triggers the ITA?	Development of an Individual Employment Plan including an assessment process.

B. Variable Elements of the Demonstration

In addition to the Common Elements described above, there are several other elements of the ITA/Eligible Provider design that are at the discretion of the applicant. The US DOL is looking for applicants who are interested in aggressive and creative approaches that fall within the parameters of WIA. Some examples of these considerations are presented below:

VARIABLE ELEMENTS OF ITA/ELIGIBLE PROVIDER DEMONSTRATIONS

Element	Possibilities
How is the dollar amount of ITA determined?	Is the dollar amount of ITA fixed for all participants? Does it vary among individuals based on assessment?
Who approves the ITA?	Is it the counselor, a person other than the counselor, or a committee that must approve the ITA?
What career direction is allowed?	Does the customer have the final authority to choose a career direction so long as credible job opportunities exist? Is career direction limited to demand occupations as defined by WIB?
How is informed customer choice provided?	What is the role of the case manager?
Who has final authority on selection of the training provider?	Within the boundaries of the training plan, does the participant have final authority to select a training provider? Can the counselor reject a customer's selection of a training provider?
What can the ITA pay for?	How may ITA funds be used?

C. Bidders' Conferences

Applicants interested in becoming a demonstration site are strongly encouraged to attend one of two full-day Bidders' Conferences. The purpose of these sessions is to summarize the current knowledge base about ITAs/Eligible Provider system goals, frameworks and implementation processes and to review the goals and objectives of the Demonstration Project. Attendees will learn about the technical assistance services that will be provided to awardees and the expectations for awardee involvement in designing, testing, and evaluating alternative approaches to ITA/Eligible Provider implementation. This session will be offered free of charge to prospective applicants on a space-available basis. Attendees will, however, have to pay for their own travel and lodging. Attendance at this session is strongly encouraged but voluntary. No written summary of the meeting will be distributed and applicants not in attendance will not lose rating points on their proposal.

Part III. Application Process and Guidelines

A. Contents

Applicants must submit four (4) copies of their proposal, with original signatures. The application shall consist of a Technical Proposal that includes both the statement of work and cost data as it relates to the demonstration project plan. The Technical Proposal shall also contain the (SF) 424, ''Application for Federal Assistance (Appendix A) and the ''Budget Information Form'' (Appendix B). All copies of the (SF) 424 MUST have original signatures of the legal entity applying for grant funding. Applicants shall indicate on the (SF) 424 the organization's IRS status, if applicable. According to the Lobbying Disclosure Act of 1995, Section 18, an organization described in Section 501(c)4 of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan.

The Federal Domestic Assistance Catalog number is 17.246. Applicants should follow the instructions included with the attachments.

Technical Proposal

The technical proposal shall demonstrate the offeror's capabilities in accordance with the Statement of Work in Part II of this solicitation. It is advised that the technical proposal be formated according to the evalution criteria (Part IV). Each application shall also include a Time line outlining project activities, and an Executive Summary not to exceed two pages. A grant application shall be limited to 15 double-spaced, single-side, 8.5-inch x 11-inch pages with 1-inch margins. Attachments shall not exceed 5 pages. Text type shall be 11 point or larger. Applications that do not meet these requirements will not be considered. SINCE COST EFFECTIVENESS IS AN INTEGRAL PART OF THE SELECTION CRITERIA, COST DATA SHOULD BE INCLUDED WITH THE TECHNICAL PROPOSAL. Budget categories are administration and program activities, and should be planned in accordance with recent changes in the Department of Labor financial reporting requirements.

B. Hand-Delivered Applications

Applications should be mailed no later than five (5) days prior to the closing date for the receipt of applications. However if applications are hand-delivered, they must be received at the designated place by 4:00 p.m., Eastern Time on the closing date for receipt of applications. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified time and closing date. Telegraphed and/or faxed proposals will not be honored. Applications that fail to adhere to the above instructions will not be honored.

C. Late Applications

Any application received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it:

(1) Was sent by U.S. Postal Service registered or certified mail not later than the fifth calender day before the closing date specified for receipt of applications (e.g., an offer submitted in response to a solicitation requiring receipt of application by the 10th of August must have been mailed by the 5th); or

(2) Was sent by U.S. Postal Service Express Mail Next Day Service—Post Office to Addressee, not later than 5:00 p.m. at the place of mailing two working days prior to the date specified for receipt of application. The term ''working days'' excludes weekends and U.S. Federal holidays.

The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service registered or certified mail is the U.S. postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service.

The only acceptable evidence to establish the date of mailing of a late application sent by ''Express Mail Next-Day Service—Post Office to Addressee'' is the date entered by the post office receiving clerk on the ''Express Mail Next Day Service—Post Office to Addressee'' and the postmarks on both the envelope and wrapper and the original receipt from the U.S. Postal Service.

D. Withdrawal of Applications

Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before award. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt for the proposal.

Part IV. Review Process and Evaluation Criteria

A careful evaluation of applications will be made by a technical review panel who will evaluate the applications against the criteria below. The panel results are advisory in nature and not binding on the Grant Officer. The Government may elect to award the grant with or without discussions with the offeror. In situations without discussions, an award will be based on the offeror's signature on the (SF) 424, which constitutes a binding offer. Awards will be those in the best interest of the Government, but also considering factors such as urban/rural characteristics of the sites and that several variations of the design are thoroughly tested. It is important that applicants demonstrate that they are positioned to experiment with new designs and share learning that can contribute to the development of successful systems elsewhere. Applicants should demonstrate their interest in and capacity for helping to define the key components of an effective ITA/Eligible Provider List System.

Evaluation Criteria

1. Applicant Qualifications (10 points)

a. Indicate whether the applicant is a workforce investment board (or private industry council), a consortium of multiple boards, or a state.

i. If applicant is a local organization, describe involvement with other locals and the state in development of the proposal.

ii. If applicant is a consortium, indicate which will be the lead organization, and describe any projects previously undertaken together. Also discuss how the consortium will be coordinated and managed.

iii. If applicant is a state, describe involvement of local areas in

development of the proposal and operation of the demonstration.

b. Describe applicant's organization(s), including a brief history, number of staff, size and demographic nature of workforce development area served.

2. Interest and Commitment (20 points)

a. Describe applicant's interest in contributing to the development of innovative approaches to ITA implementation.

b. Explain applicant's interest in treating the development of an ITA/Eligible Provider system as a priority over other workforce development system innovations.

c. Describe applicant's commitment to achieving project objectives in a manner that also supports national objectives.

d. Discuss applicant's commitment to assist the US DOL in building staff capacity throughout the WIA system in these areas.

3. Previous Experience (10 points)

a. Describe applicant's previous experience, if any, with designing and/or implementing ITAs, or any other voucher-type programs, or any type of Consumer Reporting.

b. Discuss applicant's history of peer assistance with learning from program innovations, especially on a regional or national basis.

c. Provide an example of a creative approach the applicant organization(s) has designed to improve the area's workforce development system.

4. Approach (40 points)

a. Describe the objectives of this activity

b. Describe the approach to the demonstration in terms of design and implementation.

c. Describe how the common elements of the demonstration, as outlined in Section II.1 are included in the approach.

d. Describe the applicant's intended approach to the variable elements of the demonstration, as outlined in Section II.2.

e. Describe key considerations in designing an effective ITA/Eligible Provider system and the applicant's approach to dealing with them.

f. Discuss potential roadblocks the applicant may encounter in implementing a newly designed ITA/Eligible Provider system.

g. Present a time line for implementation.

h. Describe how applicant would utilize demonstration funds, if awarded, for system-planning and development activities.

i. Provide evidence of support from state and local partners as appropriate.

5. Cost Effectiveness (20 points)

a. Proposed costs are reasonable in relation to the overall objectives of the project, the activities planned, the time frame of the project, the organizational scope (including the number of individuals and the number of organizations involved), coordination/collaboration with other entities, and in relation to other projects of similar size and scope.

V. Assurances

Successful applicants must give several assurances, including that they will fully participate in a post-award grantee design workshop, agree to participate in the peer learning process, serve as a learning site for future implementors of ITAs and Eligible Provider Lists, and participate in USDOL evaluations as necessary. All applicants must provide the full list of assurances as follows.

- Work in close collaboration with state and local partners in the design development of the ITA/Eligible Provider system
- Participate fully in the program design process
- Provide capacity-building activities for all levels of staff, reaching all partner organizations including contract training providers, such as community based organizations
- Cooperate with US DOL technical assistance providers, including on-site visitations
- Participate in the peer learning process, including serving as a learning site for future implementors of ITAs
- Participate in US DOL evaluations
- Assist the US DOL in building staff capacity throughout the WIA System in these areas.
- Participate in staff training activities planned by DOL–ETA

In addition, the budget shall provide sufficient funds for a total of four persons trips for travel to meetings in Washington, DC and other locations.

Part VI. Monitoring, Reporting and Evaluation

A. Monitoring

The Department shall be responsible for ensuring effective implementation of each competitive grant project in accordance with the Act, the Regulations, the provisions of this announcement and the negotiated grant agreement. Applicants should assume that at least one on-site project review will be conducted by Department staff, or their designees. This review will focus on the project's performance in meeting the grant's programmatic goals and participant outcomes, complying with the requirements for participants who are served, expenditure of grant funds on allowable activities, collaboration with other organizations as required, and methods for assessment of the responsiveness and effectiveness of the services being provided. Grants may be subject to additional reviews at the discretion of the Department.

B. Reporting

US DOL will arrange for or provide technical assistance to awardees in establishing appropriate reporting and data collection methods and processes. An effort will be made to accommodate and provide assistance to awardees to be able to complete all reporting electronically.

Applicants selected as grantees will be required to provide the following reports:

1. Monthly and Quarterly progress reports.

2. Standard Form 269, Financial Status Report Form, on a quarterly basis.

3. Final Project Report including an assessment of project performance. This report will be submitted in hard copy and on electronic disk utilizing a format and instructions to be provided by the Department.

C. Evaluation

DOL will arrange for or an independent evaluation of the outcomes, impacts, and benefits of the demonstration projects. The RFP # DCS–99–28 describes the Evaluation criteria and is available for review at http://www.wdsc.org/sga/rfp/rfp99–28.htm. Grantees must agree to make records available to evaluation personnel, as specified by the evaluator(s) under the direction of the Department.

Signed at Washington DC, this 18th day of August, 1999.

Laura A. Cesario,

Grant Officer, Division of Federal Assistance.

Appendices

Appendix A: (SF) 424—Application for Federal Assistance.

Appendix B: Budget Information Form.

BILLING CODE 4510–30–P

APPENDIX A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 1 7 - 2 4 6

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which ave established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

APPENDIX B

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. ***Personnel:*** *Show salaries to be paid for project personnel.*

2. ***Fringe Benefits:*** *Indicate the rate and amount of fringe benefits.*

3. ***Travel:*** *Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. ***Equipment:*** *Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. ***Supplies:*** *Include the cost of consumable supplies and materials to be used during the project period.*

6. ***Contractual:*** *Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. ***Other:*** *Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. ***Total, Direct Costs:*** *Add lines 1 through 7.*

9. ***Indirect Costs:*** *Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. ***Training /Stipend Cost:*** *(If allowable)*

11. ***Total Federal funds Requested:*** *Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE: PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

[FR Doc. 99–22034 Filed 8–24–99; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 99–34; Exemption Application No. D–10694, et al.]

Grant of Individual Exemptions; The Chase Manhattan Bank (CMB), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Chase Manhattan Bank (CMB); Located in New York, NY

[Prohibited Transaction Exemption 99–34; Exemption Application No. D–10694]

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(A) through (D) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the lending of securities to affiliates of The Chase Manhattan Corporation (CMC), which are engaged in CMC's capital markets line of business (Global Capital Markets), by employee benefit plans (the Client Plans), including commingled investment funds holding Client Plan assets, for which CMC, through its Global Investor Services line of Business, as operated through CMB and its affiliates (GIS), acts as directed trustee or custodian, and for which CMC through its Global Securities Lending Division or any other similar division of CMB or a U.S. affiliate of CMC (collectively, GSL) acts as securities lending agent or sub-agent and (2) to the receipt of compensation by GSL in connection with the proposed transactions, provided the general conditions set forth below in Section II are met.

Section II. General Conditions

(a) This exemption applies to loans of securities to Global Capital Markets, as operated through CMB in the United States (Global Capital Markets/U.S. or the U.S. Affiliated Borrower) and in the following foreign countries: the United Kingdom (Global Capital Markets/U.K.), Canada (Global Capital Markets/Canada), Australia (Global Capital Markets/Australia), Japan (Global Capital Markets/Japan)(collectively, the Foreign Affiliated Borrowers). Global Capital Markets will also include other companies or their successors which are affiliated with either CMB or CMC within these countries.[1]

(b) For each Client Plan, neither GIS, Global Capital Markets, GSL, nor any other division or affiliate of CMC has or exercises discretionary authority or control with respect to the investment of the assets of Client Plans involved in the transaction (other than with respect to the lending of securities designated by an independent fiduciary of a Client Plan as being available to lend and the investment of cash collateral after securities have been loaned and collateral received), or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, including decisions concerning a Client Plan's acquisition and disposition of securities available for loan.

(c) Before a Client Plan participates in a securities lending program and before any loan of securities to Global Capital Markets is effected, a Client Plan fiduciary which is independent of Global Capital Markets must have—

(1) Authorized and approved a securities lending authorization agreement with GSL, where GSL is acting as the securities lending agent;

(2) Authorized and approved the primary securities lending authorization agreement with the primary lending agent where GSL is lending securities under a sub-agency agreement with the primary lending agent;[2] and

(3) Approved the general terms of the securities loan agreement (the Loan Agreement) between such Client Plan and Global Capital Markets, the specific terms of which are negotiated and entered into by GSL.

(d) Each loan of securities by a Client Plan to Global Capital Markets is at market rates and terms which are at least as favorable to such Client Plan as if made at the same time and under the same circumstances to an unrelated party.

(e) The Client Plan may terminate the agency or sub-agency arrangement at any time without penalty to such Client Plan on five business days notice whereupon Global Capital Markets delivers securities identical to the borrowed securities (or the equivalent in the event of reorganization, recapitalization or merger of the issuer of the borrowed securities) to the Client Plan within—

(1) The customary delivery period for such securities;

(2) Five business days; or

(3) The time negotiated for such delivery by the Client Plan and Global Capital Markets, whichever is less.

[1] Unless otherwise noted, Global Capital Markets will consist collectively of the above referenced entities.

[2] The Department, herein, is not providing exemptive relief for securities lending transactions engaged in by primary lending agents, other than GSL, beyond that provided pursuant to Exemption (PTE) 81–6 (46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987) and PTE 82–63 (47 FR 14804, April 6, 1982).

(f) The Client Plan receives from Global Capital Markets (either by physical delivery or by book entry in a securities depository located in the United States, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to Global Capital Markets, collateral consisting of cash, securities issued or guaranteed by the United States Government or its agencies or instrumentalities, or irrevocable United States bank letters of credit issued by a U.S. bank, which is a person other than Global Capital Markets or an affiliate thereof, or any combination thereof, or other collateral permitted under PTE 81–6 (as amended from time to time or, alternatively, any additional or superseding class exemption that may be issued to cover securities lending by employee benefit plans), having, as of the close of business on the preceding business day, a market value (or, in the case of a letter of credit, a stated amount) initially equal to at least 102 percent of the market value of the loaned securities.

(g) If the market value of the collateral on the close of trading on a business day is less than 100 percent of the market value of the borrowed securities at the close of business on that day, Global Capital Markets delivers additional collateral on the following day such that the market value of the collateral again equals 102 percent.

(h) The Loan Agreement gives the Client Plan a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral and GSL monitors the level of the collateral daily.

(i) Before entering into a Loan Agreement, Global Capital Markets furnishes GSL the most recently available audited and unaudited statements of the financial condition of the applicable borrower within Global Capital Markets. Such statements are, in turn, provided by GSL to the Client Plan. At the time of the loan, Global Capital Markets gives prompt notice to the Client Plan fiduciary of any material adverse change in the borrower's financial condition since the date of the most recent financial statement furnished to the Client Plan. In the event of any such changes, GSL requests approval of the Client Plan to continue lending to Global Capital Markets before making any such additional loans. No new securities loans will be made until approval is received and each loan constitutes a representation by Global Capital Markets that there has been no such material adverse change.

(j) In return for lending securities, the Client Plan either—

(1) Receives a reasonable fee, which is related to the value of the borrowed securities and the duration of the loan; or

(2) Has the opportunity to derive compensation through the investment of cash collateral. (In the case of cash collateral, the Client Plan may pay a loan rebate or similar fee to Global Capital Markets if such fee is not greater than the fee the Client Plan would pay an unrelated party in a comparable arm's length transaction.)

(k) All procedures regarding the securities lending activities conform to the applicable provisions of PTEs 81–6 and PTE 82–63 (as amended from time, or alternatively, any additional or superseding class exemption that may be issued to cover securities lending by employee benefit plans).

(l) If Global Capital Markets defaults on the securities loan or enters bankruptcy, the collateral will not be available to Global Capital Markets or its creditors, but will be used to make the Client Plan whole. In this regard,

(1) In the event a Foreign Affiliated Borrower defaults on a loan, CMB will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, CMB will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to indemnify properly under this provision). Alternatively, if such identical securities are not available on the market, the GSL will pay the Client Plan cash equal to—

(i) The market value of the borrowed securities as of the date they should have been returned to the Client Plan, plus

(ii) All the accrued financial benefits derived from the beneficial ownership of such loaned securities as of such date, plus

(iii) Interest from such date to the date of payment.

The lending Client Plans will be indemnified in the United States for any loans to the Foreign Affiliated Borrowers.

(2) In the event the U.S. Affiliated Borrower defaults on a loan, CMB will liquidate the loan collateral to purchase identical securities for the Client Plan. If the collateral is insufficient to accomplish such purchase, either CMB or the U.S. Affiliated Borrower will indemnify the Client Plan for any shortfall in the collateral plus interest on such amount and any transaction costs incurred (including attorney's fees of the Client Plan for legal actions arising out of the default on the loans or failure to indemnify property under this provision).

(m) The Client Plan receives the equivalent of all distributions made to holders of the borrowed securities during the term of the loan, including all interest, dividends and distributions on the loaned securities during the loan period.

(n) Prior to any Client Plan's approval of the lending of its securities to Global Capital Markets, copies of the notice of proposed exemption and the final exemption are provided to the Client Plan.

(o) Each Client Plan receives a monthly report with respect to its securities lending transactions, including but not limited to the information described in Representation 24 of the proposed exemption, so that an independent fiduciary of the Client Plan may monitor the securities lending transactions with Global Capital Markets.

(p) Only Client Plans with total assets having an aggregate market value of at least $50 million are permitted to lend securities to Global Capital Markets; provided, however, that—

(1) In the case of two or more Client Plans which are maintained by the same employer, controlled group of corporations or employee organization (i.e., the Related Client Plans), whose assets are commingled for investment purposes in a single master trust or any other entity the assets of which are ''plan assets'' under 29 CFR 2510.3–101 (the Plan Asset Regulation), which entity is engaged in securities lending arrangements with Global Capital Markets, the foregoing $50 million requirement shall be deemed satisfied if such trust or other entity has aggregate assets which are in excess of $50 million; provided that if the fiduciary responsible for making the investment decision on behalf of such master trust or other entity is not the employer or an affiliate of the employer, such fiduciary has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(2) In the case of two or more Client Plans which are not maintained by the same employer, controlled group of corporations or employee organization (i.e., the Unrelated Client Plans), whose assets are commingled for investment purposes in a group trust or any other form of entity the assets of which are ''plan assets'' under the Plan Asset

Regulation, which entity is engaged in securities lending arrangements with Global Capital Markets, the foregoing $50 million requirement is satisfied if such trust or other entity has aggregate assets which are in excess of $50 million (excluding the assets of any Client Plan with respect to which the fiduciary responsible for making the investment decision on behalf of such group trust or other entity or any member of the controlled group of corporations including such fiduciary is the employer maintaining such Plan or an employee organization whose members are covered by such Plan). However, the fiduciary responsible for making the investment decision on behalf of such group trust or other entity—

(i) Has full investment responsibility with respect to plan assets invested therein; and

(ii) Has total assets under its management and control, exclusive of the $50 million threshold amount attributable to plan investment in the commingled entity, which are in excess of $100 million.

(In addition, none of the entities described above are formed for the sole purpose of making loans of securities.)

(q) With respect to each successive two week period, on average, at least 50 percent or more of the outstanding dollar value of securities loans negotiated on behalf of Client Plans by GSL, in the aggregate, will be to unrelated borrowers.

(r) In addition to the above, all loans involving Foreign Affiliated Borrowers within Global Capital Markets have the following supplemental requirements:

(1) Such Foreign Affiliated Borrower is registered as a bank or broker-dealer with—

(i) The Financial Services Authority or the Securities and Futures Authority, in the case of Global Capital Markets/U.K.;

(ii) The Office of the Superintendent of Financial Institutions (OSFI), or the Ontario Securities Commission and/or the Investment Dealers Association, in the case of Global Capital Markets/Canada;

(iii) The Australian Prudential Regulation Authority (APRA), or the Australian Securities & Investments Commission and/or the Australian Stock Exchange Limited, in the case of Global Capital Markets/Australia; and

(iv) The Ministry of Finance and/or the Tokyo Stock Exchange, in the case of Global Capital Markets/Japan.

(2) Such broker-dealer or bank is in compliance with all applicable provisions of Rule 15a–6 (17 CFR 240.15a–6) under the Securities Exchange Act of 1934 (the 1934 Act) which provides for foreign broker-dealers a limited exemption from United States registration requirements;

(3) All collateral is maintained in United States dollars or dollar-denominated securities or letters of credit of U.S. banks or any combination thereof, or other collateral permitted under PTE 81–6 (as amended from time to time, or alternatively, any additional or superseding class exemption that may be issued to cover securities lending by employee benefit plans);

(4) All collateral is held in the United States;

(5) The situs of the Loan Agreement is maintained in the United States;

(6) The lending Client Plans are indemnified by CMB in the United States for any transactions covered by this exemption with the Foreign Affiliated Borrower so that the Client Plans do not have to litigate in a foreign jurisdiction nor sue the Foreign Affiliated Borrower to realize on the indemnification; and

(7) Prior to the transaction, each Foreign Affiliated Borrower enters into a written agreement with GSL on behalf of the Client Plan whereby the Foreign Affiliated Borrower consents to service of process in the United States and to the jurisdiction of the courts of the United States with respect to the transactions described herein.

(s) CMB or Chase Securities Inc. (CSI) maintains, or causes to be maintained within the United States for a period of six years from the date of such transaction, in a manner that is convenient and accessible for audit and examination, such records as are necessary to enable the persons described in paragraph (t)(1) to determine whether the conditions of the exemption have been met, except that—

(1) A prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of CMB or CSI, the records are lost or destroyed prior to the end of the six year period; and

(2) No party in interest other than CMB or CSI shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required below by paragraph (t)(1).

(t)(1) Except as provided in subparagraph (t)(2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (s) are unconditionally available at their customary location during normal business hours by:

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service or the Securities and Exchange Commission;

(ii) Any fiduciary of a participating Client Plan or any duly authorized representative of such fiduciary;

(iii) Any contributing employer to any participating Client Plan or any duly authorized employee representative of such employer; and

(iv) Any participant or beneficiary of any participating Client Plan, or any duly authorized representative of such participant or beneficiary.

(t)(2) None of the persons described above in paragraphs (t)(1)(ii)–(t)(1)(iv) of this paragraph (t)(1) are authorized to examine the trade secrets of CMB, the U.S. Affiliated Borrowers, or the Foreign Affiliated Borrowers or commercial or financial information which is privileged or confidential.

III. Definitions

For purposes of this exemption,

(a) The terms ''CMB'' and ''CMC'' as referred to herein in Sections I and II, refer to The Chase Manhattan Bank and its parent, The Chase Manhattan Corporation.

(b) The term ''affiliate'' means any entity now or in the future, directly or indirectly, controlling, controlled by, or under common control with CMC or its successors. (For purposes of this definition, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(c) The term ''U.S. Affiliated Borrower'' means an affiliate of CMC that is a bank supervised by the United States or a State, or a broker-dealer registered under the 1934 Act.

(d) The term ''Foreign Affiliated Borrower'' means an affiliate of CMC that is a bank or a broker-dealer which is supervised by—

(1) The Financial Services Authority or the Securities and Futures Authority in the United Kingdom;

(2) OSFI, or the Ontario Securities Commission and/or the Investment Dealers Association in Canada;

(3) APRA, or the Australian Securities & Investments Commission and/or the Australian Stock Exchange in Australia; and

(4) The Ministry of Finance and/or the Tokyo Stock Exchange in Japan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption on June 25, 1999 at 64 FR 34281.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

H.H. Borland, Inc. Profit Sharing Plan (the Plan); Located in Downers Grove, IL

[Prohibited Transaction Exemption 99–35; Exemption Application No. D–10707]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale (the Sale) of certain improved real property (the Property) by the Plan to Henry H. Borland III and Pat Borland, the Plan trustees (the Trustees) and disqualified persons with respect to the Plan,[3] provided the following conditions are met:

(a) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party;

(b) The Trustees purchase the Property from the Plan for the greater of $200,000 or the fair market value of the Property as of the date of the transaction, as determined by a qualified, independent appraiser;

(c) The Sale is a one-time transaction for cash; and

(d) The Plan pays no fees or commissions in connection with the Sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on June 25, 1999 at 64 FR 34292.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 20th day of August, 1999.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 99–22025 Filed 8–24–99; 8:45 am]

BILLING CODE 4510–29–P

[3] Since Mr. Borland is the sole owner of the Plan sponsor and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

FEDERAL MINE SAFETY AND HEALTH COMMISSION

Sunshine Act Meeting

August 20, 1999.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 64, No. 127, at 36,049–50, July 2, 1999.

PREVIOUSLY ANNOUNCED TIME AND DATE: 10:00 a.m., Wednesday, July 28, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW, Washington, DC.

STATUS: Open.

CHANGES IN MEETING: The Commission meeting to consider and act upon Hubb Corp., Docket No, KENT 97–302, has been changed to 10:00 a.m., Thursday, September 30, 1999.

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

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. 99–22155 Filed 8–23–99; 12:27 pm]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–344]

Portland General Electric, Trojan Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–1 issued to Portland General Electric (PGE), the licensee, for operation of the Trojan Nuclear Plant located in Prescott, Oregon and a concurrent exemption from10 CFR 50.54 and 10 CFR 73.55.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt PGE from the security requirements of 10 CFR 50.54(p) and 10 CFR 73.55 and delete the requirements for a security plan from the 10 CFR part 50 licensed portion of the site after the spent nuclear fuel is transferred to the part 72 licensed Trojan independent spent fuel storage installation (ISFSI).

The proposed action is in accordance with the licensee's application for a license amendment and exemption dated January 29, 1998.

The Need for the Proposed Action

Sections 50.54 and 73.55 of Title 10 of the Code of Federal Regulations require that licensees establish and maintain physical protection and security for activities involving nuclear fuel within the 10 CFR part 50 licensed area of a facility. The proposed action is needed because there will no longer be any nuclear fuel on the 10 CFR part 50 licensed facility to protect against radiological sabotage or diversion after the transfer of the spent nuclear fuel to the Trojan ISFSI. Subpart H of 10 CFR part 72 establishes physical protection and relies on 10 CFR 73.51 to define the

requirements for physical protection of spent nuclear fuel stored under a specific license issued pursuant to 10 CFR part 72. The Trojan ISFSI has an NRC-approved security plan to protect the spent nuclear fuel stored there from radiological sabotage and diversion as promulgated under 10 CFR part 72, subpart H. The proposed action will allow the licensee to conserve resources for decommissioning activities.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that exempting the plant from security requirements will not have any adverse environmental impact. There will be very minor savings of energy and vehicular use associated with the security force no longer performing patrols, checks, and normal security functions.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Trojan Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on July 19, 1999, the staff consulted with the Oregon State official, Adam Bless of the Oregon Office of Energy, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 29, 1998, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, Portland, Oregon 92707.

Dated at Rockville, MD, this 16th day of August 1999.

For the Nuclear Regulatory Commission,

Louis L. Wheeler,

Acting Chief, Decommissioning Section, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–22029 Filed 8–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–344]

Portland General Electric, Trojan Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–1 issued to Portland General Electric Company (PGE), the licensee, for operation of the Trojan Nuclear Plant located in Prescott, Oregon and a concurrent exemption from 10 CFR 50.54, 10 CFR 50.47(b) and 10 CFR part 50, appendix E.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt PGE from the emergency plan requirements of 10 CFR 50.54(q), 10 CFR 50.47(b), and 10 CFR part 50, appendix E and delete the requirements for an emergency plan from the 10 CFR part 50 licensed portion of the site after the spent nuclear fuel is transferred to a part 72 licensed independent spent fuel storage installation (ISFSI).

The proposed action is in accordance with the licensee's application for a license amendment and exemption dated August 27, 1998.

The Need for the Proposed Action

The proposed action is needed because the remaining quantities of radioactive material in the part 50 licensed facility will be less than the quantities specified in 10 CFR 30.72, ''Schedule C'' after the transfer of the spent nuclear fuel to the ISFSI. This represents a reduction of over 99 percent of the radioactivity existing prior to the transfer and the radioactivity remaining in the part 50 licensed plant will be below the amount requiring an emergency plan as designated in 10 CFR 30.72 above. The ISFSI which will receive the radioactive inventory has an NRC-approved emergency plan. The proposed action will allow the licensee to conserve resources for decommissioning activities.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that exempting the plant from emergency plan requirements will not have any adverse environmental impact. There will be very minor savings of energy and vehicular use associated with the reduced effort related to emergency preparedness drills.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application

would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Trojan Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on July 19, 1999, the staff consulted with the Oregon State official, Mr. Adam Bless of the Oregon Office of Energy, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 27, 1998, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, Portland, Oregon 92707.

Dated at Rockville, MD, this 16th day of August 1999.

For the Nuclear Regulatory Commission.

Louis L. Wheeler,

Acting Chief, Decommissioning Section, Project Directorate IV and Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–22030 Filed 8–24–99; 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 23, 30, September 6, 13, *and* October 18, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 23

Tuesday, August 24

2 p.m.—Briefing by Executive Branch (Closed—ex.1)

3:30 p.m.—Briefing on Threat Assessment (Closed—ex. 1)

Wednesday, August 25

9:55 a.m.—Affirmation Session (Public Meeting) (If needed)

Week of August 30—Tentative

Wednesday, September 1

9:25 a.m.—Affirmation Session (Public Meeting) (if needed)

Week of September 6—Tentative

Tuesday, September 7

9:15 a.m.—Affirmation Session (Public Meeting) (if needed)

9:20 a.m.—Briefing on PRA Implementation Plan (Public Meeting) (Contact: Tom King, 301–415–5790)

Week of September 13—Tentative

There are no meetings scheduled for the Week of September 13.

and

Week of October 18—Tentative

Thursday, October 21

9:30 a.m.—Briefing on Part 35—Rule on Medical Use of Byproduct Material (Contact: Cathy Haney, 301–415–6825) (SECY–99–201, *Draft Final Rule—10 CFR Part 35, Medical Use of Byproduct Material,* is available in the NRC Public Document Room or on NRC web site at ''www.nrc.gov/NRC/COMMISSION/SECYS/index.html''. Download the *zipped version* to obtain all attachments.)

*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, DC 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: August 20, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–22159 Filed 8–23–99; 12:48 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from July 31, 1999, through August 13, 1999. The last biweekly notice was published on August 11, 1999 (64 FR 43764).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed

determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By September 24, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public

document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: August 2, 1999.

Description of amendment request: The proposed amendment would revise Technical Specification 6.2.2.e to require either the Operations Manager or an off-shift Operations superintendent to hold a senior reactor operator (SRO) license. This revision would delete the option which allows the Manager-Operations to have at one time held a Senior Reactor Operator License for a similar unit and replaces it with the requirement for an off-shift Operations superintendent who holds an SRO license to supervise shift work and licensed activities.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change to Technical Specification 6.2.2.e to require the Manager-Operations or an off-shift Operations superintendent to hold an SRO license is administrative in nature and does not directly affect plant operations. The change does not physically alter the facility in any manner and, as such, does not affect the means in which any safety-related system performs its intended safety function.

Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the proposed change is administrative in nature. There is no physical alteration to any plant system, nor is there a change in the method in which any safety related system performs its function.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed amendment does not reduce the margin of safety as defined in the Safety Analysis Report or the bases contained in the Technical Specifications. The requirement to have a licensed SRO management position responsible for plant operations is maintained within the proposed amendment. The proposed amendment is consistent with (1) 10 CFR 50.54(l), which requires individuals responsible for directing the licensed activities of licensed operators to hold an SRO license, (2) Revision 1 of NUREG–1431, ''Standard Technical Specifications Westinghouse Plants,'' and Technical Specification Traveler Form (TSTF) 65, Revision 1, and (3) the intent of ANSI/ANS–3.1, ''Standard for Selection and Training of Personnel for Nuclear Power Plants,'' (September 1979 Draft).

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Section Chief: Sheri R. Peterson.

Carolina Power & Light Company, et al., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: August 4, 1999.

Description of amendment request: The proposed amendment would revise Technical Specification 6.9.1.6.2 to incorporate analytical methodology references which are used to determine core operating limits. The analytical methodologies to be referenced are documented in topical reports which have been accepted by the Nuclear Regulatory Commission for referencing in licensing applications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes incorporate additional references to methodologies used to evaluate core operating limits. These methodologies have been approved for use by the NRC. Plant structures, systems, and components will not be operated in a different manner as a result of these proposed changes and no physical modifications to equipment are involved. Adding these references to the Core Operating Limits Report section of Technical Specifications does not increase the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes incorporate additional references to methodologies used to evaluate core operating limits. These methodologies have been approved for use by the NRC. Plant structures, systems, and components will not be operated in a different manner as a result of these proposed changes and no physical modifications to equipment are involved. Adding these references to the Core Operating Limits Report section of Technical Specifications does not create the possibility of a new or different type of accident from any previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

The proposed changes incorporate additional references to methodologies used to evaluate core operating limits. These methodologies have been approved for use by the NRC. Plant structures, systems, and components will not be operated in a different manner as a result of these proposed changes and no physical modifications to equipment are involved. Adding these references to the Core Operating Limits Report section of Technical Specifications does not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Attorney for licensee: William D. Johnson, Vice President and Corporate Secretary, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602.

NRC Section Chief: Sheri R. Peterson.

Commonwealth Edison Company, Docket Nos. 50–237 and 50–249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois

Date of amendment request: May 20, 1999.

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.8.A to identify the specific Containment Cooling Service Water (CCSW) equipment required to support operation of the Control Room Emergency Ventilation System (CREVS). The proposed amendment would also

revise TS 3/4.5.C.2 to ensure that the suppression pool water level is adequate to prevent vortexing in the Low Pressure Coolant Injection and Core Spray pump suctions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

The proposed changes to the technical specifications provide clarity in the support system relationship and requirements for the CCSW system support of the CREVS operation. [Neither] [t]he CCSW system nor the CREVS system are assumed to be accident precursors for previously evaluated accident[s]. Therefore, the proposed changes have no effect on the probability or consequences of accidents previously evaluated.

The proposed change to the allowable suppression chamber level does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change revises a Technical Specification acceptance value to [a] more conservative value and serves to ensure operability of equipment important to safety. By ensuring equipment availability, the probability or consequences of an accident previously evaluated are not increased. In addition, the proposed changes have no impact on any initial condition assumptions for accident scenarios. Onsite or offsite dose consequences resulting from an event previously evaluated are not affected by this proposed amendment request.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed changes do not create the possibility of a new or different kind of accident from that previously evaluated. The changes to the CCSW specifications more appropriate[ly] reflect the design requirements and clarify the support role of the CCSW system as it relates the CREVS. Neither the CCSW system nor the CREVS will be operated differently with the proposed change. Therefore new or different failure modes will not be created. Therefore, the possibility of new and different accidents has not been created with the proposed change. The proposed change to the suppression pool allowable level restores margin to the Technical Specifications and ensures equipment operability. The proposed change is conservative with respect to current requirements. The proposed amendment does not involve any plant physical changes that would create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety because:

The proposed change to the CCSW technical specification will not result in a significant reduction in the margin of safety. The proposed change has greater consistency with the current design requirements for CSSW support of CREVS operation. Therefore, the margin of safety has been not been altered. [Therefore, the margin of safety has not been altered. SIC]

The proposed changes for suppression pool level does not involve a significant reduction in a margin of safety. In fact, the proposed changes restore margin and ensure equipment operability. Since the changes maintain the necessary level of system reliability, they do not involve a significant reduction in the margin of safety.

The proposed amendment for Dresden will not reduce the availability of systems required to mitigate accident conditions; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: July 14, 1999.

Description of amendment request: The proposed amendments would allow the units to operate at an uprated power level of 3489 MWt, an increase of 5 percent rated core thermal power.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

A. Evaluation of the Probability of Previously Evaluated Accidents

The proposed power uprate imposes only minor increases in plant operating conditions. No change is made to the reactor operating pressure. Operation at uprated conditions will result in moderate flow increases in those systems associated with the turbine cycle in that steam flow increases by approximately six (6)% and feed flow increases by approximately six (6)%. The increase in flow in the carbon steel piping systems was evaluated for the effect on flow induced erosion and corrosion rates and it was confirmed that power uprate has no significant effect on flow induced erosion or corrosion. The affected systems are currently monitored by the Flow Accelerated Corrosion (FAC) program that addresses erosion and corrosion concerns. Continued monitoring of the systems provides a high level of confidence in the integrity of potentially susceptible high energy piping systems.

Plant systems and components have been verified to be capable of performing their intended design functions at uprated power conditions. Where necessary, some components will be modified prior to implementation of uprated power conditions to accommodate the revised operating conditions. The review has concluded that operation at power uprate conditions will not affect the reliability of plant equipment, and that current Technical Specifications (TS) surveillance requirements ensure adequate monitoring of system operability. Systems continue to be operated in accordance with current design requirements under uprated conditions, therefore no new components or system interactions were identified that could lead to an increase in accident probability. Changes to reactor scram setpoints are such that no significant increase in scram frequency due to operation at uprated conditions will occur.

B. Evaluation of the Consequences of Previously Evaluated Accidents

The radiological consequences due to the Loss of Coolant Accident (LOCA) were calculated and are found to be below the applicable regulatory limits. The results are presented in Table 9–3 of Attachment E [of the July 14, 1999 submittal].

The LOCA radiological consequences have not significantly increased due to power uprate, and radiological consequences continue to meet established regulatory limits.

The radiological evaluations for other non-LOCA Design Basis Accidents (DBAs) were also performed and the dose consequences for these events did not significantly increase. These changes are outlined in Section 9.2 of Attachment E and they demonstrate that LaSalle County Station (LCS), Units 1 and 2 still meets the applicable regulatory limits.

Non-DBA Radiological Doses

All of the other radiological releases discussed in Updated Final Safety Analysis Report (UFSAR) are either unchanged because they are not power-dependent, or increase approximately in linear proportion to the amount of the uprate. The dose consequences for all of the non-LOCA radiological release accident events did not significantly increase, and are bounded by the ''LOCA Radiological Consequences''

events discussed above and were shown to meet the current dose acceptance limits. These events are discussed in Section 9.2 of Attachment E.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The configuration, operation and event response of the LCS, Units 1 and 2 systems, structures or components are [unchanged] by operation at uprated power conditions. Analysis of transient events has confirmed that the same transients remain limiting and that no transient event results in a new sequence of events that could lead to a new accident scenario.

An increase in power level will not create a new fission product release path, or result in a new fission product barrier failure mode. The current fission product barriers consisting of the reactor fuel rod cladding, the reactor coolant pressure boundary, and the containment structure remain in place. Fuel rod cladding integrity is ensured by operating within thermal, mechanical, and exposure design limits, and was confirmed for a representative core by performance of transient and accident analysis. Cycle specific analysis will continue to be performed for each fuel reload to demonstrate the compliance with the applicable transient analysis criteria and to establish the cycle specific Minimum Critical Power Ratio (MCPR) safety limit and fuel operating limits. The integrity of the reactor coolant pressure boundary was confirmed by evaluation of the bounding overpressurization event and ensuring that the corresponding pressure remained below the American Society of Mechanical Engineers (AMSE) Boiler and Pressure Vessel (B&PV) Code, Section III, ''Rules for Construction of Nuclear Power Plant Components,'' overpressure protection requirements. Similarly, analysis of the primary containment structure has demonstrated under worst case design basis accident conditions that the containment structure remains below the containment design pressure.

The effect of operation at uprated conditions on plant equipment has been evaluated. No new operating mode, safety-related equipment lineup, accident scenario, or equipment failure mode was identified as a result of operating at uprated conditions. In addition, operation at power uprated conditions does not create any new sequence of events or failure modes that lead to a new type of accident. Plant modifications required to support implementation of power uprated conditions will be made to existing systems rather than by adding new systems of a different design, which might introduce new failure modes or accident sequences.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The power uprate analysis for LCS, Units 1 and 2 assures that the power dependent safety margin will be maintained by meeting the appropriate regulatory criteria as prescribed by the applicable regulations. Similarly, factors of safety specified by application of the regulatory required design rules have been maintained, as have other acceptance criteria used to judge the acceptability of current plant operation.

No change is required in the basic duel deign to achieve the uprated power levels, or to maintain current operating and safety margins. No increase in the allowable peak bundle power is requested as a result of operation at uprated conditions. The abnormal transients have been evaluated for a representative core configuration and confirmed that operation at uprated conditions does not have an adverse effect on the operating limit MCPR. No change to the Safety Limit MCPR results, thus the margin of safety as assured by the safety limit MCPR is maintained. The fuel operating limits related to heat generation rate would still be met at uprated conditions. Cycle specific analysis will continue to be performed for each fuel reload to demonstrate the compliance with the applicable transient analysis criteria and to establish the cycle specific safety limit and fuel operating limits.

The Emergency Core Cooling System (ECCS)–LOCA performance has been evaluated at power uprated conditions using methodologies that have been approved by the NRC for 10CFR50.46, ''Acceptance Criteria for Emergency Core Cooling Systems for Light-Water Nuclear Power Reactors,'' analysis. The current ECCS performance requirements were used in the power uprate analysis. The ECCS–LOCA analysis was conducted at 102% of the proposed uprated thermal power in accordance with regulatory guidance. The necessary analysis for operation of General Electric (GE) fuel under uprated conditions and the determination that the peak cladding temperature (PCT) remains below the 10CFR50.46 limit of 2200°F have been performed. However, LCS Unit 2 currently contains a mixed core of GE and Siemens Power Corporation (SPC) fuel. LCS obtained [a] TS amendment that allows operation with SPC fuel, and approved the use of the SPC analytical methodology. The ECCS–LOCA analysis performed to support use of the SPC fuel was conducted at a power level that bounds 102% of the proposed uprated power level and determined that the PCT, for SPC fuel, remains below the 10CFR50.46 limit of 2200°F. The analysis for both GE and SPC fuel types demonstrate all 10CFR50.46 criteria are met. Therefore, there is no reduction in margin with respect to maintaining ECCS performance.

The margin of safety of the reactor coolant pressure boundary is maintained under power uprated conditions. The design pressure of the RPV and reactor pressure coolant pressure boundary remains at 1250 psig. The ASME B&PV Code allowable peak pressure is 1375 psig (i.e., 110% of design value), which is the acceptance limit for pressurization events. The limiting pressurization event is a Main Steam Isolation Valve (MSIV) closure with a failure of valve position scram and this event results in a calculated peak RPV pressure of 1332 psig at the bottom of the RPV. The peak pressure remains below the 1375 psig ASME limit. Therefore, there is no decrease in margin of safety in the reactor coolant pressure boundary.

The margin of safety of the containment structure is maintained under power uprated conditions. The analyses were conducted using a newer NRC-reviewed methodology. The pre-uprated cases were run using the new methodology and the re-baselined cases were compared to the uprated cases. The short-term containment peak pressure analysis re-baseline result was 39.3 psig compared to the original analysis of 39.6 psig. At uprated conditions the peak containment drywell pressure would be 39.9 psig, and is below the design value of 45 psig. The long-term containment suppression pool temperature analysis re-baseline result was 190°F compared to the original analysis result of 200°F. At uprated conditions the analysis concluded that in the event of a LOCA, the calculated peak bulk suppression pool temperature would be 193°F. This is less than the design temperature of the suppression pool of 275°F, and the criteria used to ensure adequate Net Positive Suction Head (NPSH) to the ECCS pumps which is 212°F. Therefore, power uprate does not challenge the structural integrity of the containment structure and ECCS NPSH is assured.

Therefore, operation at power uprated conditions does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767

NRC Section Chief: Anthony J. Mendiola.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of amendment request: August 6, 1999

Description of amendment request: The proposed amendments would revise Technical Specification 3/4.6.4, ''Vacuum Relief'' to remove specific operability requirements related to position indication for the suppression chamber-drywell vacuum breakers. The amendments also reformat the action statements for inoperable vacuum breakers, increase the surveillance

interval for verifying that the vacuum breakers are closed, and delete the requirement to verify that the manual isolation valves are closed for an inoperable and open vacuum breaker.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes do not change the hardware configuration of the suppression chamber-drywell vacuum breakers, and the vacuum breakers are not considered an initiator in any accident scenario. The removal of specific indication requirements and the extension of the surveillance interval does not impact the ability of the vacuum breakers to perform their safety function. The vacuum breakers continue to meet their intended design function. The proposed changes do not impact the assumed source term for any analyzed accident. Therefore, no increases in the probability of an accident or consequences will result due to this proposed change.

Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve any physical alterations to the suppression chamber-drywell vacuum breakers, or cause any changes in the method by which the vacuum breakers or the containment vacuum relief system performs their associated design basis functions. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Do the proposed changes involve a significant reduction in a margin of safety?

The proposed changes do not impact the design function assumed for the containment vacuum relief system. The proposed changes do not require the vacuum breakers to operate in a condition not previously assumed in the facility accident analysis. The containment vacuum relief system will continue to operate and provide the protection assumed in the accident analysis. In order to limit bypass, the vacuum breakers are in a normally closed position. These vacuum breakers cannot be permanently placed in the open position. The proposed decrease in the surveillance frequency verifying the closed vacuum breakers will not increase the risk of the vacuum breakers being in the open position, since they will only open in response to a pressure differential or manual cycling. Therefore, the assurance of the operability of the containment vacuum breakers would be the same as provided under current Technical Specifications. The containment response analysis is unchanged, in that the vacuum breakers protect the containment structure, the peak containment pressure remains as calculated, and the vacuum breakers continue to maintain bypass leakage rates as assumed. Therefore this proposed change does not cause a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Jacobs Memorial Library, 815 North Orlando Smith Avenue, Illinois Valley Community College, Oglesby, Illinois 61348–9692.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: July 16, 1999.

Description of amendment request: The proposed change to Technical Specification Section 3/4.7.D is to eliminate the limit for any one main steam line isolation valve (MSIV) leakage of less than or equal to 11.5 standard cubic feet per hour (scfh), and to replace that with an aggregate value of less than or equal to 46 scfh for all four MSIVs.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to the Technical Specifications, Appendix A, modifies the allowed leakage limit to an aggregate value with no change to the total allowed leakage rate. This change does not affect either the automatic or manual features that would close the MSIVs. There are no physical changes to the plant and plant operations remain unchanged. Therefore, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The safety function of the MSIVs is to provide a timely steam line isolation to mitigate the release of radioactive steam and limit reactor inventory loss under certain accident and transient conditions. The MSIVs are designed to automatically close whenever plant conditions warrant main steam line isolation. Changing the leakage limits to include an aggregate value does not affect the isolation function. No new equipment will be installed or utilized, and no new operating conditions will be initiated as a result of this change. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

Does the change involve a significant reduction in a margin of safety?

The total allowed leakage rate for all MSIVs remains unchanged at 46 scfh. Therefore, there will be no change in the types or significant increase in the amounts of any effluents released offsite, and, thus, the radiological analyses remain unchanged and within the guidelines of 10 CFR 100 and General Design Criteria 19. Therefore, these changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Attorney for licensee: Ms. Pamela B. Stroebel, Senior Vice President and General Counsel, Commonwealth Edison Company, P.O. Box 767, Chicago, Illinois 60690–0767.

NRC Section Chief: Anthony J. Mendiola.

Duke Energy Corporation, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: July 27, 1999.

Description of amendment request: The proposed amendments would add a surveillance requirement to verify the Keowee out-of-tolerance logic trips and blocks closure of the appropriate overhead or underground power path breakers. This logic is being added as part of a modification to provide voltage and frequency protection for the Keowee Hydro Units to protect them from being exposed to out-of-tolerance voltage and frequency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated:

This change does not create any conditions or events, which lead to accidents previously, evaluated in the SAR. The Keowee Hydro units are used for mitigation of loss of power scenarios. The proposed changes do not change the current function of the Keowee Hydro Units. Therefore, the proposed change does not involve a significant increase in the probability of an accident previously evaluated. The Keowee Hydro units and their role in the Oconee emergency power system currently meet the design/licensing basis requirements for the system. There is no adverse affect on containment integrity and no new release paths are created. The proposed changes do not cause any adverse effects to the Keowee single failure design or adversely affect the Keowee start time of 23 seconds. Therefore, the proposed changes do not involve a significant increase in the consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated:

The Keowee Hydro units are used for mitigation of loss of power scenarios. No accidents new or different than already evaluated in the SAR are postulated as a result of the proposed change. No setpoints for parameters, which initiate protective or mitigative action, are being changed. Therefore, this proposed amendment does not create the possibility of any new or different kind of accident.

3. Involve a significant reduction in a margin of safety:

The proposed change does not adversely affect any plant safety limits, set points, or design parameters. The change also does not adversely affect the fuel, fuel cladding, Reactor Coolant System, or containment integrity. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Duke has concluded, based on the above, that there are no significant hazards considerations involved in this amendment request.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Attorney for licensee: Anne W. Cottington, Winston and Strawn, 1200 17th Street, NW., Washington, DC.

NRC Section Chief: Richard L. Emch, Jr.

Energy Northwest, (formerly known as the Washington Public Power Supply System), Docket No. 50–397, WNP–2, Benton County, Washington

Date of amendment request: July 29, 1999.

Description of amendment request: The proposed amendment would change the applicability of Section 3.4.9 of the Technical Specifications (TS) from ''Mode 3 with steam drum pressure less than the RHR [residual heat removal] cut in permissive'' to ''Mode 3 with steam drum pressure less than 48 psig.'' Notes associated with TS Surveillance Requirements 3.4.9.1 and 3.5.1.2 would be changed to reflect the proposed 48 psig limit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change involves further restrictions on the use of RHR in the shutdown cooling mode of operation during hot shutdown conditions. Chapter 15 of the FSAR [Final Safety Analysis Report] defines the start of hot shutdown as the point when generated power is below one percent rated power. During entry into hot shutdown conditions the RHR system will be aligned in the Low Pressure Coolant Injection (LPCI) mode of operation. Thus, it will be aligned to provide water to the Reactor Pressure Vessel in the event the high pressure systems (HPCS and RCIC) are not able to perform this function. The change being proposed here has no impact on loss of coolant accidents (LOCAs) requiring mitigation using RHR aligned in the LPCI mode of operation.

During the high pressure portion of the hot shutdown condition, intersystem (LOCAs) are a concern. The purpose of the RHR SDC Isolation Reactor Pressure—High (cut-in permissive) at 135 psig is to prevent over-pressurization of portions of the RHR system. This protection is not being modified by this change. The instrumentation that provides this protection will continue to function as designed. This change only impacts the applicability of Technical Specification 3.4.9 and when RHR SDC is required to be operable.

During hot shutdown the reactor is normally cooled down through use of the main steam system and the condenser. Other means of cooling are also available using the reactor water cleanup system or a combination of emergency core cooling system (ECCS) pumps and safety relief valves (SRVs). The RHR system aligned in the SDC mode is used at the end of this cooling process to reach cold shutdown conditions of less than or equal to 200°F. The change being proposed results in the RHR SDC being manually initiated at a lower pressure and temperature. This change will have no significant impact on the capability to cool the reactor.

FSAR Chapter 15, ''Accident Analysis,'' describes two events associated with the RHR system. FSAR section 15.1.6, ''Inadvertent Residual Heat Removal Shutdown Cooling Operation,'' describes the impact of system operation during startup or cool-down when the reactor is near critical. The proposed change involves the point at which RHR is started in the SDC mode with the reactor sub-critical with control rods inserted. Therefore, there will be no change in the probability or consequences of this accident.

FSAR section 15.2.9, ''Failure of Residual Heat Removal Shutdown Cooling,'' describes the failure of the RHR system to function in SDC mode. This evaluation assumes a failure of the SDC mode of operation but does not disable the remaining modes of RHR operation. The alternate shutdown cooling paths involve the use of the SRVs [safety relief valves] to establish a cooling path to the containment suppression pool. This evaluated accident does not result in any fuel failure. The proposed change will not result in any fuel failures. The evaluated accident does result in normal coolant activity being released to the suppression pool through the safety relief valves. The proposed activity will not result in a significant change in the release of this coolant activity.

The proposed change will not cause a significant increase in the probability of a loss of SDC accident. This change proposes a delay in the use of SDC because of temperature limitations. During this time other means of decay heat removal would be used. This will result in a decrease in use of RHR in SDC mode and a decrease in the probability of failure of the system by restricting operation to be within analyzed temperature limits. The proposed change will not involve a significant increase in the consequences of the loss of shutdown cooling accident. The accident evaluated in the FSAR assumes SDC does not operate at any time and alternate means of cooling are evaluated. Section 15.2.9.6 states there is no fuel failure and release is limited to normal primary coolant activity to the suppression pool. The proposed change results in a short delay in the use of SDC because of temperature limitations. The accident described in FSAR section 15.2.9 bounds this condition and, as a result, there will be no increase in accident consequences.

With multiple means of reactor water makeup and heat removal available the restriction in the use of RHR caused by this change will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not cause any new inadvertent shutdown cooling startup, loss of water inventory or loss of cooling accidents. New or different inadvertent RHR SDC startup accidents are not possible because this change is only a further restriction on when the system is operated. The LOCA accidents during Mode 3 are

bounded by the LOCAs defined for Modes 1 and 2. No new primary sytem LOCAs can be initiated because of this change. The purpose of the RHR cut-in permissive at 135 psig is to prevent overpressurization of portions of the RHR system that could cause an intersystem LOCA. This change will not result in a new or different kind of intersystem LOCA because this is only a further restriction on RHR SDC operation. The use of RHR in the SDC mode is restricted to operation at a lower pressure and temperature but other systems are available to remove the decay heat. No new or different accidents are created because of this change.

The FSAR section 15.2.9 accident, ''Failure of Resident Heat Removal Shutdown Cooling,'' is bounding for all other accidents which postulate failure of the capability to remove decay heat. No additional accidents resulting in the loss of decay heat removal capability will be caused by this change.

Therefore, the operation of WNP–2 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment will increase the reliability of the RHR system when operated in shutdown cooling mode by providing assurance that the temperature limits of the piping and pipe supports will not be exceeded. The ability to protect against an intersystem LOCA is unchanged. The ability to remove decay heat from the reactor is not changed by this modification as alternate means of heat removal are available. Therefore, operation of WNP–2 in accordance with the proposed amendment will not involve a reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Attorney for licensee: Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005–3502.

NRC Section Chief: Stephen Dembek.

Energy Northwest (formerly known as the Washington Public Power Supply System), Docket No. 50–397, WNP–2, Benton County, Washington

Date of amendment request: July 29, 1999.

Description of amendment request: The proposed amendment would revise Technical Specification Table 3.3.5.1–1, ''Emergency Core Cooling System (ECCS) Instrumentation Items 1.a, 2.a, 4.a and 5.a,'' to change the Reactor Vessel Water Level—Low Low Low, Level 1 allowable value from the current value of −148 inches to a new value of −142.3 inches.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change involves the measurement of water level in the Reactor Pressure Vessel (RPV) used to initiate the ECCS. The accident evaluated for this condition is the spectrum of loss of coolant accidents (LOCA) severe enough to decrease the RPV water inventory by a significant amount.

The additional uncertainty introduced because of harsh environmental effects could not be accommodated between the existing Technical Specification allowable value and the analytical limit. This uncertainty results in a requirement that the ECCS be initiated at a slightly higher water level than previously calculated. Therefore, operation of WNP–2 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not create a new or different kind of accident since it only makes a small change in the RPV water level at which the ECCS is initiated. This change is in the conservative direction requiring a greater volume of water in the RPV to accommodate the uncertainty associated with the harsh environment of the water level sensors.

The level indicating switches are located on instrument racks in the Reactor Building. The harsh environment in this building would have no impact on the initial trip needed to initiate the ECCS on loss of RPV level since conditions in the Reactor Building would be benign at the initial stages of the accident. Only if the Level 1 trip was reset and initiated after a significant period of time would the harsh environmental conditions have an impact on the accuracy of the level indicating switches. However, increasing the water level at which the ECCS is initiated results in a more conservative value that adequately includes post-accident harsh environment uncertainties and ensures that the associated analytical limit is met.

Therefore, the operation of WNP–2 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment increases the allowable value for water level in the RPV. This small increase will result in an increase in the margin of safety. A review of the plant settings for the Level 1 trip indicated that previous settings were within the new allowable value.

Therefore, operation of WNP–2 in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Attorney for licensee: Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005–3502.

NRC Section Chief: Stephen Dembek.

Energy Northwest (formerly known as the Washington Public Power Supply System), Docket No. 50–397, WNP–2, Benton County, Washington

Date of amendment request: July 29, 1999.

Description of amendment request: The proposed amendment would revise Technical Specification Surveillance Requirement (SR) 3.5.2.2. This requirement verifies the adequacy of the water supply in the condensate storage tanks (CSTs) which support operation of the high pressure core spray (HPCS) system during Modes 4 and 5. Current Technical Specification SR 3.5.2.2 requires that CST water level be maintained above 13.25 feet in a single tank or above 7.6 feet in each tank if the suppression pool level is below its minimum level. It is proposed that the CST water level be maintained above 14.8 feet in a single tank or above 9.1 feet in each tank.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

During Modes 4 and 5 HPCS may be required to provide water to the reactor vessel if the water level decreases. The revised condensate storage tank allowable levels increase the operating margins by providing an increased water inventory. The previously evaluated accident involving the loss of decay heat cooling inventory will not have an increase in probability because the inventory of water will be increased with the change being proposed.

The consequences of any accident involving the loss of decay heat cooling inventory will not change as the consequences are unaffected by the increased water inventory.

Therefore, operation of WNP–2 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not create a new or different kind of accident since it only increases the amount of water held in reserve to support reactor vessel inventory loss. The proposed change does not introduce any credible mechanisms for unacceptable radiation release nor does it require physical modification to the plant. The inventory of water in the CSTs will increase to support any loss of water inventory in the reactor vessel during shutdown.

The proposed change modifies the monitored values for CST level. The plant has operated well within the existing allowable values. The increased margin provided by the increased level will assure no new or different kinds of accidents result from the proposed change.

Therefore, the operation of WNP–2 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed amendment increases the allowable value for water level in the CSTs. This results in an increase in the inventory of water available for cooling and inventory control during reactor shutdown. This will result in an increase in the margin of safety.

Therefore, operation of WNP–2 in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Attorney for licensee: Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005–3502.

NRC Section Chief: Stephen Dembek.

Energy Northwest (formerly known as the Washington Public Power Supply System), Docket No. 50–397, WNP–2, Benton County, Washington

Date of amendment request: July 29, 1999.

Description of amendment request: The proposed amendment request would revise Technical Specification Surveillance Requirement (SR) SR 3.8.4.6 of Technical Specification 3.8.4, ''DC Sources—Operating,'' and SR 3.8.5.1 of Technical Specification 3.8.5, ''DC Sources—Shutdown.'' The proposed change to SR 3.8.4.6 would prohibit surveillance testing of Division 1, 2, and 3 125 and 250 volt DC, battery charger capacity during Modes 1, 2, and 3. However, credit could be taken for unplanned events that satisfied the surveillance requirement. The proposed change to SR 3.8.5.1 would include SR 3.8.4.6 as one of the surveillance tests that are not required to be performed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change has no impact on previously analyzed accidents or transients, and has no effect on operation, capacity or surveillance test details of the DC system battery chargers. The change only imposes a mode restriction on performance of specified surveillance testing and allows taking credit for unplanned events that satisfy the surveillance. Therefore, operation of WNP–2 in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change has no effect on operation, capacity, or surveillance test details of the DC system battery chargers. The change only prohibits performing specified battery charger capacity surveillance testing from being implemented during Mode 1, 2, or 3 and allows taking credit for unplanned events that satisfy the surveillance. The proposed change to SR 3.8.4.6 of Technical Specification 3.8.4 and SR 3.8.5.1 of Technical Specification 3.8.5 are consistent with the wording previously evaluated and approved by the NRC in NUREG–1434 Rev. 1.

Therefore, operation of WNP–2 in accordance with the proposed amendment will not create the possibility of a new or different kind of accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change only imposes a mode restriction, prohibiting battery charger capacity surveillance testing from being performed during Modes 1, 2, and 3, allowing credit to be taken for unplanned events that satisfy the surveillance, and allowing such testing to be omitted under certain conditions during Modes 4 and 5 and during movement of irradiated fuel in secondary containment. Performance of this testing would remove a DC electrical power subsystem from service and could present a safety risk were an event to occur if the testing was performed in Modes 1, 2, and 3, or while DC service is required in other operating conditions. Therefore, operation of WNP–2 in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Attorney for licensee: Perry D. Robinson, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005–3502.

NRC Section Chief: Stephen Dembek.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: July 20, 1998, as supplemented June 29, 1999.

Description of amendment request: The amendment would incorporate the Technical Specification changes necessary for implementation of the Boiling Water Reactor Owners' Group Reactor Stability Long-Term Solution, Enhanced Option 1–A (E1A). E1A consists of modifications to the plant operating procedures and associated plant components that provide a means for reliably detecting and avoiding reactor instabilities. By letter dated February 25, 1998, the Nuclear Regulatory Commission (NRC) staff recognized E1A as a technically acceptable implementation of a long-term stability solution satisfying the requirements of NRC IE Bulletin 88–07, Supplement 1, and Generic Letter 94–02, ''Long Term Solutions and Upgrade of Interim Operating Recommendations for Thermal-Hydraulic Instabilities in Boiling Water Reactors.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. This request does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendments allow the implementation of the Enhanced Option I–A (E1A) long term solution to the neutronic/thermal-hydraulic instability issue. Current Technical Specification (TS) restrictions on power and flow conditions, number of operating recirculation loops and operator actions implemented to reduce the probability of neutronic/thermal-hydraulic instability are eliminated and new stability requirements consistent with NEDO–32339–A, Supplement 4, Revision 1, are imposed. These requirements include restrictions on power and flow conditions and actions associated with the modified Average Power Range Monitor (APRM) flow biased scram and control rod block functions. Required actions include adherence to the boiling boundary limit stability control prior to entry and during operation in the region of the power and flow operating domain which is potentially susceptible to neutronic/thermal-hydraulic instability in the absence of the stability control. In addition, the proposed amendments require operator actions based upon control room indications generated by a new Period Based Detection System (PBDS). The PBDS is designed to provide alarm indication that conditions consistent with a significant degradation in the stability performance of the reactor has occurred and the potential for imminent onset of neutronic/thermal-hydraulic instability may exist. The PBDS also provides analog indication of the highest and second highest successive period confirmation count of all of the Local Power Range Monitors (LPRMs) monitored. This provides the plant operators with continuous indication of reactor stability operating conditions.

The proposed amendments will permit operation in regions of the power and flow operating domain postulated to be susceptible to neutronic/thermal-hydraulic instability. Operation in these regions does not increase the probability of occurrence of initiators and precursors of previously analyzed accidents when neutronic/thermal-hydraulic instability is not possible. The proposed amendments permit the implementation of the features of the E1A solution which prevent neutronic/thermal-hydraulic instability including preemptive reactor scram upon entry into the regions of the power and flow operating domain most susceptible to neutronic/thermal-hydraulic instability. The E1A solution also requires implementation of stability control prior to entry into a region of the power and flow operating domain which is potentially susceptible, in the absence of stability control, to neutronic/thermal-hydraulic instability. The E1A solution prevents neutronic/thermal-hydraulic instability during operation in regions of the power and flow operating domain previously excluded from operation and therefore does not significantly increase the probability of a previously analyzed accident.

Operation in the regions of the power and flow operating domain excluded by current TS 3.4.1 and Figure 3.4.1–1 can occur as a result of anticipated operational occurrences. The severity of these transients may increase in the absence of operator actions due to the potential occurrence of neutronic/thermal-hydraulic instability as a result of operation in these regions. The proposed amendments will permit the implementation of the E1A long term solution to the stability issue. Required features of the E1A solution include adherence to a boiling boundary limit stability control prior to selection by the operator of APRM flow biased scram and control rod block function ''Setup'' setpoints which allow operation in a region of the power and flow operating domain potentially susceptible, in the absence of the stability control, to neutronic/thermal-hydraulic instability. Upon entry, as a result of an anticipated operational occurrence, into the region most susceptible to neutronic/thermal-hydraulic instability, the preemptive reactor scram prevents neutronic/thermal-hydraulic instability. Therefore, the consequences of an accident do not significantly increase while operating with the stability control met.

After exiting the region requiring the stability control to be met, the setpoints can be manually reset to their normal values. Stability controls are required to be in place when setpoints are ''Setup''. As a backup E1A feature, the APRM flow biased setpoints automatically reset to their normal values above a pre-determined flow condition. This automatic reset to the more conservative setpoints ensures that the preemptive reactor scram will prevent operation as a result of an anticipated operational occurrence into the region most susceptible to neutronic/thermal-hydraulic instability should the operator not select the more conservative setpoints appropriate for operation following exit from the region requiring stability control.

Other required E1A features, including the PBDS, control rod block alarms associated with entry into the region susceptible to neutronic/thermal-hydraulic instabilities in the absence of stability controls, and required operator actions, including manual reactor scram, help ensure prevention of neutronic/thermal-hydraulic instabilities. Therefore, the proposed amendments prevent the occurrence of neutronic/thermal-hydraulic instability as a consequence of an anticipated operational occurrence and do not significantly increase the consequences of any previously analyzed accident.

2. This request does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendments replace current restrictions on power and flow conditions with alternative restrictions which permit the implementation of the E1A long term stability solution. The current restrictions on the power and flow conditions and operating recirculation loops in the RUN mode do not automatically prevent the entry into regions of the power and flow operating domain most susceptible to neutronic/thermal-hydraulic instability and therefore the possibility of neutronic/thermal-hydraulic instability exists in the absence of operator action. The required features of the E1A solution implement a preemptive scram upon entry into the region most susceptible to neutronic/thermal-hydraulic instability, without operator action. The accessible operating domain allowed by the proposed amendments is a subset of the power and flow operating domain currently allowed. Current initiators and precursors of accidents and anticipated operational occurrences [cannot] occur with new or different initial conditions as a result of this change. Additionally, there are no new event initiators or precursors of accidents and anticipated operational occurrences created by this change. Therefore, the proposed amendments do not create the possibility of a new or different kind of accident from that previously evaluated.

Concurrent with the implementation of the proposed amendments, a modified Flow Control Trip Reference (FCTR) card, the E1A FCTR card, and a new Period Based Detection System (PBDS) will be installed as required by the E1A solution. The function of the E1A FCTR card is to aid the operator in the identification of entry into regions of the power and flow operating domain potentially susceptible to neutronic/thermal-hydraulic instability in the absence of stability controls and to initiate a preemptive scram upon entry into the regions most susceptible to neutronic/thermal-hydraulic instability. This is accomplished by altering the existing values of setpoints of the APRM flow biased scram and the control rod block functions generated by the E1A FCTR card. The E1A FCTR card design includes components which may be susceptible to electromagnetic interference or other environmental effects. The plant specific environmental conditions (temperature, humidity, pressure, seismic, and electromagnetic compatibility) have been confirmed to be enveloped by the environmental qualification values for the E1A FCTR cards. Therefore, the potential for spurious scrams or common mode failures induced by environmental effects (e.g., electromagnetic interference) is considered negligible. The installation of the E1A FCTR card will therefore not create the possibility of a new or different kind of accident from any accident previously evaluated.

The function of the PBDS is to provide the operator with an indication that conditions consistent with a significant degradation in the stability performance of the reactor has occurred and the potential for imminent onset of neutronic/thermal-hydraulic instability may exist. This is accomplished by the installation of a new PBDS card in the Neutron Monitoring System. The PBDS card takes inputs from individual local power range monitors and provides analog indication of the highest and second highest successive period confirmation count, provides a High Decay Ratio (Hi DR) and High-High Decay Ratio (Hi-Hi DR) alarms, and INOP status indication to the operator in the control room. These displays [cannot] create the possibility of a new or different kind of accident from any accident previously evaluated. The PBDS card design includes components which may be susceptible to electromagnetic interference or other environmental effects. However, the plant specific environmental conditions (temperature, humidity, pressure, seismic,

and electromagnetic compatibility) have been confirmed to be enveloped by the PBDS environmental qualification values. Therefore, the installation of the PBDS card will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. This request does not involve a significant reduction in a margin to safety.

The proposed amendments permit the implementation of the E1A long term solution to the stability issue. Under certain conditions, existing BWR [boiling water reactor] designs are susceptible to neutronic/thermal-hydraulic instability. General Design Criterion (GDC) 12 of 10 CFR 50, Appendix A, requires thermal-hydraulic instability to be prevented by design or be readily and reliably detected and suppressed. When the design of the reactor system does not prevent the occurrence of neutronic/thermal-hydraulic instability, instability is an anticipated operational occurrence. GDC 10 of 10 CFR 50, Appendix A, requires that specified acceptable fuel design limits not be exceeded during anticipated operational occurrences.

Analyses performed by the BWROG [Boiling Water Reactor Owners' Group] indicate that neutronic/thermal-hydraulic instability induced power oscillations could result in conditions exceeding the Minimum Critical Power Ratio (MCPR) Safety Limit (SL) prior to detection and suppression by the current design of the Neutron Monitoring System and Reactor Protection System.

To ensure compliance with GDC 12 the BWROG developed Interim Corrective Actions (ICAs) to enhance the capability of the operator to readily and reliably detect and suppress neutronic/thermal-hydraulic instability. The BWROG ICAs also provided additional guidance for monitoring local power range monitors beyond the requirements of current TS 3.4.1 to ensure adequate margin to the onset of neutronic/thermal-hydraulic instability. Reliance on operator actions to comply with GDC 12 was accepted on an interim basis by the NRC pending final implementation of a long term solution to the stability issue. Neutronic/thermal-hydraulic instability is prevented by implementation of the E1A solution through the modified design of the Reactor Protection System (APRM [average power range monitor] flow biased scram) and the stability control prior to entry into a region of the power and flow operating domain which is potentially susceptible, in the absence of stability control, to neutronic/thermal-hydraulic instability. In addition, significant backup protection features, including the PBDS, control rod block alarms associated with entry into the region susceptible to neutronic/thermal-hydraulic instabilities in the absence of stability controls, and specified operator actions, including manual reactor scram, are required to be implemented. As a result, the margin to the onset of neutronic/thermal-hydraulic instability provided by the existing TS requirements and BWROG ICAs recommendations is not significantly reduced by the implementation of the E1A solution. The E1A solution assures compliance with GDC 12 by the prevention of neutronic/thermal-hydraulic instability and therefore precludes neutronic/thermal-hydraulic instability from becoming a credible consequence of an anticipated operational occurrence. The consequences of anticipated operational occurrences will not increase and the margin to the MCPR SL will not decrease upon implementation of the E1A solution. Therefore, the proposed amendments do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 6, 1999.

Description of amendment request: The proposed amendments would change those Technical Specifications (TS) required to support Grand Gulf Nuclear Station (GGNS), Cycle 11 operation. The changes would include a change to the minimum critical power ratio safety limit (SLMCPR) that would reflect a decrease of the two recirculation loop SLMCPR limit from 1.11 to 1.09, and the single recirculation loop SLMCPR limit from 1.12 to 1.10. These values were developed with General Electric's cycle-specific SLMCPR methodology in GESTAR–II Amendment 25, which was recently approved by the Nuclear Regulatory Commission in a Safety Evaluation Report dated March 11, 1999.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The Minimum Critical Power Ratio (MCPR) safety limit is defined in the Bases to Technical Specification 2.1.1 as that limit which ''ensures that during normal operation and during Anticipated Operational Occurrences (AOOs), at least 99.9% of the fuel rods in the core do not experience transition boiling.'' The MCPR safety limit is re-evaluated for each reload and, for GGNS Cycle 11, the analyses have concluded that a two-loop MCPR safety limit of 1.09, based on the application of GE's [General Electric's] NRC-approved cycle-specific MCPR safety limit methodology demonstrates that this acceptance criterion is satisfied. For single-loop operation, a MCPR safety limit of 1.10, based on GE's [NRC-approved cycle-specific MCPR safety limit methodology, also demonstrates that this acceptance criterion is satisfied. Core MCPR operating limits are developed to support the Technical Specification 3.2 requirements and ensure these safety limits are maintained in the event of the worst-case transient. Since the MCPR safety limit will be maintained at all times, operation under the proposed changes will ensure at least 99.9% of the fuel rods in the core do not experience transition boiling. Therefore, these changes to the Minimum Critical Power Ratio (MCPR) safety limit do not affect the probability or consequences of an accident.

GE's NRC-approved GESTAR–II cycle-specific MCPR safety limit methodology has been applied and has no effect on the probability or consequences of any accidents previously evaluated. As previously licensed, one exception to GESTAR is that the mis-oriented and mis-located bundle events will continue to be analyzed as accidents subject to the acceptance criteria in the current licensing basis. The design of the GE11 fuel bundles is such that the bundles are not likely to be mis-oriented or mis-located and the normal administrative controls will be in effect for assuring proper orientation and location. Therefore, the probability of a fuel loading error is not increased. This analysis ensures that postulated dose releases will not exceed a small fraction (10 percent) of 10CFR100 limits. Therefore, the probability or consequences of accidents previously evaluated are unchanged.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The GE11 fuel to be used in Cycle 11 is of a design compatible with fuel present in the core and used in the previous cycle. Therefore, the GE11 fuel will not create the possibility of a new or different kind of accident. The proposed changes do not involve any new modes of operation, any changes to setpoints, or any plant modifications. The proposed revised MCPR safety limits have been shown to be acceptable for Cycle 11 operation. Compliance with the applicable criterion for incipient boiling transition continues to be ensured. The proposed MCPR safety limits do not result in the creation of any new precursors to an accident.

Therefore, the proposed changes do not create the possibility of a new or different type of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

The MCPR safety limits have been evaluated in accordance with GE's NRC-approved cycle-specific methodology to ensure that during normal operation and during AOOs, at least 99.9% of the fuel rods in the core are not expected to experience transition boiling. One exception to GESTAR is that the mis-oriented and mis-located bundle events will continue to be analyzed as accidents subject to the acceptance criteria in the current licensing basis. This analysis ensures that postulated dose releases for the worst case mis-oriented and mis-located bundle will not exceed a small fraction (10 percent) of 10CFR100 limits. On this basis, the implementation of this GE methodology does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi 39120.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: June 23, 1999.

Description of amendment request: The requested Technical Specification changes would revise those specifications associated with various engineered safety feature systems, which need no longer be credited following a design-basis fuel handling accident. The proposed changes affect conditions where irradiated fuel is handled in the primary or secondary containment, and also affect certain specifications related to performing core alterations. These changes are based on the revised analysis of the design-basis fuel handling accident for the Grand Gulf Nuclear Station. This requested change is consistent with the changes approved for the Perry Nuclear Power Plant Operating License (Amendment 102), and the industry-proposed change to the Technical Specification NUREGs, TSTF–51.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

A new term to describe irradiated fuel is used to establish operational conditions where specific activities represent situations where significant radioactive releases can be postulated. These operational conditions are consistent with the design basis analysis. Because the equipment affected by the revised operational conditions is not considered an initiator to any previously analyzed accident, inoperability of the equipment cannot increase the probability of any previously evaluated accident. The proposed requirements bound the conditions of the current design basis fuel handling accident analysis which concludes that the radiological consequences are within the acceptance criteria of NUREG 0800, Section 15.7.4 and General Design Criteria 19. Therefore, the proposed changes do not significantly increase the probability or consequences of any previously evaluated accident.

Removing a one time only allowance granted by Amendment 129 to the Operating License that is no longer in affect is an administrative change. Therefore, the proposed change does not significantly increase the probability or consequences of any previously evaluated accident.

Based on the above, neither the proposed changes to the Technical Specifications nor that to the Operating License significantly increase the probability or consequences of any accident previously evaluated.

2. The proposed changes would not create the possibility of a new or different kind of accident from any previous analyzed.

The new term to describe irradiated fuel is used to establish operational conditions where specific activities represent situations where significant radioactive releases can be postulated. These operational conditions are consistent with the design basis analysis. The proposed changes do not introduce any new modes of plant operation and do not involve physical modifications to the plant. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previous analyzed.

Removing a one time only allowance granted by Amendment 129 to the Operating License that is no longer in affect is an administrative change. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previous analyzed.

Based on the above, neither the proposed changes to the Technical Specifications nor that to the Operating License create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The new term to describe irradiated fuel is used to establish operational conditions where specific activities represent situations where significant radioactive releases can be postulated. These operational conditions are consistent with the design basis analysis and are established such that the radiological consequences are at or below the current GGNS [Grand Gulf Nuclear Station] licensing limit. Safety margins and analytical conservatisms have been evaluated and are well understood. Substantial margins are retained to ensure that the analysis adequately bounds all postulated event scenarios. The proposed change only eliminates the unnecessary margin from the analysis. The current margin of safety is retained.

Specifically, the margin of safety for the fuel handling accident is the difference between the 10CFR100 limits and the licensing limit defined by NUREG 0800, Section 15.7.4. With respect to the control room personnel doses, the margin of safety is the difference between the 10CFR100 limits and the licensing limit defined by 10CFR50, Appendix A, Criterion 19 (GDC 19). The additional margin between the calculated doses for the postulated events and the corresponding licensing limit provides no useful purpose.

The proposed applicability continues to ensure that the whole-body and thyroid doses at both the control room and the exclusion area and low population zone boundaries are at or below the corresponding licensing limit. The margin of safety is unchanged; therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Removing a one time only allowance granted by Amendment 129 to the Operating License that is no longer in affect is an administrative change. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, neither the proposed changes to the Technical Specifications nor that to the Operating License result in a significant reduction in a margin of safety.

Based on the above evaluation, operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, Mississippi 39120.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, NW., 12th Floor, Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

Entergy Operations Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: October 6, 1998.

Description of amendment request: The proposed change modifies the requirement to perform a Moderator Temperature Coefficient (MTC) test near the end of each cycle. This request constitutes a lead-plant submittal, submitted by Waterford 3 on behalf of the Combustion Engineering Owners Group (CEOG). CE NPSD–911, Amendment 1, ''Analysis of Moderator Temperature Coefficients in Support of a Change in the Technical Specifications End of Cycle Negative MTC Limit'' dated January, 1998 is provided as an Attachment to the application. Specifically, the proposed change modifies Technical Specification (TS) 4.1.1.3.2c by adding a provision that eliminates the need to determine the MTC upon reaching two-thirds of core burnup if the results of the MTC tests required in TS 4.1.1.3.2a and 4.1.1.3.2b are within a specified tolerance. In addition, some editorial changes are proposed and the Bases change is included to support the changes in the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Under the proposed change, compliance with the TS Limiting Condition for Operation is achieved through a surveillance program consisting of beginning-of-cycle (BOC) measurements, plant parameter monitoring, and end-of-cycle (EOC) MTC predictions. This change eliminates the performance of the 2/3 Cycle MTC Surveillance when the BOC MTC Surveillances are within a required tolerance of the design value.

The probability and consequences of an accident previously evaluated will not be increased because this change does not modify any assumptions used in the input to the safety analyses. The current safety calculations will remain valid because the allowed range of MTC values will not change.

The Combustion Engineering analysis CE NPSD–911 and CE NPSD–911 Amendment 1, demonstrate that if the startup test program has established that the core is operating as intended, and if the isothermal temperature coefficients measured at zero power during the cycle startup program, and at power prior to 40 EFPD [Effective Full Power Days], fall within the design value of plus or minus 0.16×10^{-4} delta k/k/°F, then the end-of-cycle best estimate prediction will also be within plus or minus 0.16×10^{-4} delta k/k/°F of true MTC.

Removing the footnote that was applicable during Cycle 7 and providing a plus/minus for SR 4.1.1.3.2c is purely an administrative change.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

Plant operation and plant parameter TS limits will remain unchanged. There are no new changes in plant design nor are any new failure modes introduced. CE NPSD–911 analysis determined that if the MTC at the beginning-of-cycle is within plus or minus 0.16×10^{-4} delta k/k/°F of the design value then the MTC at the end-of-cycle will also be within plus or minus 0.16×10^{-4} delta k/k/°F of the design value.

Removing the footnote that was applicable during Cycle 7 and providing a plus/minus for SR 4.1.1.3.2c is purely an administrative change.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

The margin of safety will not be reduced because the range of allowed temperature coefficients will not be changed. The surveillance program consisting of beginning-of-cycle measurements, plant parameter monitoring, and end-of-cycle MTC predictions will ensure that the MTC remains within the range of acceptable values.

Removing the footnote that was applicable during Cycle 7 and providing a plus/minus for SR 4.1.1.3.2c is purely an administrative change.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Attorney for licensee: N.S. Reynolds, Esquire, Winston & Strawn 1400 L Street NW., Washington, DC 20005–3502.

NRC Section Chief: Robert A. Gramm.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: July 26, 1999.

Description of amendment request: The proposed amendment would make the following line-item Technical Specification (TS) improvements:

(1) Relocate TS Section 3/4.3.3.2, Instrumentation—Incore Detectors; TS 3/4.3.3.9, Instrumentation—Waste Gas System Oxygen Monitor; and TS 3/4.4.7, Reactor Coolant System '' Chemistry, to the Updated Safety Analysis Report (USAR) Technical Requirements Manual (TRM);

(2) Change to TS 3/4.11.2, Radioactive Effluents—Explosive Gas Mixture, and TS Bases 3/4.11.2, Explosive Gas Mixture, to reflect the above proposed relocation of TS 3/4.3.3.9;

(3) Revise the requirements of TS 3/4.4.6.1, Reactor Coolant System Leakage—Leakage Detection Systems, to require one monitor (gaseous or particulate) of the containment atmosphere radioactivity monitoring systems to be operable, rather than requiring both systems to be operable simultaneously; and

(4) Revise the requirements of TS 3/4.3.3.1, Radiation Monitoring Instrumentation, to be consistent with the above proposed revision to TS 3/4.4.6.1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

The Davis-Besse Nuclear Power Station (DBNPS) has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no accident initiator, conditions or assumptions are affected by the proposed revisions to Technical Specification (TS) 3/4.3.3.1, Radiation Monitoring Instrumentation, TS 3/4.3.3.2, Instrumentation—Incore Detectors; TS 3/4.3.3.9, Instrumentation—Waste Gas System Oxygen Monitor; TS 3/4.4.7, Reactor Coolant System—Chemistry; TS 3/4.11.2, Radioactive Effluents—Explosive Gas Mixture; and TS 3/4.4.6.1, Reactor Coolant System Leakage—Leakage Detection Systems, and their associated TS Bases.

The requirements of TS 3/4.3.3.2, TS 3/4.3.3.9, and TS 3/4.4.7 are proposed to be relocated from the TS to the DBNPS Updated Safety Analysis Report (USAR) Technical

Requirements Manual (TRM). These requirements would be relocated generally intact to the TRM whereby future changes would be subject to the regulatory controls of 10 CFR 50.59. These relocations are consistent with the NRC guidance provided in Generic Letter (GL) 95–10, ''Relocation of Selected Technical Specifications Requirements Related to Instrumentation,'' or NUREG–1430, Revision 1, ''Standard Technical Specifications—Babcock and Wilcox Plants,'' dated April 1995.

The proposed revision to TS 3/4.11.2, Radioactive Effluents—Explosive Gas Mixture, and its Bases is an administration change to a reference necessitated by the proposed relocation of TS 3/4.3.3.9 to the USAR TRM.

The proposed revision to TS 3/4.3.3.1 and TS 3/4.4.6.1 regarding the number of Reactor Coolant System (RCS) leakage detection monitors required and their allowed outage times is based upon the NRC's guidance of NUREG–1430, Revision 1. This proposed revision affects the TS only and does not reduce the number, diversity, or sensitivity of Reactor Coolant System leakage detection systems inside the containment building or as committed to in the DBNPS USAR.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because no accident condition or assumption is affected by the proposed revisions. As described above, the revisions are consistent with the guidance of NRC GL 95–10 or NUREG–1430, Revision 1. The proposed revisions, as described above, do not alter the source term, containment isolation, or allowable releases. The proposed changes, therefore, will not increase the radiological consequences of a previously evaluated accident.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident initiators or assumptions are introduced by the proposed TS revisions. No new accident scenarios, transient precursors, failure mechanisms, or limiting failures are introduced as a result of the proposed changes.

3. Not involve a significant reduction in a margin of safety because the proposed revisions do not reduce or adversely affect the capabilities of any plant structures, systems or components. The proposed relocation of TS 3/4.3.3.2, TS 3/4.3.3.9, and TS 3/4.4.7 to the USAR TRM is essentially an administrative change to the location and process by which these requirements are controlled and revised. Future revisions to these requirements relocated to the USAR TRM will be subject to the regulatory controls of 10 CFR 50.59. Therefore, these revisions will not result in a significant reduction in a margin of safety.

The proposed revision to TS 3/4.11.2 and its Bases is administrative and reflects the relocation of TS 3/4.3.3.9 to the USAR TRM. Therefore, this revision will not result in a significant reduction in a margin of safety.

The proposed revisions to TS 3/4.3.3.1 and TS 3/4.4.6.1 affect the number of containment atmosphere radioactivity monitors required by TS to be operable simultaneously. However, redundancy and diversity requirements are maintained in the TS for detecting Reactor Coolant System leakage. Although TS-allowed outage times are proposed to be increased consistent with NUREG–1430, Revision 1 guidance, related compensatory action requirements are also being increased. Furthermore, the DBNPS commitments made for complying with Regulatory Guide 1.45, May, 1973, ''Reactor Coolant Pressure Boundary Leakage Detection Systems,'' are not changed by the proposed revisions. Along with the applicable revised TS requirements, 10 CFR 50, Appendix B, Criterion XVI will require prompt corrective action for inoperable leakage detection systems. Accordingly, these proposed revisions will not result in a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Anthony J. Mendiola.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: July 26, 1999.

Description of amendment request: The proposed amendment would change the Technical Specifications to adopt the performance-based 10 CFR Part 50, Appendix J, Option B approach for Type B and C containment leakage rate testing, and to relocate certain details of the tests into a Containment Leakage Testing Program.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

The Davis-Besse Nuclear Power Station has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit No. 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because accident initiators, conditions, or assumptions are not affected by the proposed changes.

The proposed changes to the Technical Specifications and Bases implement 10 CFR [Part] 50 Appendix J Option B for Type B and C Local Leak Rate Testing, based on the guidance of Regulatory Guide 1.163,

''Performance-Based Containment Leak-Test Program.'' Provided that components have performed satisfactorily on a historical basis, this guidance permits the use of extended testing frequencies. These proposed changes do not affect accident initiators, conditions, or assumptions.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed changes do not change the source term or total allowable releases. With the exception of the proposed increase in the containment air lock leakage limits, the proposed changes do not affect the total allowable containment leakage rates presently specified in the Technical Specifications. Although the air lock leakage limits are proposed to be increased, the accident analyses are based on the current TS allowable maximum bypass leakage, which is not proposed to be changed. Therefore, increases in leakage limits for individual components, such as the air locks and their door seals, which are constituents of bypass leakage, will have no effect on the radiological consequences described in the accident analyses.

The proposed TS changes relating to implementation of 10 CFR [Part] 50 Appendix J Option B may result in a small, but acceptable increase in post-accident containment leakage, due to the increased probability that due to generally increased intervals between tests, an unacceptable leakage rate could go undetected for a longer length of time. NUREG–1493, ''Performance-Based Containment Leak-Test Program,'' September, 1995, which provided the technical basis for the 10 CFR [Part] 50 Appendix J Option B rulemaking, provides a detailed evaluation of the expected leakage and its consequences and concludes that increased test frequencies are workable without significant risk impacts.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident initiators or assumptions are introduced by the proposed changes. The proposed changes do not affect the methodology used in conducting containment leak rate testing. The proposed changes do not involve a change to the plant design or operation and, therefore, will not introduce any new or different failure modes or initiators.

3. Not involve a significant reduction in a margin of safety.

The proposed changes relating to implementation of 10 CFR [Part] 50, Appendix J, Option B do not significantly affect the allowable containment leakage rates presently specified in the Technical Specifications. The Technical Specifications, under the proposed changes, will continue to ensure containment reliability by periodic testing performed in full compliance with 10 CFR [Part] 50, Appendix J.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Anthony J. Mendiola.

FirstEnergy Nuclear Operating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of amendment request: July 28, 1999.

Description of amendment request: The proposed amendment would change Technical Specification (TS) Section 3/4.7.5.1, ''Ultimate Heat Sink,'' to allow operation on Modes 1 through 4 with an Ultimate Heat Sink water temperature of less than or equal to 90°F, instead of the current limit of less than or equal to 85°F.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

The Davis-Besse Nuclear Power Station has reviewed the proposed changes and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit No. 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because no accident initiators, conditions, or assumptions are significantly affected by the proposed change. The proposed change would increase the allowable Ultimate Heat Sink (UHS) water temperature, as specified in TS LCO 3.7.5.1.b, from less than or equal to 85°F to less than or equal to 90°F. This water is used by the Service Water System to provide cooling to equipment that is used to mitigate accidents such as a Large Break Loss of Coolant Accident. This increase in Service Water temperature has been evaluated and the proposed change does not result in the operation of equipment important to safety outside their acceptable operating ranges.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because the proposed change does not change the source term, containment isolation, or allowable releases. The proposed increase in the Service Water System temperature has been evaluated with respect to the containment and equipment used to mitigate the consequences of accidents previously evaluated. These evaluations have determined that there are no significant increases in consequences.

2. Not create the possibility of a new or different kind of accident from any accident previously evaluated because no new accident initiators or assumptions are introduced by the proposed 5°F increase in UHS temperature. The proposed change does not result in installed equipment being operated outside their design operating ranges. No new or different equipment failure modes or mechanisms are introduced by the proposed change.

3. Not involve a significant reduction in a margin of safety because the proposed 5°F increase in UHS temperature does not result in significant changes to the initial conditions contributing to accident severity or consequences.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Attorney for licensee: Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037 .

NRC Section Chief: Anthony J. Mendiola.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: June 17, 1999.

Description of amendment request: The proposed amendment modifies multiple surveillance requirements to support implementation of a 24-month operating cycle.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

A. Frequency Extensions

The proposed Technical Specification (TS) changes involve a change in the surveillance testing intervals to facilitate a change in the Perry Nuclear Power Plant (PNPP) operating cycle from 18 months to 24 months. The proposed TS changes do not physically impact the plant, nor do they impact any design or functional requirements of the associated systems. That is, the proposed TS changes do not degrade the performance of, or increase the challenges to, any safety systems assumed to function in the accident analysis. The proposed TS changes do not impact the TS surveillance requirements themselves, or the way in which the surveillances are performed. In addition, the proposed TS changes do not introduce any accident initiators, since no accidents previously evaluated have, as their initiators, anything related to the frequency of surveillance testing. Also, evaluation of the proposed TS changes demonstrated that the availability of equipment and systems required to prevent or mitigate the radiological consequences of an accident are not significantly affected because of other, more frequent testing that is performed, the availability of redundant systems and equipment, or the high reliability of the equipment. Since the impact on the systems is minimal, it is concluded that the overall impact on the plant accident analysis is negligible. Furthermore, a historical review of surveillance test results and associated maintenance records indicated that there was no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed TS changes do not significantly increase the probability or consequences of an accident previously evaluated.

B. Allowable Value Changes

The proposed changes in Allowable Values for the instrumentation include in Table 3.3.8.1–1 Items d and e of the Technical Specifications are the result of application of the Perry Instrument Setpoint Methodology (ISM) using plant specific drift values. Application of this methodology results in Allowable Values which more accurately reflect total instrumentation loop accuracy as well as that of test equipment and calculated drift between surveillances. The proposed changes will not result in any hardware changes. The instrumentation is not assumed to be an initiator of any analyzed event. Existing operating margin between plant conditions and actual plant setpoints is not significantly reduced due to these changes. The role of the instrumentation is in mitigating and thereby limiting the consequences of accidents. The Allowable Values have been developed to ensure that the design and safety analysis limits will be satisfied. The methodology used for the development of the Allowable Values ensures the affected instrumentation remains capable of mitigating design basis events as described in the safety analyses and that the results and radiological consequences described in the safety analyses remain bounding. Additionally, the proposed change does not alter the plant's ability to detect and mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

C. Frequency Reductions to Semiannual

The proposed Technical Specification (TS) changes involve a change in the surveillance testing intervals from 18 months to either 6 months or quarterly. The shorter frequencies are based on PNPP specific results of setpoint drift evaluations. The proposed more restrictive TS changes do not physically impact the plant, nor do they impact any design or functional requirements of the associated systems. That is, the proposed TS changes do not degrade the performance of, or increase the challenges to, any safety systems assumed to function in the accident analysis. The proposed TS changes do not impact the TS surveillance requirements themselves, or the way in which the surveillances are performed. In addition, the proposed TS changes do not introduce any accident initiators, since no accidents previously evaluated have, as their initiators, anything related to the frequency of surveillance testing. The proposed TS frequencies will demonstrate that the equipment and systems required to prevent or mitigate the radiological consequences of an accident are continuing to meet the assumptions of the setpoint evaluation, on a more frequent basis. Since the impact on the systems is minimal, and the assumptions of the safety analyses will be maintained, it is concluded that the overall impact on the plant accident analysis is negligible. Furthermore, a historical review of surveillance test results and associated maintenance records indicated that there was no evidence of any failures that would invalidate the proposed test frequencies. Therefore, the proposed TS changes do not significantly increase the probability or consequences of an accident previously evaluated.

The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

A. Frequency Extensions

The proposed TS changes involve a change in the surveillance testing intervals to facilitate a change in the PNPP operating cycle length. The proposed TS changes do not introduce any failure mechanisms of a different type than those previously evaluated, since there are no physical changes being made to the facility. No new or different equipment is being installed. No installed equipment is being operated in a different manner. As a result, no new failure modes are being introduced. In addition, the surveillance test requirements themselves, and the way surveillance tests are performed, will remain unchanged. Furthermore, a historical review of surveillance test results and associated maintenance records indicated there was no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

B. Allowable Value Changes

The proposed changes are the result of application of the ISM using plant specific drift values and do not create the possibility of a new or different kind of accident from any accident previously evaluated. This is based on the fact that the method and manner of plant operation is unchanged. The use of the proposed Allowable Values does not impact safe operation of PNPP in that the safety analysis limits will be maintained. The propose Allowable Values involve no system additions or physical modifications to systems in the station. These Allowable Values were revised to ensure the affected instrumentation remains capable of mitigating accidents and transients. Plant equipment will not be operated in a manner different from previous operation, except that setpoints may be changed. Since operational methods remain unchanged and the operating parameters have been evaluated to maintain the station within existing design basis criteria, no different type of failure or accident is created.

C. Frequency Reductions to Semiannual or Quarterly

The proposed TS changes involve a change in the surveillance testing interval due to the application of the ISM and plant specific drift analysis results. Also, the quarterly tests reflect current PNPP calibration practices, since the components are normally calibrated during the Channel Functional Test. The proposed TS changes do not introduce any failure mechanisms of a different type than those previously evaluated, since there are no physical changes being made to the facility. No new or different equipment is being installed. No installed equipment is being operated in a different manner. The proposed change does not impact core reactivity, or the manipulation of fuel bundles. As a result, no new failure modes are being introduced. In addition, the surveillance test requirements themselves, and the way surveillance tests are performed, will remain unchanged. Furthermore, a historical review of surveillance test results and associated maintenance records indicated there was no evidence of any failures that would invalidate the above conclusions. Therefore, the proposed TS changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed amendment will not involve a significant reduction in a margin of safety.

A. Frequency Extensions

Although the proposed TS changes will result in changes in the interval between surveillance tests, the impact, if any, on system availability is small, based on other, more frequent testing that is performed, or the existence of redundant systems and equipment, or overall system reliability. Evaluations have shown there is no evidence of time dependent failures that would impact the availability of the systems. The proposed change does not significantly impact the condition or performance of structures, systems, and components relied upon for accident mitigation. The proposed change does not significantly impact any safety analysis assumptions or results. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

B. Allowable Value Changes

The proposed change does not involve a reduction in a margin of safety. The proposed changes have been developed using a methodology to ensure safety analysis limits are not exceeded. As such, this proposed change does not involve a significant reduction in a margin of safety.

C. Frequency Reductions to Semiannual or Quarterly

The proposed TS changes will result in a shorter interval between surveillance tests to ensure that the assumptions of the safety analysis are maintained. The impact, if any, on system availability is small, as a result of this more frequent testing that is performed. The proposed change does not significantly impact the condition or performance of structures, systems, and components relied upon for accident mitigation. The proposed change does not significantly impact any safety analysis assumptions or results. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Section Chief: Anthony J. Mendiola.

FirstEnergy Nuclear Operating Company, Docket No. 50–440, Perry Nuclear Power Plant, Unit 1, Lake County, Ohio

Date of amendment request: August 4, 1999.

Description of amendment request: The amendment would incorporate an additional option into the Required Actions for Technical Specification 3.9.1, ''Refueling Equipment Interlocks.'' The change would provide additional Required Actions when the refueling interlocks are inoperable. The alternative would permit continued refueling activities once control rod withdrawal is blocked and operators verify that all appropriate controls rods are fully inserted.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The proposed change does not involve a significant increase in the probability or

consequences of an accident previously evaluated.

The refueling interlocks are explicitly assumed in the Perry Nuclear Power Plant Updated Safety Analysis Report (USAR) analyses of the control rod removal error and fuel loading error during refueling. This analysis evaluates the probability and consequences of control rod withdrawal during refueling. Criticality and, therefore, subsequent prompt reactivity excursions are prevented during the loading of fuel, provided all required control rods are fully inserted. The refueling interlocks accomplish this by preventing loading fuel into the core with any control rod withdrawn, or by preventing withdrawal of a rod from the core during fuel loading. When the refueling interlocks are inoperable, the current method of preventing fuel loading when a control rod is withdrawn, is to prevent fuel movement. This method is currently required by the Technical Specifications. An alternate method to ensure that fuel is not loaded into a cell with the control rod withdrawn is to prevent control rods from being withdrawn and verify that all control rods required to be inserted are fully inserted. The proposed Technical Specification Required Actions will require that a control rod block be placed in effect, thereby ensuring that control rods are not subsequently inappropriately withdrawn. Additionally, following placing the control rod withdrawal block in effect, the proposed actions will require that all required control rods be verified to be fully inserted. This verification is in addition to the requirements to periodically verify control rod position by other Technical Specification requirements. These proposed actions will ensure that control rods are not withdrawn and cannot be inappropriately withdrawn, because an electrical or hydraulic block to control rod withdrawal is in place. Like the current requirements, the proposed will ensure that unacceptable operations are blocked (e.g., loading fuel into a cell with a control rod withdrawn, except when following the requirements of LCO 3.10.6, ''Multiple Control Rod Removal—Refueling,'' which is unaffected by this change). The proposed additional Required Actions provide an equivalent level of assurance that fuel will not be loaded into a core cell with a control rod withdrawn as do the current Required Action or the Surveillance Requirement. Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change in the Technical Specification requirements does not involve a change in the plant design, or to the status of the reactor core during refueling. The proposed actions will ensure that control rods are not withdrawn and cannot be inappropriately withdrawn, because an electrical or hydraulic block to control rod withdrawal is in place. Although the exact method by which the control rod withdrawal block is inserted is revised, the net effect is equivalent. The requirements will continue to ensure that fuel is not loaded into the core when a control rod is withdrawn, except when following the requirements of LCO 3.10.6, ''Multiple Control Rod Removal—Refueling,'' which is unaffected by this change. Therefore, no new failure modes are introduced, and the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change will not involve a significant reduction in the margin of safety.

As discussed in the Bases for the affected Technical Specification requirements, inadvertent criticality is prevented during the loading of fuel provided all required control rods are fully inserted during the fuel insertion. The refueling interlocks function to support the refueling procedures by preventing control rod withdrawal during fuel movement and the inadvertent loading of fuel when a control rod is withdrawn. The proposed change will allow the refueling interlocks to be inoperable and fuel movement to continue only if a control rod withdrawal block is in effect and all required control rods are verified to be fully inserted. These proposed Required Actions provide an equivalent level of protection as the refueling interlocks by preventing a configuration which could lead to an inadvertent criticality event. The refueling procedures will continue to be supported by the proposed Required Actions because control rods cannot be withdrawn and as a result fuel cannot be inadvertently loaded when a control rod is withdrawn, except when following the requirements of LCO 3.10.6, ''Multiple Control Rod Removal—Refueling,'' which is unaffected by this change. Therefore, the proposed changes do not cause a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, OH 44081.

Attorney for licensee: Mary E. O'Reilly, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, OH 44308.

NRC Section Chief: Anthony J. Mendiola.

Florida Power and Light Company, et al., Docket No. 50–389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of amendment request: February 23, 1999.

Description of amendment request: The proposed license amendment would remove redundant boron concentration monitoring requirements specified for operating Modes 3 through 6 by deleting Technical Specification 3/4.1.2.9, ''Reactivity Control Systems—Boron Dilution.'' These requirements were interim measures intended to apply until a permanent boron dilution alarm system was installed and functional.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve changes to previously evaluated accident initiators. The proposed deletion of the redundant boron concentration verification requirements do not impact the results of existing accident analyses, and will have no adverse impact on any plant system performance. TS 3/4.1.2.9 provides mode and charging pump dependent monitoring requirements for RCS boron concentration that are designed to detect an unplanned boron dilution event in MODES 3 through 6 in the absence of an automatic alarm system, and is based on the time requirements for operator action specified in Section 15.4.6 of the Standard Review Plan (SRP). This specification evolved from interim measures that were proposed by FPL until the boron dilution alarm system (BDAS) could be made completely functional following initial start-up of St. Lucie Unit 2. The BDAS is completely functional and provides redundant control room alarms to alert operators to the occurrence of an unplanned boron dilution event in Modes 3 through 6. The alarm setpoints are based on Chemical and Volume Control System (CVCS) malfunction analyses, and satisfy the same SRP acceptance criteria upon which the monitoring requirements of TS 3/4.1.2.9 were based. Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment will not change the physical plant or the modes of operation defined in the facility license. The amendment will remove requirements from the facility technical specifications that were proposed by FPL as interim measures until the boron dilution alarm system became completely functional. The amendment will not alter the design of St. Lucie plant systems described in the Updated Final Safety Analysis Report (UFSAR), and the plant configuration will continue to remain consistent with assumptions used in the existing accident analyses. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of

accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety. The proposed amendment has been evaluated with respect to the applicable safety analyses. The BDAS provides a continuous, early warning capability to detect a boron dilution event in Modes 3, 4, 5 and 6, and satisfies the same SRP time requirements for operator action as the interim TS that is proposed for deletion. BDAS setpoints are determined and/or validated for each fuel cycle to ensure they remain consistent with the CVCS malfunction analyses of record, and changes that may become necessary are controlled pursuant to 10 CFR 50.59. The minimum required Shutdown Margin is not changed by this proposal. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954–9003.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Sheri R. Peterson.

Florida Power and Light Company, Docket Nos. 50–250 and 50–251, Turkey Point Plant, Units 3 and 4, Dade County, Florida

Date of amendment request: July 27, 1999.

Description of amendment request: The proposed amendments request that Turkey Point Unit 3 Technical Specification (TS) 3/4.8.1, A.C. SOURCES,TS 3/4.4.3, PRESSURIZER, and TS 3/4.5.2, ECCS SUBSYSTEMS—T_{avg} GREATER THAN OR EQUAL TO 350°F, be revised on a one-time basis to extend the Allowed Outage Time (AOT) for an inoperable Emergency Diesel Generator (EDG) from 72 hours to 7 days. The proposed one-time AOT extension will be used to replace the Unit 3 EDG engine radiators prior to the Spring 2000 refueling outage. However, replacement of the radiator is a very labor-intensive evolution that cannot be performed within the existing 72 hour AOT. The proposed AOT extension will allow the radiator replacement activity to be completed successfully in a safe manner. The extended AOT will be applied to one EDG at a time in a sequential manner. When the radiator replacement activity is complete on one engine, it will be returned to service so that work can proceed on the redundant EDG. It should be noted that although the proposed changes apply only to Unit 3, the Unit 4 TSs are administratively affected since the TSs are combined for both units.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The Emergency Diesel Generators (EDG) are part of the on-site electrical power distribution system. They function as a standby power source in the event that the preferred A.C. power supply, i.e., offsite power, is interrupted. While certain failures in the electrical distribution system can lead to a loss of offsite power which is a design basis event for the plant, the EDGs are not assumed to be an initiating condition of any accident evaluated in the safety analysis report. Therefore, a one-time extension in the EDG Allowed Outage Time (AOT) does not involve a significant increase in the probability of an accident previously evaluated.

The purpose of the proposed license amendment is to permit on-line replacement of the Unit 3 EDG radiators. The radiators are part of the closed-loop diesel engine cooling water system and do not interface with any system or component that contains radioactivity. The EDGs do supply A.C. power to the emergency core cooling and containment heat removal systems during accidents that involve loss of offsite power. However, no changes are predicted for the postulated post-accident releases since adequate EDG capacity will be available under the conditions of the proposed license amendment to accommodate any design basis accident condition. Accordingly, the consequences of accidents previously evaluated in the safety analysis report are not changed by an extended EDG outage.

Probabilistic Safety Assessment (PSA) techniques were used to evaluate the impact of a one-time extension of the EDG AOT from 72 hours to 7 days. The results of these analyses indicate that extending the AOT for the purpose of replacing the engine radiator cores represents an acceptably small impact on Core Damage Probability.

Based on the above, FPL concludes that the proposed amendment does not involve a significant increase in the probability or consequences of any accident previously evaluated.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not alter the design, physical configuration, or modes of operation of the plant. Plant configurations that are prohibited by Technical Specifications will not be created by the one-time EDG AOT extension. Therefore, the proposed activity does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed license amendment will extend by 96 hours the requirement to shutdown the plant when a Unit 3 EDG is removed from service for maintenance. The one-time AOT extension will not alter plant equipment, setpoints, or operating practices that provide the existing margins of safety. Therefore, the change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199.

Attorney for licensee: M.S. Ross, Attorney, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Section Chief: Sheri R. Peterson.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: August 27, 1998.

Description of amendment request: The amendment would delete the requirements for an emergency plan from the 10 CFR Part 50 license and technical specifications after the spent nuclear fuel is transferred to a Part 72 licensed independent spent fuel storage installation (ISFSI).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed elimination of the emergency plan requirements from the 10 CFR 50 license is predicated on completion of transfer of the spent nuclear fuel to the proposed 10 CFR 72 ISFSI licensed area and removal of the reactor vessel and internals from the 10 CFR 50 licensed area of the site.

Removal of the potential radiological source terms for accidents previously evaluated effectively eliminates the credibility of the accidents, therefore, elimination of the emergency plan requirements does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change is deletion of emergency plan requirements and, as such, has no direct impact on plant equipment or the procedures for operating plant equipment. Therefore, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Following the removal of the spent nuclear fuel and the reactor vessel and internals from the 10 CFR 50 licensed area, the remaining credible accidents are limited to decommissioning activities. The potential accidents associated with decommissioning activities are presented in the TNP [Trojan Nuclear Plant] Decommissioning Plan and have been shown to have consequences less than the EPA PAGs [Environmental Protection Agency Protective Action Guidelines]. Following the removal of the spent nuclear fuel and the reactor vessel (including the internals) from the 10 CFR 50 site, no credible accidents associated with the remaining decommissioning activities would require pre-planned emergency measures to avoid acute radiation doses. The deletion of the Trojan Nuclear Plant Permanently Defueled Emergency Plan will not result in a reduction in the margin of safety previously analyzed. Therefore, the proposed 10 CFR 50 license amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Attorney for licensee: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Section Chief: Michael T. Masnik.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: February 19, 1998, as supplemented July 28, 1999.

Description of amendment request: This application for amendment to the Indian Point 3 Technical Specifications (TSs) proposes to revise the Radioactive Effluents Technical Specifications (RETS) in accordance with Generic Letter 89–01 (GL–89–01), to make changes to implement revised 10 CFR Part 20 requirements, and to make administrative changes under 10 CFR 50.36a.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

A. The proposed changes involve (1) combining related LCO and surveillance requirements from Sections 2.0 and 3.0, respectively, of the Indian Point 3 (IP3) RETS and relocating this text to the new Radiological Effluent Controls (REC) section of the ODCM, (2) relocating the bases contained in Section 4.0 of the RETS to the ODCM REC, (3) relocating the detailed reporting requirements contained in Section 5.0 of the RETS to the ODCM REC, and (4) updating references to 10 CFR Part 20. Additional changes include formatting both the remaining RETS and the new REG to more closely model Standard Technical Specifications (STS), revising the frequency of the Radioactive Effluent Release Report in accordance with 10 CFR 50.36a, relocating all definitions to Appendix A of the Technical Specifications and adding/deleting definitions as necessary, and adding a new Special Reports section to the ODCM. Most of the changes are (1) consistent with the guidance provided in the generic letter, NUREG–1301, or provisions of 10 CFR; or (2) editorial. Editorial changes include the relocation of text, correction of typographical and punctuation errors, renumbering, reformatting, immaterial wording revisions/deletions/clarifications which do not change intent, and updating references.

B. The proposed revisions to the liquid and gaseous release rate limits, the relocation of the old 10 CFR 20.106 requirements to the new 10 CFR 20.1302, and the revision to the TS bases for the Liquid Holdup Tank activity will involve no change in the types or amounts of effluents that will be released, nor will there be an increase in individual or cumulative occupational radiation exposures.

The changes of definitions, terminology, paragraph references, and report submittal frequency are necessary to keep IP3 TS consistent with revised federal regulations (i.e., 10 CFR 20 and 10 CFR 50.36(a)). Record retention and reporting requirements will continue to meet NRC regulations. These changes are administrative in nature and do not affect plant hardware or operation.

The changes do not impact the operation, design, configuration, or testing of plant structures, systems or components. As such, the proposed changes do not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

A. The changes do not impact the operation, design, configuration, or testing of plant structures, systems or components. The changes do not result in a change in type or amount of radiological effluents released. As such, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

A. The changes are being made in accordance with NRC guidance and continue to assure compliance with the applicable regulatory requirements including 10 CFR 20. The changes do not result in a change in the types or amounts of effluents released. The current level of radiological effluent control will be maintained. As such, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Section Chief: S. Singh Bajwa.

Sacramento Municipal Utility District (the District), Docket No. 50–312, Rancho Seco Nuclear Station, Sacramento County, California

Date of amendment request: March 18, 1996 (PA–192).

Description of amendment request: The proposed amendment would update the Rancho Seco cask drop analysis and establish the cask drop event as the design-basis event for plant operation in the permanently defueled mode. The proposed amendment would also make editorial changes to the Permanently Defueled Technical Specifications and Bases by adding the word ''heavy'' to specification D3.3 and eliminating references to the MP–187 cask in specification D3.3 and D4.3.3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The District has reviewed the proposed changes against each of the criteria in 10 CFR 50.92, and, based on the above safety analysis, concludes:

Using the Gantry Crane to handle a fully loaded transfer cask in the Fuel Storage Building will not create a significant increase in the probability or consequences of an accident previously evaluated in the SAR [safety analysis report], because the conservative dose consequence calculated for the updated, design basis cask drop event resulted in an exposure (224 mrem) that is:

1. A very small percentage ([approximately] 0.9%) of the 10 CFR 100 design basis accident dose limit of 25 rem total body;
2. A small percentage ([approximately] 3.6%) of the NUREG–0612 control of heavy loads accident dose limit of 6.25 rem total body;
3. Well within ([approximately] 4.5%) of the old EPA [Environmental Protection Agency] NUREG–0654 plume exposure Protective Action Guidelines of 500 mrem total body dose;
4. Well within the new EPA 1 to 5 rem Total Effective Dose Equivalent (TEDE) Protective Action Guidelines (PAGs) specified in document EPA–400–R–92–001, Table 2–1, May 1992;
5. Less than the maximum hypothetical Rancho Seco Independent Spent Fuel Storage Installation design basis accident (375 mrem total body dose);
6. Less than the original Rancho Seco operating design basis for the Fuel Storage Building FHA [fuel-handling accident] exposure (399 mrem);
7. Less than the original Rancho Seco operating design basis for the Reactor Building FHA exposure (477 mrem); and
8. Much less than the original Rancho Seco operating design basis Maximum Hypothetical Accident exposure (3,600 mrem).

Therefore, the conservatively calculated 224 mrem cask drop design basis accident exposure is (1) relatively small and (2) *not* considered a significant hazard.

Also, the probability of occurrence of the FHA, which is the current design basis accident, is similar to the probability of occurrence of the updated cask drop event. The FHA is assumed to occur because the fuel handling bridge is not single failure proof. Likewise for the cask drop scenario, since the Gantry Crane is not single failure proof, this Safety Analysis Report evaluates the Gantry Crane dropping a loaded spent fuel cask.

This Safety Analysis Report analyzes the dropped cask accident scenario even though the Gantry Crane and fuel handling bridge are:

1. Designed to safely handle their respective loads (i.e., a loaded transfer cask and a spent fuel assembly, respectively; and
2. In compliance with the design and administrative requirements addressed in NUREG–0612, ''Control of Heavy Loads at Nuclear Power Plants.''

A loaded cask transfer drop is a very unlikely event because of the numerous Gantry Crane safety features described in the above safety Analysis Report. These features described above include:

1. Gantry Crane Administrative Safety Features;
2. Gantry Crane Design Safety Features;
3. General Gantry Crane Control System Design Safety Features;
4. Gantry Crane Radio Control System Design Safety Features;
5. Hoist Design Safety Features; and
6. Trolly and Bridge Design Safety Features.

The updated cask drop accident scenario will not create the possibility of a new or different type of accident than previously evaluated in the SAR, because the DSAR [defueled SAR] currently evaluates a cask drop event. The cask drop scenario evaluated in the above Safety Analysis Report just updates the existing cask drop analysis. The updated cask drop analysis only:

1. Identifies the type of spent fuel cask that Rancho Seco will use;
2. Results in a change to the calculated dose consequence associated with the current, bounding, design basis accident (i.e., the FHA); and
3. Results in a change to the existing Rancho Seco cask drop analysis.

The updated, design basis, cask drop event will not involve a significant reduction in the margin of safety, because the conservatively calculated dose consequence associated with the postulated drop of a spent fuel transfer cask is:

1. Relatively small (i.e., 224 mrem) compared to the eight accident limits and previously calculated accident doses summarized above;
2. A very unlikely event;
3. Not a significant hazard; and
4. Not a public health and safety concern.

This conclusion is the same for the FHA, which is the current, bounding, Rancho Seco design basis accident.

Also, the Emergency Planning Zone remains unchanged for this updated, cask drop accident scenario. No significant changes to the Rancho Seco Emergency Plan result from this proposed change to the updated, design basis accident at Rancho Seco.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. The staff also reviewed the proposed editorial changes for no significant hazards consideration. The proposed editorial changes do not affect the design or operation of the facility and also satisfy the three standards of 10 CFR 50.92(c). Therefore, the NRC staff proposes to determine that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Central Library, Government Documents, 828 I Street, Sacramento, California 95814

Attorney for licensee: Dana Appling, Esq., Sacramento Municipal Utility District, P.O. Box 15830, Sacramento, California 95852–1830

NRC Section Chief: Michael T. Masnik

Southern Nuclear Operating Company, Inc, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: March 12, 1998, as supplemented April 24, August 20 and November 20, 1998, and February 3, 1999

Description of amendment request: The proposed amendments would revise the Technical Specifications (TS) of each unit to conform with NUREG–1431, Revision 1, ''Standard Technical Specifications—Westinghouse Plants.'' The Commission had previously issued a Notice of Consideration of Issuance of Amendments in the **Federal Register** on May 25, 1999, (64 FR 28218) covering all the proposed changes that were within the scope of NUREG–1431. The following descriptions and no significant hazard analyses cover only those items that are beyond the scope of NUREG–1431. Associated with each change are administrative/editorial changes which would make the new or revised requirements fit into the format of NUREG–1431.

1. The Standard Technical Specification (STS) terms FQW(Z) and FQC(Z) in Limiting Condition for Operation (LCO) 3.2.1 would be deleted and the terms FQ(Z), ''steady state'' limit and ''transient'' limit would be used. (Significant Hazards Evaluation A)
2. The STS wording in Required Action 3.2.4.A to ''reduce'' thermal power would be revised to ''limit'' thermal power to allow entry into the LCO applicability during startup when QPTR may be in excess of 1.02 due to transient core conditions which are usually self-correcting. (A)
3. The Applicability of LCO 3.2.4 would be revised to be consistent with the Applicability for the AFD LCO to eliminate subtle differences between the two LCO Applications which were previously the same. (M)
4. The Reactor Coolant System Loop Test specified in the TS LCO 3/4.10.4 would not be included. (L–1)
5. A new Action would be added to the Emergency Core Cooling System (ECCS)—Shutdown LCO 3.5.3. The new Action deals with the centrifugal charging subsystem. (L–2)
6. The Reactor Coolant Pump (RCP) seal injection flow requirements of 3.5.5 would be revised. The requirement to verify a single operating point would be changed to require verification of a range of values on an operating curve. (M)
7. The time allowed to reduce the power range neutron flux setpoint in 3.7.1 to within the required limit would be extended and made applicable in Mode 1 only. (L–3 and L–3a)

8. The Actions in 3.7.2 for an inoperable Main Steam Isolation Valve (MSIV) would be revised to take credit for the redundant MSIVs in each steam line. (L–4)

9. An Action would be added to the Service Water (SW) LCO 3.7.8 that accounts for the redundant automatic turbine building isolation valves in each Farley SW train. (L–5)

10. The diesel generator accelerated Test Table 3.8.1–1 would be deleted. (LA)

11. The AC Sources—Shutdown surveillance 3.8.2.1 would be revised to more clearly state the required surveillances. (L–6 and L–6a)

12. The Actions 3.8.4 and 3.8.9 for an inoperable SW intake structure Battery and Distribution System would be revised to more accurately reflect the Farley design. (L–7)

13. The STS footnote to ESFAS Table 3.3.2–1 would be revised to be consistent with the design of the Farley main steam system. (L–8)

14. A new Condition C would be added to LCO 3.3.4 to address actions associated with the source range neutron flux monitor. (M)

15. LCO 3.3.5 would be revised to accommodate the addition of a degraded grid alarm function. (M)

16. The specific title in 5.1.2 for the control room command function would be replaced with a more general description. (L–9)

17. The specific title in 5.3.1 of Health Physics Supervisor would be replaced with a more general description. (A)

18. The inspection frequency specified in 5.5.7 for the RCP flywheel would be revised to be consistent with the NRC-approved WCAP–14535A, ''Topical Report on RCP Flywheel Inspection Elimination,'' November 1996. (L–10)

19. The Health Physics Supervisor title in 5.7.1.c would be replaced with a more general description. (L–11)

20. The Emergency Diesel General (DG) Failure Report in 5.6.7 would be revised to be consistent with the latest Farley commitments for DG failure tracking and reporting. (L–12)

21. A note would be added to Surveillance Requirement (SR) 3.4.1.4 that would not require this surveillance until 7 days after reaching greater than 90% power. (M)

22. SR 3.4.5.2 would require verification that steam generator secondary side water levels are 74% (wide range). (M)

23. LCO 3.4.15 would differ from the STS in several aspects. One aspect would extend the Allowable Outage Time from 7 days to 30 days for an inoperable leakage detection system. (L–13)

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. Each proposed out-of-scope item described above is followed in parenthesis by either an A (for administrative changes), an M (for changes which would be more restrictive), an LA (for requirements that would be removed from the TS), or an L and a number (for changes that would be less restrictive). Following are the no significant hazards analyses corresponding to each of these designations.

[A—Administrative Changes]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes involve reformatting, renumbering, and rewording of the CTS. These changes involve no technical revisions to the CTS and were made to conform with the format and style of the STS. As such, these changes are administrative in nature and do not impact initiators of analyzed events or safety analyses assumptions relative to the mitigation of accidents or transient events. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed changes will not impose any new or different requirements or eliminate any existing requirements. In addition, the change does not alter assumptions made in the safety analyses and licensing basis. Therefore, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature and do not involve any technical changes. As such, these changes do not impact any safety analysis assumptions and no question of safety is involved. Therefore, the changes do not involve a significant reduction in a margin of safety.

[M—More Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes provide more stringent requirements than previously existed in the CTS. These more stringent requirements are not assumed to be initiators of analyzed events and will not alter assumptions relative to mitigation of accident or transient events. The changes are evaluated to ensure no previously analyzed accident has been adversely affected. The more stringent requirements are imposed to ensure process variables, structures, systems and components are maintained consistent with the safety analyses and licensing basis. These changes will not alter assumptions relative to mitigation of an accident or transient event nor will they alter the operation of process variables, structures, systems, or components described in the safety analyses. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes add more restrictive requirements to the TS or make existing requirements more restrictive. The proposed changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. The proposed changes do impose new or different requirements. However, these changes are consistent with assumptions made in the safety analysis and licensing basis. Thus, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed changes add more restrictive requirements to the TS or make existing requirements more restrictive and have been evaluated to ensure consistency with the safety analysis and licensing basis. As such, these changes do not impact any safety analyses assumptions and no question of safety is involved. Therefore, these changes do not involve a reduction in a margin of safety.

[LA—Removal of Requirements]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes relocate requirements from the CTS to a licensee controlled document. The document containing the relocated requirements will be maintained using the provisions of 10 CFR 50.59. Therefore, the proposed changes will only reduce the level of regulatory control on these requirements. The level of regulatory control has no impact on the probability or the consequences of an accident previously evaluated. Thus, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes relocate requirements from the CTS to a licensee controlled document. The changes do not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any

existing requirements. The changes do not alter assumptions made in the safety analyses and licensing basis. Thus, the changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed changes relocate requirements from the CTS to a licensee controlled document for which future changes will be evaluated pursuant to the requirements of 10 CFR 50.59. The proposed changes do not reduce a margin of safety because they have no impact on any safety analysis assumptions. Therefore, these changes do not involve a significant reduction in a margin of safety.

[L–1—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change involves deleting the CTS 3/4.10.4, Reactor Coolant Loops Test Exception, requirements and does not result in any hardware changes. The proposed change deletes a test exception LCO that is no longer used or required at FNP. The natural circulation test, for which this exception is designed, was only required to be performed at FNP during the initial plant startup test program. The proposed changes do not impact the capability of the plant or any equipment to provide the required safety function as described in the FSAR. In addition, the results of the analyses described in the FSAR remain bounding. Also, the proposed changes do not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change involves changing the CTS requirements to delete a test exception that is no longer used and does not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change, which deletes CTS 3/4.10.4 does not involve a significant reduction in a margin of safety. The proposed change does not impact any safety analysis assumptions and does not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. Therefore, the proposed change does not impact any margin of safety.

[L–2—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

This change does not result in any hardware changes. The ECCS components covered by this TS are not assumed to be initiators of any analyzed event. Therefore, this change does not involve a significant increase in the probability of an accident previously evaluated. The change would allow the required ECCS centrifugal charging subsystem to be inoperable for up to 72 hours providing the remaining operable ECCS components can provide the flow equivalent to a single operable train which will ensure 100% of the flow assumed in the safety analyses. Since the ability of the ECCS to perform its safety function is not lost, this change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change will only more accurately define the minimum equipment required to be operable to perform the ECCS function while in this Condition. Therefore, this change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change, which allows operation to continue for up to 72 hours with components inoperable in the required ECCS centrifugal charging subsystem, is acceptable based on the remaining ECCS components providing 100% of the required ECCS flow, the small probability of an event occurring in 72 hours that would require the ECCS, and the reduced potential for a unit transient resulting from the shutdown required by current TS for an inoperable required ECCS centrifugal charging subsystem. The proposed allowed outage time of 72 hours for this condition is consistent with the time currently allowed for one train of ECCS to be inoperable in Modes 1–3. The exposure of the unit to the small probability of an event requiring ECCS during this time is insignificant and offset by the benefit gained through avoiding unnecessary plant transients. Therefore, this change does not involve a significant reduction in margin of safety.

[L–3—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes extend the time allowed to adjust the Power Range Neutron Flux-High trip setpoints for the case of two or more inoperable MSSVs per SG and/or positive Moderator Temperature Coefficient (MTC) and removes the requirement to adjust the Power Range Neutron Flux-High trip setpoints only one MSSV is inoperable and the MTC is zero or negative and do not result in any hardware or operating procedure changes. The affected trip setpoints, the requirement to reduce them or the time allowed to adjust them are not assumed to be an initiator of any analyzed event. In addition, the affected trip setpoints, the requirement to reduce them and the time allowed to adjust them are not a precursor to any accident analyses. Therefore, the proposed changes do not increase the probability of an accident previously evaluated. The Power Range Neutron Flux-High trip functions to mitigate the consequences of an analyzed event by shutting down the reactor. The proposed changes continue to provide assurance that the setpoints will be properly adjusted to ensure the system functions as assumed in the applicable safety analyses. Therefore, the consequences of an accident are not significantly increased.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes do not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed changes still ensure the operability of the trip function at the correct setpoint and will facilitate the adjustment of the setpoints such that the probability of error is minimized. Thus, these changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The time allowed to adjust the setpoints of the affected instrumentation is not a specific assumption of any safety analysis. For the case of a single inoperable MSSV with a zero or negative MTC, a reactor power reduction alone is sufficient to limit primary side heat generation such that overpressurization of the secondary side is precluded for any RCS heatup event. Furthermore, for this case there is sufficient total steam flow capacity provided by the turbine and the remaining OPERABLE MSSVs to preclude overpressurization in the event of an increased reactor power due to reactivity insertion, such as in the event of an uncontrolled RCCA bank withdrawal at power. The proposed changes still ensure the setpoints are reduced consistent with the assumptions of the safety analysis for the case of two or more inoperable MSSVs or a positive MTC. The proposed changes also reduce the potential for an inadvertent reactor trip that could result from adjusting the trip setpoints too quickly. As such, any reduction in a margin of safety will be insignificant and will likely be offset by the benefit gained from the reduced potential for an inadvertent plant trip.

[L3a—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change clarifies the Action requirement to reduce the power range neutron flux-high trip setpoint in Modes 2 and 3 and does not result in any hardware or operating procedure changes. The proposed change adds a note to the Action which specifies that the Action is only required in Mode 1. In Modes 2 and 3, other reactor trips (power range low and source range high) provide the required protection consistent with the acceptance criteria of the safety analysis. Therefore, the Action is not required in these Modes. The affected trip

setpoints are not assumed to be an initiator of any analyzed event. In addition, the affected trip setpoints are not a precursor to any accident analyses. Therefore, the proposed change does not increase the probability of an accident previously evaluated. The affected reactor trip functions mitigate the consequences of an analyzed event by shutting down the reactor. The proposed change continues to provide assurance that the required reactor trip functions operate as assumed in the applicable safety analyses. Therefore, the consequences of an accident are not significantly increased.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change still ensures the operability of the reactor trip function at the correct setpoint for the correct Mode of operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change does not affect the ability of the MSSVs and reactor trip system to mitigate the applicable transients consistent with the assumptions of the safety analysis. The proposed change continues to ensure the acceptance criteria of the applicable safety analyses are met (primary and secondary system pressures are limited to within the required values). As such, any reduction in a margin of safety will be insignificant and will likely be offset by the benefit gained from the reduced potential for an inadvertent plant trip that could result from an error in adjusting the power range neutron flux-high trip setpoint (unnecessary in Mode 2).

[L–4—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change revises the Actions of the MSIV LCO in order to take credit for the redundant MSIV valves in each steam line. This change does not result in any hardware or operating procedure changes. The MSIVs are not assumed to be an initiator of any analyzed event and function to isolate the steam lines to mitigate analyzed events. As a result, the revision of this TS requirement does not affect the probability of an accident previously evaluated. The proposed change continues to provide adequate assurance that the MSIVs are either capable of performing their intended safety function or that the safety function has been performed (steam line isolated) or that power is reduced. The proposed change continues to limit plant operation when a single failure could prevent the isolation function from being accomplished. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change only affects the Actions of the MSIV LCO. The proposed change continues to ensure the MSIVs are either capable of isolating the steam lines or that the steam lines are isolated or power reduced. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change continues to ensure the MSIVs are either capable of isolating the steam lines or that the steam lines are isolated or power reduced. The proposed change continues to limit plant operation when a single failure could prevent the isolation function from being accomplished. Therefore, the proposed change also continues to preserve the assumptions of the applicable safety analyses. As such, the proposed change does not impact the assumptions of the applicable safety analyses. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

[L–5—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change revises the Actions of the SWS LCO in order to take credit for the redundant automatic turbine building isolation valves in each train of SWS. This change does not result in any hardware or operating procedure changes. The turbine building isolation valves are not assumed to be an initiator of any analyzed event and function to isolate the SWS flow to non-essential components. As a result, the revision of this TS requirement does not affect the probability of an accident previously evaluated. The proposed change continues to provide adequate assurance that the turbine building isolation valves are either capable of performing their intended safety function and accommodate a single failure or that the unit is placed in a condition where the function performed by these valves is no longer required. The proposed change continues to limit plant operation when a single failure could prevent the isolation function of these valves from being accomplished. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change only affects the Actions of the SWS LCO. The proposed change continues to ensure the turbine building isolation valves are either capable of isolating the SWS system and accommodating a single failure or that the unit is placed in a condition where this isolation function is no longer required. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change continues to ensure the turbine building isolation valves are either capable of isolating the non-essential SWS loads and accommodating a single failure or that the unit is placed in a condition where the isolation function is no longer required. The proposed change continues to limit plant operation when a single failure could prevent the isolation function from being accomplished. Therefore, the proposed change also continues to preserve the assumptions of the applicable safety analyses. As such, the proposed change does not impact the assumptions of the applicable safety analyses. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

[L–6—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The elimination of the requirement to meet surveillance tests that verify functions which are not required in the Mode of applicability of this TS will not increase the probability of any accident previously evaluated. The proposed surveillance testing continues to provide adequate assurance of the operability of the required AC Source functions and therefore, does not involve an increase in the consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not introduce a new mode of plant operation and does not involve a physical modification to the plant. Therefore, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change does not involve a significant reduction in a margin of safety since the operability of the required AC Source functions, continues to be determined in the same manner. Elimination of the surveillance test requirements for AC Source functions not required in these Modes does not impact the capability of the AC Sources to perform their safety function in these Modes.

[L6a—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The inclusion of a note consistent with the STS to provide an allowance not to perform certain surveillance tests on the AC Source required operable by the TS will not increase the probability of any accident previously evaluated. The required surveillance testing must still be performed (but not on the AC

Source while it is required operable by the TS) and will continue to provide adequate assurance of the operability of the required AC Source functions. Therefore, this change does not involve an increase in the consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not introduce a new mode of plant operation and does not involve a physical modification to the plant. Therefore, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change does not involve a significant reduction in a margin of safety since the operability of the required AC Source functions, continues to be determined in the same manner. The allowance not to perform certain surveillance tests on the AC Source equipment when that equipment serves to meet the TS minimum required power source ensures a stable shutdown power supply to the unit and does not impact the capability of the AC Sources to perform their safety function in these Modes.

[L–7—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change effectively provides a longer allowed outage time for the Service Water Intake Structure (SWIS) DC distribution and battery systems. The proposed allowed outage time is consistent with the time allowed for a Service Water train to be inoperable. The DC power sources or their associated allowed outage times are not assumed to be initiators of any analyzed event. As such, the proposed change will not increase the probability of any accident previously evaluated. The appropriate required actions consistent with that for the equipment rendered inoperable must still be performed. The proposed actions will continue to provide adequate assurance of plant safety in the same manner as if the affected equipment were inoperable for reasons other than power availability. Therefore, this change does not involve an increase in the consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not introduce a new mode of plant operation and does not involve a physical modification to the plant. Therefore, it does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

This change does not involve a significant reduction in a margin of safety since the inoperability of the SWIS distribution and battery systems affect only the Service Water system and the time allowed for restoration of an inoperable Service Water train remains unchanged. The allowance to declare the affected equipment inoperable and take the associated equipment TS actions continues to ensure plant safety by providing the same appropriate remedial measures for the affected equipment as would be applicable if that equipment were inoperable for reasons other than power availability. Therefore, the proposed change does not significantly impact any margin of safety.

[L–8—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change involves upgrading the ESFAS TS to more closely agree with the FNP design and safety analysis and does not result in any hardware changes. The proposed change revises the applicability for the initiating functions of the main steam line isolation function such that when a main steam line isolation valve is closed and the isolation function is accomplished, the automatic initiation of this function is no longer required operable. The ESFAS is not assumed to be an initiator of any analyzed event. The role of the ESFAS is in mitigating and thereby limiting the consequences of accidents. The proposed change continues to adequately ensure the operability of the ESFAS main steam line isolation function when the lines are unisolated and thereby ensures the protection provided by the function remains operable when required. Therefore, the results of the analyses described in the FSAR remain bounding. Additionally, the proposed changes do not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change involves upgrading the ESFAS TS to more closely agree with the FNP design and safety analysis and does not necessitate a physical alteration of the plant (no new or different type of equipment will be installed) or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety? The proposed change, which upgrades the ESFAS TS to be more consistent with the FNP design and safety analysis does not involve a significant reduction in a margin of safety. The proposed change revises the Mode of applicability for the main steam line isolation ESFAS function. The proposed change continues to adequately ensure the operability of the isolation function when it is required and thereby ensures the protection provided by the function also remains available when required. As such, the results of the analyses described in the FSAR remain bounding and this change does not have a significant impact on any design basis safety analysis.

[L–9—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change involves changing the CTS administrative controls requirements regarding the Shift Supervisor (SS) responsibility to more closely agree with the STS requirements and does not result in any hardware changes. The requirement to issue annual directives regarding the SS responsibilities is deleted. The title Shift Supervisor is replaced with responsible SRO. In addition, an allowance for an RO (in Modes 5 and 6) to temporarily replace the SS is added. The proposed change also eliminates the specific restriction against the STA temporarily replacing the SS. The proposed changes do not impact the capability of the plant or any equipment to provide the required safety function as described in the FSAR. In addition, the results of the analyses described in the FSAR remain bounding. Additionally, the proposed changes do not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change involves changing the TS administrative controls regarding the responsibilities of the SS to more closely agree with the STS requirements and eliminates the title Shift Supervisor and does not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed changes, which revise the TS administrative controls requirements for SS responsibilities to be consistent with the STS requirements and eliminate the title Shift Supervisor do not involve a significant reduction in a margin of safety. The proposed changes do not impact any safety analysis assumptions and do not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. Therefore, the proposed changes do not impact any margin of safety.

[L–10—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change affects only the interval allowed by the TS surveillance to perform RCP flywheel inspections. The time allowed between flywheel inspections is not specifically assumed to be a precursor or initiator of any analyzed event. The studies performed to justify the proposed time interval have shown it to be adequate to detect any flaws or degradation in the RCP flywheel. As such, the proposed change does not affect the probability of any initiating events assumed in the accident analyses. The proposed change will maintain an acceptable

level of safety by continuing to require RCP flywheel inspections at an interval shown to be adequate. Consequently, the proposed change will not have any affect on the consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve a physical alteration of the plant (no new or different types of equipment will be installed) or changes in parameters governing normal plant operation. The proposed change only affects the interval allowed by the TS to inspect each RCP flywheel. The interval remains adequate to detect any degradation. Therefore, the possibility of a new or different kind of accident is not created by the proposed change.

3. Does the proposed change involve a significant reduction in a margin of safety?

The proposed change affects the interval allowed by the TS to inspect RCP flywheels. The proposed interval is based on the findings of WCAP–14535A and the associated NRC SER. The WCAP concludes that continued inspections of RCP flywheels are not necessary and overall plant safety could be increased by eliminating the inspections and reducing man rem dose as well as the potential for flywheel damage during disassembly and reassembly for inspection. The NRC SER requires the inspection of RCP flywheels be retained but the interval increased to once every 10 years. As such, the proposed change continues to conservatively assure the operability of the RCP flywheel while reducing man rem exposure and the potential for damage from disassembly and reassembly. Therefore, the proposed change does not involve a significant reduction in a margin of safety.

[L–11—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change involves the revision of the term health physics supervisor to health physics supervision for the purpose of specifying the frequency of radiation surveillances in RWPs. The proposed change continues to provide adequate assurance that the radiation surveillances are performed within acceptable frequencies. The proposed change does not impact the capability of the plant or any equipment to provide the required safety function as described in the FSAR, or increase the potential radiation exposure of plant personnel. In addition, the results of the analyses described in the FSAR remain bounding. Additionally, the proposed change does not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change involves the supervisors who specify the radiation surveillance frequencies in high radiation areas and does not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change, which revises the TS requirements for the personnel who specify the frequencies of radiation surveillances in high radiation areas. The proposed change allows additional supervisory personnel to specify the required frequencies. The proposed change does not impact any safety analysis assumptions and does not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. In addition, the proposed change continues to ensure adequate surveillances are performed in high radiation areas. Therefore, the proposed change does not impact any margin of safety.

[L–12—Less Restrictive]

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change involves changing the CTS administrative controls requirements regarding the Emergency Diesel Generator (EDG) failure reporting requirement and does not result in any hardware changes. The proposed change potentially reduces the number of reports received by the NRC and revises the content to include valid failures and demands. The proposed change continues to provide adequate information to assess the EDG reliability at FNP. The proposed change does not impact the capability of the plant or any equipment to provide the required safety function as described in the FSAR. In addition, the results of the analyses described in the FSAR remain bounding. Additionally, the proposed change does not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change involves changing the TS administrative controls regarding the required EDG report to more closely agree with the STS requirements and does not necessitate a physical alteration of the plant or changes in parameters governing normal plant operation. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The proposed change, which revises the TS administrative controls requirement for an annual EDG report to be consistent with the STS requirement does not involve a significant reduction in a margin of safety. The proposed change does not impact any safety analysis assumptions and does not impose any new safety analyses limits or alter the plants ability to detect and mitigate events. In addition the proposed change continues to provide sufficient information to assess the reliability of the EDG at FNP. Therefore, the proposed change does not impact any margin of safety.

[L–13—Less Restrictive]

1. Does the proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

The proposed change extends the time allowed to restore an inoperable RCS leakage detection instrument to operable status. The CTS allow 7 days for restoration of the automatic RCS leak detection instrument and the proposed change would allow 30 days for restoration. However, adequate information continues to be furnished to the plant staff to assure that RCS leakage does not go undetected. In addition to the remaining operable automatic RCS leak detection instrument, the TS required actions provide remedial measures that ensure RCS leakage continues to be monitored by diverse means. As such, potential RCS leakage will not go undetected and operation with one required leak detection instrument inoperable continues to be limited by the TS. Therefore, the proposed change does not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not introduce any new equipment into the plant or alter the manner in which existing equipment will be operated. Therefore the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

The applicable required actions and remaining operable leakage detection monitor provide adequate information to the plant staff to ensure that RCS leakage does not go undetected. In addition, operation with one required leak detection instrument inoperable continues to be limited by the TS (30 days). As such, potential RCS leakage will not go undetected and operation in the condition where a single failure could cause a loss of automatic leakage detection continues to be limited and therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama 36302.

Attorney for licensee: M. Stanford Blanton, Esq., Balch and Bingham, Post

Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama.

NRC Section Chief: Richard L. Emch, Jr.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of amendment request: July 29, 1999.

Description of amendment request: The proposed amendments would change the Limiting Condition for Operation 3.1.7, ''Standby Liquid Control (SLC) System.'' The proposed amendments would change ''greater than the Region B limits,'' which could be misleading, to ''within the Region B limits.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed changes to the Unit 1 and Unit 2 Technical Specifications do not increase the probability or consequences of any previously evaluated accident or transient. These changes are administrative in nature only and are intended to revise a misleading statement in Condition A of Limiting Condition for Operation (LCO) 3.1.7, ''Standby Liquid Control (SLC) System.'' The change ensures the proper condition is entered when expected and the sodium pentaborate solution temperature, concentration, and volume limits are not exceeded without appropriate actions being taken. As currently written, Condition A of LCO 3.1.7 could be entered whenever the sodium pentaborate solution is not within Region A limits, but is greater than Region B limits as depicted in Unit 1 and Unit 2 Technical Specifications Figures 3.1.7–1 and 3.1.7–2. This is incorrect; Condition A should be entered whenever the solution is not within Region A limits, but is within Region B limits. If the solution is not within Region A limits and is greater than Region B limits, both Standby Liquid Control subsystems are inoperable and Condition C should be entered.

Technical Specifications Figure 3.1.7–1 displays the sodium pentaborate solution volume versus concentration requirements; Figure 3.1.7–2 displays the solution concentration versus temperature requirements. Each figure contains three areas: Region A, Region B, and the area not in either Region A or Region B. Region A is the permissible region of continuous operation and is represented by a four- or five-sided area. Region B is the original licensing basis region and is represented by a four-sided area. If the sodium pentaborate solution temperature, concentration, and volume combinations are within Region A, the requirements of 10 CFR 50.62, ''Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants,'' are met, no condition applies, and no actions need be taken. If solution temperature, concentration, and volume combinations are not within Region A, but within Region B, then the original licensing basis is met and operation within this region is acceptable for up to 72 hours (Unit 1 FSAR, section 3.8.4, Revision 6, page 3.8–6; Unit 2 FSAR, section 4.2.3.4.3, Revision 7, page 4.2–98). If solution temperature, concentration, and volume combinations are not within either region, then the ability of the Standby Liquid Control system to shut down the reactor is not assured and only eight hours is acceptable to restore the solution to at least within Region B before the plant must be shut down.

Condition A contains misleading wording which could allow operation outside both Region A and Region B for more than eight hours. Specifically, it could be interpreted that Condition A allows the sodium pentaborate solution temperature, concentration, and volume to be greater than Region B limits for up to 72 hours. Because Region B is demarcated by a four-side area, the terms ''within Region B'' and ''greater than Region B limits'' could be interpreted to indicate different, and mutually exclusive, areas of Figures 3.1.7–1 and 3.1.7–2. Indeed, ''greater than Region B limits'' could be interpreted to refer to most or all of the area neither in Region A nor Region B. For example, 20 weight percent sodium pentaborate solution at 50°F is a point on Figure 3.1.7–2 which is ''greater than the Region B limits,'' yet it is a point at which the solution will precipitate in the storage tank rendering the system incapable of injecting the proper amount of sodium pentaborate into the reactor pressure vessel. Obviously, both Standby Liquid Control subsystems would be inoperable if the solution were at this point and Condition C should be entered to limit severely the time the unit may continue to operate with the solution in this state. However, the wording of Condition A could cause an erroneous interpretation which would inappropriately extend this time from eight to 72 hours.

The proposed changes correct the wording of Condition A to ensure this condition is not entered inappropriately and to ensure the proper condition is entered for those combinations of solution temperature, concentration, and volume not within Region A or Region B. These changes do not increase the probability of any previously evaluated accident or transient because they are administrative in nature and do not alter any plant operation or design features or requirements which could result in systems or components performing closer to their operational or design limits and thereby increasing the possibility of a failure. These changes do not increase the consequences of any previously evaluated accident or transient because they ensure the sodium pentaborate solution limits are not exceeded without appropriate actions being taken thereby ensuring the Standby Liquid Control system is capable of mitigating the consequences of an ATWS event.

2. Do the proposed changes create the possibility of a new or different type of accident from any previously evaluated?

The proposed changes to the Unit 1 and Unit 2 Technical Specifications do not create the possibility of a new or different type of accident from any previously evaluated. The changes are administrative in nature only and are intended to clarify Condition A of LCO 3.1.7. They ensure the proper condition is entered when expected and the sodium pentaborate solution temperature, concentration, and volume limits are not exceeded without appropriate actions being taken. Those limits, the conditions under which the Standby Liquid Control system is required to be operable, and the operation of the system remain unchanged and will continue to be as described, assumed, and analyzed in the Unit 1 and Unit 2 Final Safety Analysis Reports, sections 3.8 and 4.2.3.4, respectively. The only result of the proposed changes is to reduce the time limit for continued unit operation with sodium pentaborate solution temperature, concentration, or volume outside Region A and Region B from 72 hours to eight hours. Consequently, the possibility of a new or different type of accident can not be created by these changes.

3. Do the proposed changes involve a significant reduction in the margin of safety?

The proposed changes to the Unit 1 and Unit 2 Technical Specifications do not involve a reduction in the margin of safety. The changes are administrative in nature only and are intended to clarify Condition A of LCO 3.1.7. They ensure the proper condition is entered when expected and the sodium pentaborate solution temperature, concentration, and volume limits are not exceeded without appropriate actions being taken. Those limits, the conditions under which the Standby Liquid Control system is required to be operable, and the operation of the system remain unchanged by the proposed changes and will continue to be as described, assumed, and analyzed in the Unit 1 and Unit 2 Final Safety Analysis Reports. Therefore, the margin of safety, that is, the ability to bring the reactor to a subcritical condition under its most reactive conditions with the Standby Liquid Control system, as embodied by the sodium pentaborate solution temperature, concentration, and volume limits and the system operability requirements will not be reduced.

In conclusion, this proposed license amendment involves no significant hazards consideration as determined by the standards set forth by the NRC in 10 CFR 50.92(c). Specifically, it has been shown in the preceding paragraphs that the proposed changes:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated,

2. Do not create the possibility of a new or different type of accident from any previously evaluated, and

3. Do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC.

NRC Section Chief: Richard L. Emch, Jr.

Tennessee Valley Authority, Docket No. 50–296, Browns Ferry Nuclear Plant, Unit 3, Limestone County, Alabama

Date of amendment request: July 28, 1999.

Description of amendment request: The proposed amendment would add to the Technical Specifications (TS), new limiting conditions for operation and surveillance requirements for the Oscillation Power Range Monitor (OPRM) instrumentation installed in response to Generic Letter 94–02.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has concluded that operation of BFN [Brown Ferry Nuclear Plant] Unit 3 in accordance with the proposed change to the TS does not involve a significant hazards consideration. TVA's conclusion is based on its evaluation, in accordance with 10 CFR 50.91(a)(1), of the three standards set forth in 10 CFR 50.92(c).

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment is to enable the OPRM Upscale trip function which is contained in the previously installed PRNM [Power Range Neutron Monitoring] equipment. Enabling the OPRM hardware provides the long term stability solution required by Generic Letter 94–02. This hardware incorporates the Option III detect and suppress solution reviewed and approved by the NRC in NEDO–31960, ''BWROG Long Term Stability Solutions Licensing Methodology.'' The OPRM is designed to meet all requirements of GDC 10 and 12 by automatically detecting and suppressing design basis thermal-hydraulic power oscillations prior to violating the fuel MCPR [minimum critical power ratio] Safety Limit. The OPRM system provides this protection in the region of the power-to-flow map where instabilities can occur, including the region where ICAs [Interim Corrective Actions] previously restricted operation because of stability concerns. Thus, the ICA restrictions on plant operations are deleted from the TS, including region avoidance and the requirement for the operator to manually scram the reactor with no recirculation loops operating. Operation at high core powers with low core flows may cause a slight, but not significant, increase in the probability that an instability can occur. This slight increase is acceptable because subsequent to the automatic detection of a design basis instability, the OPRM Upscale trip provides an automatic scram signal to the RPS which is faster protection than the operator initiated manual scram required by the current ICAs. Because of this rapid automatic action, the consequences of an instability event are not increased as a result of the installation of the OPRM system because it eliminates operator actions.

Based on the above discussion, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment permits BFN to enable the OPRM power oscillation detect and suppress function provided in previously installed PRNM hardware, and it simultaneously deletes certain restrictions which preclude operation in regions of the power-to-flow map where oscillations potentially may occur. Enabling the OPRM Upscale trip function does not create any new system hardware interfaces nor create any new system interactions. Potential failures of the OPRM Upscale trip result either in failure to perform a mitigation action or in spurious initiation of a reactor scram. These failures would not create the possibility of a new or different kind of accident. Based on the above discussion, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The OPRM Upscale trip function implements BWROG Stability Option III, which was developed to meet the requirements of GDC 10 and GDC 12 by providing a hardware system that detects the presence of thermal-hydraulic instabilities and automatically initiates the necessary actions to suppress the oscillations prior to violating the MCPR Safety Limit. The NRC has reviewed and accepted the Option III methodology described in Licensing Topical Report NEDO–31960 and concluded this solution will provide the intended protection. Therefore, it is concluded that there will be no reduction in the margin of safety as defined in TS as a result of enabling the OPRM Upscale trip function and simultaneously removing the operating restrictions previously imposed by the ICAs.

Based on the above discussion, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, 405 E. South Street, Athens, Alabama 35611.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Section Chief: Sheri R. Peterson.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: July 20, 1999.

Description of amendment request: The licensee proposed the following five changes: (1) Figure 2.1–1, average power range monitor (APRM) Flow Reference Scram and APRM Rod Block Settings, the clarifying statement ''Setpoints shall be [less than or equal to] values shown on the graph'' is proposed to be added; (2) Bases Section 2.1.B, page 16, and Bases Section 3.2 APRM rod block trip discussion, page 77, the current Bases is proposed to be replaced with a more accurate discussion of the function, as identified in the Vermont Yankee Nuclear Power Station (VY) Final Safety Analysis Report (FSAR); (3) Table 3.1.1, Reactor Protection System (Scram) Instrument Requirements, APRM Upscale (Flow Bias) function, it is proposed to add ''with a maximum of 120%'' to the APRM High Flux (Flow Bias) Trip Function equation; (4) For Table 3.2.5, Control Rod-Block Instrumentation, Rod-Block Monitor (RBM) Upscale (Flow Bias) function, the caveat ''with a maximum as defined in the COLR'' [Core Operating Limits Report] is added to the Trip Setting equation; (5) For Bases page 77, it is proposed to delete the current paragraph describing the control rod-block systems and replace it with the following: ''The trip logic for the nuclear instrumentation control rod block logic is 1 out of n; i.e., any trip on one of the six APRMs, six IRMs [intermediate range monitors] or four SRMs [source range monitors] will result in a rod block. The minimum instrument channel requirements for the IRM may be reduced by one for a short period of time to allow for maintenance, testing, or calibration. The RBM is

credited in the Continuous Rod Withdrawal During Power Range Operation transient for preventing excessive control rod withdrawal before the fuel cladding integrity safety limit [minimum critical power ratio] (MCPR) or the fuel rod mechanical overpower limits are exceeded. The RBM upper limit is clamped to provide protection at greater than 100% rated core flow. The clamped value is cycle specific; therefore, it is located in the Core Operating Limits Report.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Changes 1 and 3 are administrative and have no impact on technical content; therefore, they do not increase the probability or consequences of an accident previously evaluated.

Changes 2 and 5 clarify ambiguities in the Bases. The wording is descriptive only and does not change the meaning or intent of the specification. Therefore, these changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Change 4 adds the Rod Block Monitor Upscale (Flow Bias) maximum value limitation to the Technical Specifications. Limiting the upscale trip setting at flows in excess of 100% of rated core flow ensures the assumptions of the Continuous Rod Withdrawal During Power Range Operation Transient are met. No other accident or transient analyses are affected. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

Change 4, limiting the maximum value for the Rod Block Monitor Upscale (Flow Bias) function, is a change to plant design, in that it clamps the upscale trip setting at flows in excess of 100% of rated core flow at the 100% core flow value. This change ensures the assumptions of the Continuous Rod Withdrawal During Power Range Operation Transient are met and has no effect on any other accident or transient analyses. Changes 1, 2, 3, and 5 do not involve a change to the plant design.

None of the proposed changes affects any parameters or conditions that could contribute to the initiation of any accident. No new accident modes are created. No safety-related equipment or safety functions, other than the Rod Block Monitor as discussed above, are altered as a result of these changes.

Based on the above VY has concluded that the proposed change will not create the possibility of a new or different kind of accident from those previously evaluated.

3. The operation of Vermont Yankee Nuclear Power Station in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Changes 1 and 3 are administrative and have no impact on technical content. Therefore, they have no effect on margin of safety.

Changes 2 and 5 clarify ambiguities in the Bases, using wording taken directly from the FSAR. The wording is descriptive only and does not change the meaning or intent of the specification. Therefore, these changes do not involve a significant reduction in a margin of safety.

Change 4 adds the Rod Block Monitor Upscale (Flow Bias) maximum value limitation to the Technical Specifications. Limiting the upscale trip setting at flows in excess of 100% of rated core flow ensures the assumptions and, therefore the margin of safety, of the Continuous Rod Withdrawal During Power Range Operation transient are met. No other accident or transient analyses are affected. Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Attorney for licensee: Mr. David R. Lewis, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037–1128.

NRC Section Chief: James W. Clifford.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notice was previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Carolina Power & Light Company, et al., Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit 2, Darlington County, South Carolina

Date of amendment request: July 30, 1999.

Brief Description of amendment: The proposed amendment would revise Required Action A.1 of Technical Specification Limiting Condition for Operation 3.7.8, ''Ultimate Heat Sink (UHS),'' to allow a Completion Time of 72 hours to restore service water temperature to less than or equal to 95°F prior to entering the required actions for plant shutdown. The amendment request was proposed as a temporary change to be in effect until September 30, 1999.

Date of publication of individual notice in the **Federal Register**: August 10, 1999 (64 FR 43406).

Expiration date of individual notice: August 24, 1999, for comments; September 8, 1999, for hearings.

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances

provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: May 23, 1997, as supplemented September 27, 1998, and May 26, 1999.

Brief description of amendments: The amendments revise the Technical Specifications to allow the installation of ABB Combustion Engineering leak tight sleeves in defective steam generator tubes as a tube repair method.

Date of issuance: August 5, 1999.

Effective date: August 5, 1999, to be implemented within 45 days.

Amendment Nos.: Unit 1—120, Unit 2—120, Unit 3—120.

Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: June 16, 1999 (64 FR 32285).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 5, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of application for amendments: March 14, 1997.

Brief description of amendments: The amendments deleted license conditions which have been satisfied, revise others to delete parts which are no longer applicable or to revise references, and make editorial changes.

Date of issuance: August 10, 1999.

Effective date: Immediately, to be implemented within 30 days.

Amendment No.: 110.

Facility Operating License Nos. NPF–37 and NPF–66: The amendments revised the Licenses.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19966).

The Commission's related evaluation of the amendments is contained in an Environmental Assessment dated July 7, 1999 (64FR36722), and a Safety Evaluation dated August 10, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010.

Commonwealth Edison Company, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: March 30, 1999, as supplemented June 30, 1999.

Brief description of amendments: The amendments revise the Technical Specifications, Section 3/4.6.G, ''Leakage Detection Systems,'' to allow an alternate methodology for quantifying Reactor Coolant System (RCS) leakage when the normal RCS leakage detection system is inoperable.

Date of issuance: August 4, 1999.

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 189 & 186.

Facility Operating License Nos. DPR–29 and DPR–30: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 5, 1999 (64 FR 24194).

The June 30, 1999, submittal provided additional clarifying information that did not change the original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 4, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of application for amendments: March 3, 1999, as supplemented May 27, and June 22, 1999.

Brief description of amendments: The amendments change the required qualifications for operations management specified in the technical specifications (TSs) for the Beaver Valley Power Station, Units 1 and 2 (BVPS–1 and BVPS–2). The requirement that the operations manager hold a Senior Reactor Operator (SRO) license at the time of appointment is changed in the TSs to require that the assistant operations managers, one for each unit, hold an SRO license on their assigned unit. The revised TSs require the operations manager to hold, or have held, an SRO license on a pressurized water reactor. Additionally, the Updated Final Safety Analysis Report (UFSAR) for each unit is changed to require the operations manager to ''hold, or have held,'' an SRO license rather than ''hold'' a license. The revised UFSARs require the same as the TSs; that the assistant operations managers hold an SRO license on the unit to which they are assigned. Finally, the amendments substitute generic personnel titles for plant-specific personnel titles in the BVPS–1 and BVPS–2 TSs. The correlation between generic titles and plant-specific titles is provided in the revised BVPS–2 UFSAR.

Date of issuance: August 10, 1999.

Effective date: Both units, as of date of issuance and shall be implemented within 60 days.

Amendment Nos.: 224 and 100.

Facility Operating License Nos. DPR–66 and NPF–73: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 21, 1999 (64 FR 19556).

The May 27, and June 22, 1999, letters provided additional information but did not change the initial proposed no significant hazards consideration determination or expand the amendment beyond the scope of the initial notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 10, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit 3, Citrus County, Florida

Date of application for amendment: November 24, 1998, as supplemented June 23, 1999.

Brief description of amendment: The amendment approves the addition of a safety-related diesel-driven emergency feedwater pump (EFP–3) as a functional replacement for the existing motor-driven pump, addition of technical specifications and surveillances for this new pump, and deletion of cycle specific interim technical specifications which would not be required after the addition of the new pump.

Date of issuance: August 11, 1999.

Effective date: As of the date of issuance and shall be implemented prior to commencing cycle 12 operation.

Amendment No.: 182.

Facility Operating License No. DPR–72: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 13, 1999 (64 FR 2247).

The supplemental letter dated June 23, 1999, did not change the original proposed no significant hazards consideration determination, or expand the scope of the amendment request as originally noticed. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 11, 1999.

No significant hazards consideration comments received: No

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

No significant hazards consideration comments received: No

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: November 4, 1998.

Description of amendment request: To revise Technical Specifications Surveillance Requirement 4.5.2b.1 to delete the prescribed method of venting the Emergency Core Cooling System (ECCS) which would allow an alternate method to verify that the ECCS piping is full of water. In addition, the associated Bases are being revised to reflect the intent of the surveillance requirement.

Date of issuance: August 12, 1999.

Effective date: As of its date of issuance, and shall be implemented within 60 days.

Amendment No.: 61.

Facility Operating License No. NPF–86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 27, 1999 (64 FR 4157)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 12, 1999.

No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of application for amendment: June 4, 1999.

Brief description of amendment: The amendment changes the Technical Specifications by extending the allowed outage time for the 32 emergency diesel generator and its fuel oil storage tank.

Date of issuance: August 9, 1999.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment No.: 190.

Facility Operating License No. DPR–64: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** July 6, 1999 (64 FR 36408).

No significant hazards consideration comments received: No.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: January 25, 1996, as supplemented April 26, 1996, September 12, 1996, March 17, 1997, September 9, 1997, December 30, 1998, and May 19, 1999.

Brief description of amendment: The amendment extends the allowed outage time for an emergency diesel generator (EDG) system from 7 to 14 days, revises requirements for EDG testing at power, and revises electrical power requirements for cold shutdown and refueling modes.

Date of issuance: July 30, 1999.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 253.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notices in **Federal Register:** March 27, 1996 (61 FR 13532) and June 30, 1999 (64 FR 35208).

The licensee provided additional information on April 26, 1996, September 12, 1996, March 17, 1997, September 9, 1997, and December 30, 1998, that provided clarifying information within the scope of the initial **Federal Register** notice and did not change the staff's original proposed no significant hazards consideration determination. The changes proposed on May 19, 1999, were reflected in the staff's revised proposed finding of no significant hazards consideration, and encompass the additional information provided by the licensee.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 30, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

PP&L, Inc., Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: June 19, 1998, (Unit 1) and August 5, 1998, (Unit 2) as supplemented by letter dated November 23, 1998.

Brief description of amendments: The amendments to the Unit 1 and Unit 2 Technical Specifications (TSs) involve the addition of a new section entitled ''Oscillation Power Range Monitoring (OPRM) Instrumentation'' and revisions to Section 3.4.1 ''Recirculation Loops Operating'' to remove the specifications related to thermal power stability which are no longer required after the installation of OPRM instrumentation.

Date of issuance: July 30, 1999.

Effective date: Effective as of its date of issuance and is to be implemented within 90 days following startup from the Unit 2 ninth Refueling Inspection Outage, currently scheduled for April 16, 1999.

Amendment Nos.: 184 and 188.

Facility Operating License Nos. NPF–14 and NPF–22. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 12, 1998 (63 FR 43210) and August 26, 1998 (63 FR 45528).

The November 23, 1998, letter provided clarifying information that did not change the initial proposed no significant hazards consideration determination or expand the amendment request beyond the scope of the initial notice.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated July 30, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Sacramento Municipal Utility District, Docket No. 50–312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendments: April 23, 1999.

Brief description of amendments: The amendment changes Permanently Defueled Technical Specification D3/4.1, ''Spent Fuel Pool Level,'' to replace a specific reference to spent fuel pool (SFP) level alarm switches with a generic reference to SFP level instrumentation.

Date of issuance: August 13, 1999.

Effective date: August 13, 1999, to be implemented within 30 days.

Amendment No.: 126.

Facility Operating License Nos. NPF–37 and NPF–66: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 30, 1999 (64 FR 35210).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 13, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Central Library, Government Documents, 828 I Street, Sacramento, California 95814.

STP Nuclear Operating Company, Docket Nos. 50–498 and 50–499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: March 2, 1999, as supplemented by letter dated July 13, 1999.

Brief description of amendments: The amendments allow the use of a ''check valve with flow through the valve secured'' as an additional means to isolate an affected containment penetration (i.e., a penetration with an inoperable penetration barrier) in Technical Specification 3.6.3, Action b.

Date of issuance: August 3, 1999.

Effective date: As of the date of issuance to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–113; Unit 2–101.

Facility Operating License Nos. NPF–76 and NPF–80: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register***:* April 7, 1999 (64 FR 17030).

The July 13, 1999, supplement provided additional clarifying information within the scope of the original notice and did not change the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Tennessee Valley Authority, Docket Nos. 50–260 and 50–296, Browns Ferry Nuclear Plant, Units 2 and 3, Limestone County, Alabama

Date of application for amendments: March 12, 1997, as supplemented by letters dated March 30, 1999, April 23, 1999, and June 18, 1999.

Brief description of amendments: The amendments revise the Technical Specifications (TS) to extend, from 7 days to 14 days, the Allowable Outage Time applicable to an inoperable emergency diesel generator.

Date of issuance: August 2, 1999.

Effective date: August 2, 1999.

Amendment Nos.: 259 and 218.

Facility Operating License Nos. DPR–52 and DPR–68: Amendments revised the TS.

Date of initial notice in **Federal Register***:* June 30, 1999 (64 FR 35211)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 2, 1999.

No significant hazards consideration comments received: None.

Local Public Document Room location: Athens Public Library, 405 E. South Street, Athens, Alabama 35611.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: May 4, 1999, as supplemented by letter dated June 4, 1999.

Brief description of amendments: The amendments correct a number of editorial errors in the Technical Specifications that occurred with the issuance of Amendment No. 64 to Facility Operating License Nos. NPF–87 and NPF–89, regarding the improved Technical Specifications conversion. In addition, Surveillance Requirement (SR) 3.8.4.7 is revised to allow the substitution of a modified performance discharge test, for a service test, for the 125 VDC batteries and SRs 3.8.1.7, 3.8.1.12, 3.8.1.15, and 3.8.1.20 are revised to separate the voltage and frequency acceptance criteria for the diesel generator start surveillances into two sets of criteria; those criteria required to be met within 10 seconds, and those criteria required to be met following achievement of steady state conditions.

Date of issuance: August 3, 1999.

Effective date: As of the date of issuance and shall be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 1–Amendment No. 66; Unit 2–Amendment No. 66.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register***:* June 2, 1999 (64 FR 29715); and June 30, 1999 (64 FR 35212).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 3, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, Texas 76019.

Vermont Yankee Nuclear Power Corporation, Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: February 1, 1999, as supplemented on April 19 and April 23, 1999.

Brief description of amendment: The amendment totally replaces the current Technical Specifications Section 6.0, ''Administrative Controls.'' Administrative changes to certain other sections of the Technical Specifications were made to conform to the changes resulting from the re-write of Section 6.0.

The changes represent a comprehensive upgrade of Section 6.0 of the Vermont Yankee Technical Specifications, incorporating improvements in content and format based on industry standards. In accordance with industry practice, some Technical Specifications requirements are being relocated to the recently implemented Vermont Yankee Technical Requirements Manual, Offsite Dose Calculation Manual, or Vermont Yankee Operational Quality Assurance Manual and are being eliminated from the Technical Specification.

Date of Issuance: July 19, 1999.

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 171.

Facility Operating License No. DPR–28: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register***:* May 19, 1999 (64 FR 27326).

The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated July 19, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Washington Public Power Supply System, Docket No. 50–397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: June 3, 1999, as supplemented by letter dated July 22, 1999.

Brief description of amendment: The amendment updates the operating license to reflect the name change of the licensee from ''Washington Public Power Supply System'' to ''Energy Northwest'' and the name change of the facility from ''WPPSS Nuclear Project No. 2'' to ''WNP–2.''

Date of issuance: August 2, 1999.

Effective date: August 2, 1999.

Amendment No.: 157.

Facility Operating License No. NPF–21: The amendment revised the operating license.

Date of initial notice in **Federal Register:** June 30, 1999. (64 FR 35214).

The July 22, 1999, supplemental letter provided additional clarifying information, did not significantly expand the scope of the application as originally noticed and did not change the staff's original proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 2, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendments: January 29, 1999. (TSCR 211), as supplemented June 9 and July 15, 1999.

Brief description of amendments: These amendments reflect changes to Sections 15.6 and 15.7 of the Point Beach Nuclear Plant, Units 1 and 2, Technical Specifications (TSs). The changes are considered administrative in nature and reflect personnel title changes, an increase in minimum operating crew shift staffing, relocation of the Manager's Supervisory Staff composition and functional requirements to owner-controlled documents, and revisions to the procedure review and approval process.

Date of issuance: August 11, 1999.

Effective date: August 11, 1999. The TSs shall be implemented within 90 days. Implementation also includes removal of selected requirements from TS Section 15.6, Administrative Controls, and the relocation of other requirements to licensee-controlled documents as described in the licensee's application dated January 29, 1999, as supplemented June 9 and July 15, 1999, and evaluated in the staff's safety evaluation attached to the amendments. With respect to changes to the final safety analysis report (FSAR), Wisconsin Electric Power Company shall incorporate the revisions into the next FSAR update in accordance with the schedule in 10 CFR 50.71(e).

Amendment Nos.: Unit 1–190; Unit 2–195.

Facility Operating License Nos. DPR–24 and DPR–27: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: February 24, 1999 (64 FR 9202).

The June 9 and July 15, 1999, letters provided additional clarifying information within the scope of the original **Federal Register** notice and did not affect the staff's initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated August 11, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 10, 1999.

Brief description of amendment: The amendment revised Technical Specification Table 3.3–4, Functional Unit 7.b., Automatic Switchover to Containment Sump (Refueling Water Storage Tank Level—Low-Low) to reflect the results of calculations that were performed for the associated instrumentation setpoints to consider the density variations due to temperature and boric acid concentrations.

Date of issuance: August 9, 1999.

Effective date: August 9, 1999, and shall be implemented within 60 days from issuance of the amendment.

Amendment No.: 126.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 30, 1999 (64 FR 35215).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 9, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: June 11, 1999.

Brief description of amendment: The amendment revises TS 3.7.1.6, Steam Generator Atmospheric Relief Valves, and associated Bases to (1) require four atmospheric relief valves (ARVs) to be operable, (2) eliminate the use of ''required'' in the action statements, (3) provide action statements to address inoperability of two ARVs and three or more ARVs due to causes other than excessive leakage, and (4) limit the Limiting Condition for Operation 3.0.4 exception to when one ARV is inoperable due to causes other than excessive seat leakage.

Date of issuance: August 12, 1999.

Effective date: August 12, 1999, and shall be implemented within 60 days from the date of issuance.

Amendment No.: 127.

Facility Operating License No. NPF–42. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 30, 1999 (64 FR 35215).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated August 12, 1999.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 18th day of August 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–21914 Filed 8–24–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Availability of Draft NUREGs on Risk Review of Use of Nuclear Byproduct Material

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of Availability and request for comments.

SUMMARY: NRC is announcing the availability of, and requesting comment on, three draft documents: NUREG/CR–6642, ''Risk Analysis and Evaluation of Regulatory Options for Nuclear Byproduct Material Systems;'' NUREG–1711, ''Nuclear Byproduct Material Risk Review: Regulatory and Other Bases for Barriers to Dose;'' and NUREG–1712, ''Nuclear Byproduct Material Risk Review: Results of Survey of NRC and Agreement State Materials Licensing and Inspection Personnel,'' all dated July 1999.

NRC recognizes that, in order to accomplish its principal mission in an efficient and cost-effective manner, it has to focus on those regulated activities that pose the greatest risk to the public. The nuclear byproduct material risk review is one of several staff actions to address the issue. The intent is to develop a clearly understood technical basis for determining whether and what risk-informed adjustments can be made to the regulation of nuclear byproduct material. Nuclear byproduct material is defined in section 11.e(1) of the Atomic Energy Act of 1954 and Title 10 of the Code of Federal Regulations (10 CFR), § 30.4. Regulation of this material is addressed in 10 CFR parts 30 through 36 and 39. The three draft documents that are the subject of this notice have been developed as part of the risk review. NUREG/CR–6642 presents a detailed, comparative risk analysis of nuclear byproduct materials, organized into groups of activities or ''systems'' (e.g., medical diagnostic devices, nuclear pharmacy, pool irradiators); describes the methodology used in the risk analysis; and provides the results of the analyses through the date of publication. NUREG–1711 is a compilation of existing barriers (defined as those physical and/or procedural controls designed to limit worker and public radiation doses) and the currently instituted support for those barriers (e.g., regulations, license conditions, good practices). NUREG–1712 summarizes the responses to a survey of NRC and Agreement State materials licensing and inspection personnel regarding risks associated with the use of nuclear byproduct material.

These documents are for public comment and do not communicate NRC positions on how any particular nuclear byproduct material system may be regulated in the future. The documents are being distributed for comment to encourage public participation in developing accurate information that will be used in assessing risks associated with use of nuclear byproduct material. The documents will be finalized using the public comments received.

DATES: The comment period ends October 25, 1999. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to dlm1@nrc.gov.

Those considering public comment may request a free single copy of draft NUREG/CR–6642, draft NUREG–1711, and/or draft NUREG–1712 by writing to the U.S. Nuclear Regulatory Commission, ATTN: Dr. Dennis Serig, Mail Stop TWFN 8–F–5, Washington, DC 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to dis@nrc.gov. Single copies of draft NUREG/CR–6642, draft NUREG–1711, and draft NUREG–1712 are also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal government's writing be in plain language. NRC requests comments specifically with respect to the clarity and effectiveness of the language used in these documents. These comments should also be sent to the address listed above.

FOR FURTHER INFORMATION CONTACT: Dr. Dennis Serig, Mail Stop TWFN 8–F–5, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–7901; e-mail: *dis@nrc.gov*.

Electronic Access

Draft NUREG/CR–6642 and NUREG–1711 and 1712 are available electronically by visiting NRC's Home Page (*http://www.nrc.gov/nrc/nucmat.html*).

Dated at Rockville, MD, this 6th day of August, 1999.

For the Nuclear Regulatory Commission.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 99–22028 Filed 8–24–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23953; File No. 812–11602]

The Equitable Life Assurance Society of the United States, et al.

August 19, 1999.

AGENCY: Securities and Exchange Commission (the ''Commission'' or ''Sec'').

ACTION: Notice of application for an order pursuant to Section 26(b) of the Investment Company Act of 1940 (the ''1940 Act'') approving certain substitutions of securities, and pursuant to Section 17(b) of the 1940 Act exempting related transactions from Section 17(a) of the 1940 Act.

Summary of Application: Applicants request an order to permit certain registered unit investment trusts to substitute shares of EQ Advisors Trust, a registered open-end investment company, for shares of The Hudson River Trust, another registered open-end investment company, currently held by those unit investment trusts, and to permit certain in-kind redemptions of portfolio securities in connection with the substitutions.

Applicants: For purposes of the order requested pursuant to Section 26(b), The Equitable Life Assurance Society of the United States (''Equitable''), Separate Account A of Equitable (''SA A''), Separate Account No. 301 of Equitable (''SA 301''), Separate Account No. 45 of Equitable (''SA 45''), Separate Account No. 49 of Equitable (''SA 49''), Separate Account I of Equitable (''SA I''), and Separate Account FP of Equitable (''SA FP'', and together with SA A, SA 301 SA 45, SA 49, and SA I, the ''Equitable Accounts'') (collectively, the ''Section 26 Applicants''). For purposes of the order pursuant to Section 17(b), Equitable, the Equitable Accounts, Separate Account No. 51 of Equitable (''SA 51''), and Separate Account No. 65

of Equitable (''SA 65'' and together with Equitable, the Equitable Accounts, and SA 51, the ''Section 17 Applicants'').

Filing Date: The application was filed on April 30, 1999, and amended and restated on August 12, 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 Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on September 13, 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 who wish to be notified of a hearing may request notification by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants: c/o The Equitable Life Assurance Society of the United States, 1290 Avenue of the Americas, New York, New York 10104, Attn: Mary Joan Hoene, Esq., Vice President and Counsel.

FOR FURTHER INFORMATION CONTACT: Kevin P. McEnery, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Equitable is a New York stock life insurance company authorized to sell life insurance and annuities in all fifty states, the District of Columbia, Puerto Rico, and the Virgin Islands. Equitable is the depositor and sponsor of SA A, 301, SA 45, SA 49, SA I, SA FP, SA 51 and SA 65, each a segregated asset account of Equitable.

2. Equitable is an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), as amended, and a wholly-owned subsidiary of The Equitable Companies Incorporated (''ECI''), a member of the global AXA Group, which is a holding company for an international group of insurance and related financial services companies. Alliance Capital Management L.P. (''Alliance''), an investment adviser registered under the Advisers Act, is a majority-owned publicly traded subsidiary of ECI.

3. Each of SA A, SA 301, SA 45, SA 49, SA I, and SA FP (collectively, the ''Equitable Accounts'') is registered with the Commission under the 1940 Act as a unit investment trust. The assets of the Equitable Accounts support certain variable annuity contracts or variable life insurance policies (collectively, the ''Contracts''). The variable annuity contracts issued by Equitable include flexible premium deferred variable annuity contracts and single premium immediate variable annuity contracts. Some of the variable annuity contracts are issued as group contracts, while the remaining annuity contracts are issued to or on behalf of individuals. The variable life insurance policies issued by Equitable include flexible premium, scheduled premium and single premium individual variable life, second to die and corporate variable life policies.

4. The Hudson River Trust (''HRT'') is organized as a Massachusetts business trust. It is registered as an open-end management investment company under the 1940 Act, and its shares are registered under the Securities Act of 1933 (the ''Securities Act'') on Form N–1A. HRT is a series investment company, as defined by Rule 18f–2 under the 1940 Act, and currently offers shares of 14 separate portfolios (''Current Funds''), all of which would be involved in the proposed substitutions. HRT sells shares to the Equitable Accounts to serve as the investment medium for the Contracts. HRT currently offers two classes of shares, Class IA and Class IB shares, which differ only in that Class IB shares are subject to a distribution plan adopted and administered pursuant to Rule 12b–1 under the 1940 Act. Each Current Fund is advised by Alliance.

5. EQ Advisors Trust (''EQAT'') is organized as a Delaware business trust. It is registered as an open-end management investment company under the 1940 Act and its shares are registered under the 1933 Act on Form N–1A. EQAT is a series investment company, as defined by Rule 18f–2 under the 1940 Act, and currently offers 25 separate portfolios of shares. EQAT sells shares to the Equitable Accounts in connection with the Contracts.[1] EQAT currently offers two classes of shares, Class IA and Class IB shares, which differ only in that Class IB shares are subject to a distribution plan adopted and administered pursuant to Rule 12b–1 under the 1940 Act. In connection with the proposed substitutions, EQAT has filed with the Commission post-effective amendment No. 11 to its registration statement in order to register 14 new portfolios (''New Funds''). EQ Financial Consultants, Inc. (''EQ Financial''), an indirect wholly-owned subsidiary of Equitable, serves as investment manager of each of the current 25 portfolios of EQAT under an investment management agreement between EQAT and EQ Financial.[2] EQ Financial is an investment adviser registered under the Advisers Act and a broker-dealer registered under the Securities Exchange Act of 1934, as amended. Pursuant to the investment management agreement, the investment manager (''Manager'') is responsible for the general management and administration of EQAT, including selecting the investment advisers for each of EQAT's portfolios (''Advisers''), monitoring their investment programs and results, reviewing brokerage matters, overseeing compliance issues, and carrying out the directives of the Board of Trustees. Alliance will serve as the Adviser to each of the New Funds. EQAT has received an exemptive order from the Commission (''Multi-Manager Order'') that permits EQ Financial, or any entity controlling, controlled by, or under common control (within the meaning of Section 2(a)(9) of the 1940 Act) with EQ Financial, subject to certain conditions, including approval of the Board of Trustees of EQAT, and without the approval of shareholders to: (a) employ a new Adviser or Advisers for any portfolio pursuant to the terms of a new Investment Advisory Agreement, in each case either as a replacement for an existing Adviser or as an additional Adviser; (b) change the terms of any Investment Advisory Agreement; and (c) continue the employment of an existing Adviser on the same contract terms where a contract has been assigned because of a change of control of the Adviser.[3] In

[1] An exemptive order was issued by the Commission granting exemptions from the 1940 Act to permit shares of EQAT to be offered to separate accounts of affiliated and unaffiliated insurance companies that offer either variable life insurance policies or annuity contracts (''EQAT Shared Funding Order''). *See* EQ Advisors Trust, Investment Company Act Rel. Nos. 22651 (April 30, 1997) (order) and 22602 (April 4, 1997) (notice).

[2] During 1999, EQ Financial plans to change its name to AXA Advisors, Inc. On July 12, 1999, the Board of Trustees of EQAT approved a transfer of the Investment Management Agreement between EQAT and EQ Financial to Equitable. That transfer of the Investment Management Agreement is expected to occur prior to October 1, 1999.

[3] *See* EQ Advisors Trust and EQ Financial Consultants, Inc., Investment Company Act Rel.

Continued

such circumstances, Contract owners would receive notice of any such action, including information concerning any new Adviser that normally is provided in proxy materials.

6. Each of the Contracts expressly reserve to the Section 26(b) Applicants the right, subject to compliance with applicable law, to substitute shares of another portfolio for shares of the Current Funds held by the Equitable Accounts. The prospectuses describing the Contracts contain appropriate disclosure of this right.

7. Equitable, on its own behalf and on behalf of the Equitable Accounts, proposes to substitute securities issued by the 14 New Funds for the securities issued by the 14 Current Funds. Specifically, Applicants propose to substitute: (i) Class IA Shares of each New Fund for Class IA Shares of each Current Fund; and (ii) Class IB Shares of each New Fund for Class IB Shares of each Current Fund. The Applicants represent that the substitutions are part of an overall business plan by Equitable to make the Contracts more competitive and attractive to potential customers and Contract owners and to enable Equitable to more efficiently administer and oversee the Contracts. The Section 26 Applicants state that it is their belief that the substitutions will: (1) facilitate Contract owner understanding of the underlying investment options for the Contracts and reduce the potential for Contract owners to be confused by the two separate underlying investment vehicles (*i.e.*, portfolios of HRT and portfolios of EQAT) that are used to fund the Contracts; (2) reduce the administrative burden of maintaining two separate underlying investment companies for the Contracts; and (3) consolidate the underlying investment vehicles in EQAT.

8. The Section 26(b) Applicants represent that EQAT's Manager will serve as Manager of each New Fund and that Alliance will serve as Adviser to each New Fund. The Applicants also state that each New Fund will have investment objectives, investment strategies and anticipated risks that are identical in all material respects to those of the corresponding Current Fund. The investment objectives of each Current Fund and the corresponding New Fund are shown below.

Current portfolio	Investment objective	New portfolio	Investment objective
Alliance Aggressive Stock.	Seeks to achieve long-term growth of capital	Alliance Aggressive Stock.	Seeks to achieve long-term growth of capital.
Alliance Balanced	Seeks to achieve a high return through both appreciation of capital and current income.	Alliance Balanced	Seeks to achieve a high return through both appreciation of capital and current income.
Alliance Common Stock.	Seeks long-term growth of its capital and increase in income.	Alliance Common Stock.	Seeks long-term growth of its capital and increase in income.
Alliance Conservative Investors.	Seeks to achieve a high total return without, in the opinion of the Adviser, undue risk to principal.	Alliance Conservative Investors.	Seeks to achieve a high total return without, in the opinion of the Adviser, undue risk to principal.
Alliance Equity Index ...	Seeks a total return before expenses that approximates the total return performance of the S&P 500 Index, including reinvestment of dividends, at a risk level consistent with that of the S&P 500 Index.	Alliance Equity Index ..	Seeks a total return before expenses that approximates the total return performance of the S&P 500 Index, including reinvestment of dividends, at a risk level consistent with that of the S&P 500 Index.
Alliance Global	Seeks long-term growth of capital	Alliance Global	Seeks long-term growth of capital.
Alliance Growth and Income.	Seeks to provide a high total return through a combination of current income and capital appreciation by investing primarily in income-producing common stocks and securities convertible into common stocks.	Alliance Growth and Income.	Seeks to provide a high total return through a combination of current income and capital appreciation by investing primarily in income-producing common stocks and securities convertible into common stocks.
Alliance Growth Investors.	Seeks to achieve the highest total return consistent with the Adviser's determination of reasonable risk.	Alliance Growth Investors.	Seeks to achieve the highest total return consistent with the Adviser's determination of reasonable risk.
Alliance High Yield	Seeks to achieve a high return by maximizing current income and, to the extent consistent with that objective, capital appreciation.	Alliance High Yield	Seeks to achieve a high return by maximizing current income and, to the extent consistent with that objective, capital appreciation.
Alliance Intermediate Government Securities.	Seeks to achieve high current income consistent with relative stability of principal through investment primarily in debt securities issued or guaranteed as a principal and interest by the U.S. Government or its agencies or instrumentalities.	Alliance Intermediate Government Securities.	Seeks to achieve high current income consistent with relative stability of principal through investment primarily in debt securities issued or guaranteed as to principal and interest by the U.S. Government or its agencies or instrumentalities.
Alliance International ...	Seeks to achieve long-term growth of capital by investing primarily in a diversified portfolio of equity securities selected principally to permit participation in non-U.S. companies with prospects for growth.	Alliance International ..	Seeks to achieve long-term growth of capital by investing primarily in a diversified portfolio of equity securities selected principally to permit participation in non-U.S. companies with prospects for growth.
Alliance Money Market	Seeks to obtain a high level of current income, preserve its assets and maintain liquidity.	Alliance Money Market	Seeks to obtain a high level of current income, preserve its assets and maintain liquidity.
Alliance Quality Bond ..	Seeks to achieve high current income consistent with preservation of capital by investing primarily in investment grade fixed income securities.	Alliance Quality Bond	Seeks to achieve high current income consistent with preservation of capital by investing primarily in investment grade fixed income securities.

Nos. 23128 (April 24, 1998) (order) and 23093 (March 30, 1998) (notice). Before a New Fund may rely on the Multi-Manager Order, the operation of that New Fund as a multi-manager fund, as described in the application for the Multi-Manager Order,will be approved, following the substitutions proposed in the application, by a majority of that New Fund's outstanding voting securities in a manner consistent with the EQAT Shared Funding Order.

Current portfolio	Investment objective	New portfolio	Investment objective
Alliance Small Cap Growth.	Seeks to achieve long-term growth of capital	Alliance Small Cap Growth.	Seeks to achieve long-term growth of capital.

9. The Section 26(b) Applicants state that it is expected that: (i) the management fees (i.e., the total management fees and investment advisory fees paid to the Manager and the Adviser) with respect to each New Fund will be the same as the management fees currently applicable to the corresponding Current Funds; and (ii) there may be a slight increase in the total expense ratios of each of the New Funds as compared to those of the Current Funds. The Applicants also represent that the charts below show: (i) the management fees and total expenses for Class IA and Class IB shares of each of the Current Funds for the year ending December 31, 1998; and (ii) the estimated management fees and total expenses of Class IA and Class IB shares of each of the New Funds following the proposed substitutions. Estimated management fees and total expenses of the Class IA and Class IB shares of each of the New Funds are presented on a pro forma basis and are based upon the audited financial statements of HRT for the year ending December 31, 1998.

CLASS IA SHARES

[Year ending December 31, 1998, pro forma]

Current fund	Advisory fees (as percentage of average daily net assets)	Total expenses (as percentage of average daily net assets)	New fund	Management & advisory fees (as percentage of average daily net assets)	Total expenses (as percentage of average daily net assets
Alliance Aggressive Stock	0.54	0.56	Alliance Aggressive Stock	0.54	0.57
Alliance Balanced	0.41	0.45	Alliance Balanced	0.41	0.46
Alliance Common Stock	0.36	0.39	Alliance Common Stock	0.36	0.40
Alliance Conservative Investors	0.48	0.53	Alliance Conservative Investors	0.48	0.54
Alliance Equity Index	0.31	0.34	Alliance Equity Index	0.31	0.35
Alliance Global	0.64	0.71	Alliance Global	0.64	0.72
Alliance Growth and Income	0.55	0.58	Alliance Growth and Income	0.55	0.59
Alliance Growth Investors	0.51	0.55	Alliance Growth Investors	0.51	0.56
Alliance High Yield	0.60	0.63	Alliance High Yield	0.60	0.64
Alliance Intermediate Government Securities.	0.50	0.55	Alliance Intermediate Government Securities.	0.50	0.56
Alliance International	0.90	1.06	Alliance International	0.90	1.07
Alliance Money Market	0.35	0.37	Alliance Money Market	0.35	0.38
Alliance Quality Bond	0.53	0.57	Alliance Quality Bond	0.53	0.58
Alliance Small Cap Growth	0.90	0.96	Alliance Small Cap Growth	0.90	0.97

CLASS IB SHARES

[Year ending December 31, 1998, Pro Forma]

Currend fund	Advisory fees (as percentage of average daily net assets)	12b–1 fees (percent)	Total expenses (as percentage of average daily net assets)	New fund	Management & advisory fees (as percentage of average daily net assets)	12b–1 fees	Total expenses (as percentage of average daily net assets)
Alliance Aggressive stock.	0.54	0.25	0.82	Alliance Aggressive Stock.	0.54	0.25	0.82
Alliance Balanced	0.41	0.25	0.70	Alliance Balanced	0.41	0.25	0.71
Alliance Common Stock.	0.36	0.25	0.64	Alliance Common Stock.	0.36	0.25	0.65
Alliance Conservative Investors.	0.48	0.25	0.78	Alliance Conservative Investors.	0.48	0.25	0.79
Alliance Equity Index.	0.31	0.25	0.59	Alliance Equity Index.	0.31	0.25	0.60
Alliance Global.	0.64	0.25	0.96	Alliance Global.	0.64	0.25	0.97
Alliance Growth and Income.	0.55	0.25	0.83	Alliance Growth and Income.	0.55	0.25	0.84
Alliance Growth Investors.	0.51	0.25	0.80	Alliance Growth Investors.	0.51	0.25	0.81
Alliance High Yield	0.60	0.25	0.88	Alliance High Yield	0.60	0.25	0.89
Alliance Intermediate Government Securities.	0.50	0.25	0.80	Alliance Intermediate Government Securities.	0.50	0.25	0.81
Alliance International.	0.90	0.25	1.31	Alliance International.	0.90	0.25	1.32

CLASS IB SHARES—Continued

[Year ending December 31, 1998, Pro Forma]

Currend fund	Advisory fees (as percentage of average daily net assets)	12b–1 fees (percent)	Total expenses (as percentage of average daily net assets)	New fund	Management & advisory fees (as percentage of average daily net assets)	12b–1 fees	Total expenses (as percentage of average daily net assets)
Alliance Money Market.	0.35	0.25	0.62	Alliance Money Market.	0.35	0.25	0.63
Alliance Quality Bond.	0.53	0.25	0.81	Alliance Quality Bond.	0.53	0.25	0.82
Alliance Small Cap Growth.	0.90	0.25	1.20	Alliance Small Cap Growth.	0.90	0.25	1.21

10. The Section 26 Applicants state that they have filed with the Commission prospectuses or prospectus supplements that describe the proposed substitutions. The Section 26 Applicants have sent the appropriate prospectus or supplement (or other notice, in the case of Contracts no longer actively marketed and for which there are a relatively small number of existing Contract owners (''Inactive Contracts'')) [4] containing this disclosure to all existing and new Contract owners and participants. Such disclosure described each of the New Funds, identified each Current Fund that is being replaced, and disclosed the impact of the substitutions on fees and expenses at the underlying fund level. In addition, management and counsel for EQAT have filed with the Commission a post-effective amendment to the current registration statement of EQAT on Form N–1A in order to register the 14 New Funds under the 1940 Act and to register shares in each New Fund under the 1933 Act. Applicants state that on or about August 30, 1999, all existing Contract owners and participants will be sent an additional Contract prospectus or supplement thereto (or other notice in the case of Inactive Contracts) that notifies them of the fact that the application has been noticed. Together with this disclosure, Applicants state that all existing Contract owners and participants also will be sent a prospectus for each of the New Funds into which their Current Funds will be substituted. New purchasers of Contracts will be provided with the Contract prospectuses or supplements containing disclosure that the application has been noticed, as well as a prospectus for each of such New Funds. These Contract prospectuses/supplements and New Fund prospectuses will be delivered to purchasers of new Contracts in accordance with all applicable legal requirements. Confirmation of the substitutions will be sent to affected Contract owners and participants within five days after the substitutions are effected.

11. Applicants state that the substitutions will be effected by redeeming shares of the Current Funds on the date the substitutions will take place (''Substitution Date'') at net asset value and using the proceeds to purchase shares of the New Funds at net asset value on the same date. No transfer or similar charges will be imposed and, on the Substitution Date, all Contract values will remain unchanged and fully invested. The Applicants expect that the substitutions will be effected by redeeming the shares of each Current Fund in-kind. Those assets will then be contributed in-kind to the corresponding New Fund to purchase shares of that New Fund. Redemptions and contributions in-kind (''In-Kind Transactions'') will reduce the brokerage costs that otherwise would be incurred and will ensure that Contract values remain fully invested. In-kind redemptions and contributions will be done in a manner consistent with the investment objectives, policies and diversification requirements of each corresponding New Fund. The Manager of each New Fund will review the in-kind transactions to assure that the assets are suitable for the New Fund. All assets subject to in-kind redemption and purchase will be valued based on the normal valuation procedures of the redeeming and purchasing Funds, as set forth in the HRT and EQAt registration statements.

12. The significant terms of the substitutions describe above include:

a. The New Funds have investment objectives, investment strategies, and anticipated risks that are identical in all material respects to those of the Current Funds. In this regard, the Section 26 Applicants note that the New Funds will continue to employ the same portfolio managers currently employed by the Current Funds and are intended to mirror the investment options provided by the Current Funds.

b. The fees and expenses of the New Funds will in all cases be substantially similar to those of the Current Funds, assuming that the asset levels of the New Funds do not decrease significantly from the Current Funds' present asset levels. Again, the Section 26 Applicants note in this regard that given the substantial similarity of the Current Funds and the New Funds, Applicants do not expect there to be a reduction in the asset levels of the New Funds as a result of the proposed substitutions.

c. Contract owners and participants may transfer assets from the Current or New Funds to another investment option available under their Contract without the imposition of any fee, charge, or other penalty that might otherwise be imposed from the date of the initial notice through a date at least thirty days following the Substitution Date.

d. The substitutions, in all cases, will be effected at the net asset value of the respective shares of the Current Fund and the corresponding New Fund in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder, without the imposition of any transfer or similar charge by the Section 26 Applicants, and with no change in the amount of any Contract owner's or participant's Contract value or in the dollar value of his or her investment in such Contract.

e. Contract owners and participants will not incur any fees or charges as a

[4] Applicants state that in reliance on the relief provided in Great-West Life Insurance Company (pub. avail. Oct. 23, 1990) (''Great-West'') and in The Equitable Life Assurance Society of the United States (pub. avail. Oct. 4, 1990) (''*The Equitable*''), certain information about Inactive Contracts, the relevant Equitable Account, and the underlying fund are provided to Inactive Contract owners in lieu of filing post-effective amendments to the registration statements relating to those Inactive Contracts or delivering updated prospectuses to those Contract owners.

result of the proposed substitutions, nor will their rights or Equitable's obligations under the Contracts be altered in any way. Equitable will bear all expenses incurred in connection with the proposed substitutions and related filings and notices, including legal, accounting and other fees and expenses. The proposed substitutions will not cause the contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions.

f. Redemptions in-kind and contributions in-kind will be done in a manner consistent with the investment objectives, polices and diversification requirements of the applicable Current and New Funds, and the Manager will review in-kind transactions to assure that the assets are suitable for the New Fund. Consistent with Rule 17a–7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid in connection with the in-kind transactions.

g. The substitutions will not be counted as new investment selections in determining the limit, if any, on the total number of funds that Contract owners and participants can select during the life of a Contract.

h. The substitutions will not alter in any way the annuity or life benefits, tax benefits or any contractual obligations of the Section 26 Applicants under the Contracts.

i. Contract owners and participants may withdraw amounts under the Contracts or terminate their interest in a Contract, under the conditions that currently exist, including payment of any applicable withdrawal or surrender charge.

j. Contract owners and participants affected by the substitutions will be sent written confirmation of the substitutions that identify each substitution made on behalf of that Contract owner or participant within five days following the Substitution Date.

k. Before a New Fund may rely on the Multi-Manager Order, the operation of that New Fund as a multi-manager fund, as described in the application for the Multi-Manager Order, will be approved, following the substitutions proposed herein, by a majority of that New Fund's outstanding voting securities in a manner consistent with the EQAT Shared Funding Order.

13. The Section 26(b) Applicants state that they will not complete the substitutions as described in the application unless all of the following conditions are met:

a. The Commission will have issued an order approving the substitutions under Section 26(b) of the 1940 Act.

b. The Commission will have issued an order exempting the in-kind transactions from the provisions of Section 17(a) of the 1940 Act, to the extent necessary to carry out the substitutions as described herein.

c. The amendments to the registration statements for the Contracts describing the substitutions shall have become effective.

d. The amendments to the registration statement for EQAT adding the 14 New Funds shall have become effective.

e. Each Contract owner or participant will have been mailed effective prospectuses with respect to the New Funds and the effective amended/supplemented prospectus for the applicable Contracts (or other notice in the case of Inactive Contracts) [5] at least thirty days prior to the Substitution Date (Applicants state that Contract owners and participants were sent initial disclosure of the proposed substitutions following the initial filing of this application). In addition, in conjunction with this mailing, at least thirty days prior to the Substitution Date, each Contract owner or participant will have been sent a notice that describes the terms of the proposed substitutions and Contract owners' and participants' rights in connection with them.

f. The Section 26 Applicants will have satisfied themselves, based on advice of counsel familiar with insurance laws, that the Contracts allow the substitution of portfolios as described in the application, and that the transactions can be consummated as described therein under applicable insurance laws and under the various Contracts.

g. The Section 26 Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts are qualified for sale.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides that it shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. Section 26(b) further provides that the Commission shall issue an order approving such substitution if the evidence establishes that it is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. The Section 26 Applicants submit that the Contracts expressly reserve to the Applicants the right, subject to compliance with applicable law, to substitute shares of another portfolio for shares of the Current Funds held by the Equitable Accounts, and that appropriate disclosure of this right is contained in the prospectuses describing the Contracts. The Applicants assert that they have reserved this right of substitution both to protect themselves and their Contract owners in situations where either might be harmed by events affecting the issuer of the securities held by a Separate Account and to preserve the opportunity to replace such shares where a substitution could benefit the Contract owners.

3. The Section 26 Applicants maintain that the proposed substitutions protect the Contract owners who have allocated Contract value to the Current Funds by: (1) providing an underlying investment option that is substantially similar in all material aspects to the current investment option; and (2) providing such Contract owners with simpler and more focused disclosure documents.

4. The Section 26 Applicants submit that the proposed substitutions meet the standards that the Commission and its staff generally have applied to other substitutions that have been approved. In addition, the Applicants contend that none of the proposed substitutions is the type of substitution that Section 26(b) was designed to prevent. Unlike traditional unit investment trusts, the Contracts provide each Contract owner with the right to exercise his own judgment and transfer Contract values into any other available variable and/or fixed investment options. Additionally, Applicants state that the proposed substitutions will not, in any manner, reduce the number, nature or quality of the available investment options. The Applicants assert that the Contract owners will be offered the opportunity to transfer amounts out of the affected subaccounts without any cost or penalty that may otherwise have been imposed until thirty days after the Substitution Date. For these reasons, the Applicants

[5] The Section 26 Applicants state that they have sent and will continue to send Inactive Contract owners all relevant information about the proposed substitutions in accordance with the terms of Great-West and The Equitable. Applicants state that the substance of the disclosures about the substitutions that they will make to owners of Inactive Contracts will be essentially identical to the disclosures about the substitutions that they make to owners of all other outstanding Contracts. Applicants state that certain of these disclosures already have been delivered and that all such further disclosures will be sent at approximately the same time to owners of Inactive Contracts as to all other owners of outstanding Contracts.

maintain that the proposed substitutions will not result in the type of forced redemptions that Section 26(b) was designed to prevent.

5. The Section 26 Applicants further submit that the proposed substitutions also are unlike the type of substitution that Section 26(b) was designed to prevent in that by purchasing a Contract, Contract owners and participants select much more than a particular underlying fund in which to invest. The Contract owners also select the specific type of insurance coverage offered under the Contract, as well as other rights and privileges set forth in the Contract. The Applicants state that, in choosing to buy a Contract, the Contract owner also may have considered Equitable's size, financial condition, and reputation for service, and that none of those considerations and factors will change as a result of the proposed substitutions.

6. The Section 26 Applicants submit that, for all reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

7. Section 17(a)(1) of the 1940 Act, in relevant part, prohibits any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, from knowingly selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits such affiliated persons from knowingly purchasing any security or other property from such registered investment company.

8. Section 17(b) of the 1940 Act Authorizes the Commission to issue an order exempting a proposed transaction from Section 17(a) if: (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policy of each registered investment company concerned; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act.

9. The Section 17 Applicants submit that each of the Current Funds may be deemed to be an affiliated person of an affiliated person (Equitable or the Equitable Separate Accounts) of the New Funds, and vice versa. In addition, each of the Current Funds and each of the New Funds may be deemed to be under the common control of Equitable or the Equitable Separate Accounts and, therefore, to be affiliated persons of each other. If viewed as such, the proposed In-Kind Transactions may be deemed to contravene Section 17(a) due to the affiliated status of the participants.

10. The Section 17 Applicants maintain that the terms of the proposed substitutions, including the consideration to be paid and received, are reasonable, fair, and do not involve overreaching because: (1) the transactions will not adversely affect or dilute the interests of Contract owners and participants; (2) with respect to those securities for which market quotations are readily available, the transactions will comply with the conditions set forth in Rule 17a–7, other than the requirement relating to cash consideration; and (3) with respect to those securities for which market quotations are not readily available, the transactions will be effected in accordance with each Fund's normal valuation procedures, as set forth in the HRT and EQAT registration statements. The Applicants assert that the In-Kind Transactions will be effected at the respective net asset values of the Current Funds and the New Funds and that, after the proposed In-Kind Transactions, the value of an Equitable Separate Account's investment in the New Funds will equal the value of its investment in the Current Funds before the In-Kind Transactions. The Applicants further maintain that none of the parties will be in a position to ''dump'' undesirable securities on either the Current or New Funds or to transfer desirable securities to other advisory clients because virtually all of the portfolio securities of each of the Current Funds will be transferred to the corresponding New Fund, and the portfolio securities were selected and retained, or will be selected between the date of the amended and restated application and the Substitution Date, without regard to the proposed In-Kind Transactions.

11. The Section 17 Applicants submit that the proposed redemption of shares of the Current Funds will be consistent with the investment policies of HRT and the Current Funds provided that the shares are redeemed at their net asset value in conformity with Rule 22c–1 under the 1940 Act. The Applicants also submit that the proposed sale of shares of the New Funds for investment securities is consistent with the investment policy of EQAT and will be consistent with the investment policy of each of the New Funds provided that: (1) the shares are sold at their net asset value; and (2) the investment securities are of the type and quality that each of the New Funds could have acquired, respectively, with the proceeds from the sale of its shares had the shares been sold for cash. The Applicants assert that the second of these conditions is met because for the proposed In-Kind Transactions: (1) the New Funds are substantially similar to the Current Funds; (2) the Adviser for the New Funds will be the same as the current investment adviser for the corresponding Current Funds; and (3) the Adviser will have retained or selected each portfolio security for the corresponding Current Fund without regard to the proposed In-Kind Transaction.

12. The Section 17 Applicants assert that the proposed In-Kind Transactions are consistent with the general purposes of the 1940 Act as stated in the Findings and Declaration of Policy in Section 1 of the 1940 Act and do not present any conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the substitutions and related transactions involving the In-Kind Transactions should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–22022 Filed 8–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23954; 812–11588]

Van Wagoner Funds, Inc., et al.; Notice of Application

August 19, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under sections 6(c) and 17(d) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act permitting certain joint transactions.

SUMMARY OF APPLICATION: The order would permit applicants to co-invest in the same issuers of securities with each other and certain affiliates.

APPLICANTS: Van Wagoner Funds, Inc. (the ''Company'') and Van Wagoner Capital Management, Inc. (the ''Adviser'').

FILING DATES: The application was filed on April 20, 1999, and amended on July 7, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the

requested relief 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 September 13, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549–0609. Applicants: 345 California Street, San Francisco, California 94104.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, (202) 942–7120, or Nadya B. Roytblat, Assistant Director (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The Company, organized as a Maryland corporation, is registered under the Act as an open-end management investment company. The Company currently offers seven series (together with any new series of the Company to be offered in the future, the ''Funds'').[1] Each Fund's investment objective is capital appreciation, and each Fund may invest up to 15% of its net assets in illiquid securities. Applicants state that substantially all of the illiquid securities held by the Funds are venture capital investments. The Adviser serves as investment adviser to each Fund and is registered under the Investment Advisers Act of 1940. A majority of the board of directors of the Company (''Board'') are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors'').

2. The Adviser or its affiliates (''Adviser Affiliates'') also may serve as investment adviser to other private accounts on a discretionary basis and as general partner and/or investment adviser to other investment vehicles that are exempt from the Act under section 3(c)(1) or 3(c)(7) of the Act. These private accounts and vehicles, along with any similar entity created, advised, sponsored or otherwise organized by the Adviser or Adviser Affiliates, are referred to as ''Company Affiliates.'' When acting as the general partner of a Company Affiliate, the Adviser or Adviser Affiliates may make a capital contribution in connection with the organization of the Company Affiliate and maintain an interest in the gains, losses, income, and expenses of the Company Affiliate. The Adviser or Adviser Affiliate also may be required to make a commitment to co-invest on a principal basis with a Company Affiliate in an amount up to 1% of the Company Affiliate's investment.

3. Applicants state that it may be beneficial for the Funds to be able to co-invest in certain venture capital investments with Company affiliates. Applicants assert that co-investment in portfolio companies by the Funds and Company Affiliates would increase favorable investment opportunities for the Funds, consistent with the Funds' investment objectives, policies, and restrictions. Applicants state that these investment opportunities will not include investments in registered investment companies or entities relying on section 3(c)(1) or 3(c)(7) of the Act. Applicants also state that the co-investments will be treated as illiquid securities for purposes of the 15% limit on the Funds' investment in illiquid securities.[2]

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 under the Act generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 under the Act povides that in passing upon applications under section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or les dvantageous than that of other participants.

2. Section 6(c) of the Act provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under sections 6(c) and 17(d) of the Act and rule 17d–1 to permit the Funds to co-invest with other Funds, Company Affiliates, and the Adviser or Adviser Affiliates. Applicants state that the Adviser and Adviser Affiliates will co-invest with the Funds only if and to the extent required to do so by a Company Affiliate. Applicants state that the conditions to the requested order that will govern the co-investments will assure that the investments will be in the best interests of the participating Funds and consistent with the Funds' investment policies, and that the Funds will be participating in the co-investment on a basis that is no less advantageous than that of the other participants.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. (a) To the extent that a Fund is considering new investments, the Adviser will review investment opportunities on behalf of the other Funds and investments being considered on behalf of any Company Affiliate, and, when required by a Company Affiliate, the Adviser or Adviser Affiliate. The Adviser will determine whether an investment being considered on behalf of a Company Affiliate (''Company Affiliate Investment'') meets a Fund's investment objectives, policies, and restrictions and is otherwise eligible for investment by any of the Funds.

(b) If the Adviser deems a Company Affiliate Investment eligible for one or more Funds (a ''co-investment opportunity''), the Adviser will determine what it considers to be an appropriate amount that each eligible Fund should invest. When the aggregate amount recommended for any Fund and that to be bought by other Funds, a Company Affiliate and, when required by a Company Affiliate, the Adviser or Adviser Affiliate, exceeds the amount of the co-investment opportunity, the amount invested by such Fund shall be based on the ratio of the net assets available for investment of that Fund to the aggregate net assets available for investment by any other Fund and the Company Affiliate (including the interest of the Adviser or Adviser

[1] All existing Funds that currently intend to rely on the requested order are named as applicants, and any entity that relies on the order in the future will comply with the terms and conditions of the application.

[2] Applicants note that if a portfolio company subsequently becomes a publicly traded company, its shares held by the Funds may no longer be illiquid securities.

Affiliate, if applicable) seeking to make the investment.

(c) Following the making of the determinations referred to in (a) and (b), the Adviser will distribute written information concerning all co-investment opportunities to the Independent Directors. Such information will include the amount any other Fund, the Company Affiliate and, when required by a Company Affiliate, the Adviser or Adviser Affiliate, proposes to invest.

(d) Information regarding the Adviser's preliminary determinations will be reviewed by the Independent Directors. One or more Funds will co-invest with each other and/or with a Company Affiliate and, when required by a Company Affiliate, with the Adviser or Adviser Affiliate, only if a majority of the Independent Directors who have no direct or indirect financial interest in the transaction (''Required Majority'') concludes prior to the acquisition of the investment that:

(i) the terms of the transaction, including the consideration to be paid, are reasonable and fair to the shareholders of applicable Funds and do not involve overreaching of the Company or such shareholders on the part of any person concerned;

(ii) the transaction is consistent with the interest of the shareholders of the applicable Funds and is consistent with the Fund's investment objectives and policies as recited in its registration statement and reports filed under the Act, and its reports to shareholders;

(iii) the investment by the Company Affiliates and, when required by a Company Affiliate, the Adviser or Adviser Affiliate, would not disadvantage a Fund, and that participation by such Fund or Funds would not be on a basis different from or less advantageous than that of the Company Affiliate and, when required by a Company Affiliate, the Adviser or Adviser Affiliate; and

(iv) the proposed investment by applicable Funds will not benefit the Adviser or any affiliate entity thereof, other than the Company Affiliate making the co-investment, provided, however that the Adviser (1) may continue to receive advisory and other fees from the Funds and the Company Affiliates and (2) may participate in any co-investment wherein the Adviser or Adviser Affiliate is required by a Company Affiliate to commit to co-invest in all direct investments with such equity in the amount of up to 1% of the investment of each such entity.

(e) Each of the Funds has the right to decline to participate in the co-investment opportunity or purchase less than its full allocation.

2. No Fund will make an investment for its portfolio if any Company Affiliate or the Adviser or Adviser Affiliate is an existing investor in such issuer, with the exception of a follow-on investment that complies with condition 5 below.

3. For any purchase of securities by one or more Funds in which a Company Affiliate and, when required by a Company Affiliate, the Adviser or Adviser Affiliate, is a joint participant, the terms, conditions, price, class of securities, settlement date, and registration rights shall be the same for each of the Funds and the Company Affiliate and the Adviser or Adviser Affiliate, if applicable, and the approval of such transactions, including the determination of the terms of the transaction by the Required Majority, will be made in the same time period.

4. If a Company Affiliate and/or the Adviser or Adviser Affiliate elects to sell, exchange, or otherwise dispose of an interest in a security that is also held by one or more Funds, the Adviser will notify the applicable Funds of the proposed disposition at the earliest practical time and the Company will be given an opportunity to participate in such disposition on a proportionate basis, at the same price and on the same terms and conditions as those available to the Company Affiliate and/or the Adviser or Adviser Affiliate. The Adviser will formulate a recommendation as to participation by such Funds as such a disposition, to the extent that the Required Majority determines that it is in the Fund's best interest. Each of the Funds, the Adviser or Adviser Affiliate and the Company Affiliate will bear its own expenses associated with any such disposition of the portfolio security.

5. If a Company Affiliate desires to make a ''follow-on'' investment (*i.e.*, additional investment in the same entity) in a portfolio company whose securities are held by any of the Funds or to exercise warrants or other rights to purchase securities of such an issuer, the Adviser will notify the company of the proposed transaction at the earliest practical time. The Adviser will formulate a recommendation as to the proposed participation by the applicable Fund in a follow-on investment and provide the recommendation to the Required Majority along with notice of the total amount of the follow-on investment. The Required Majority will make its own determination with respect to follow-on investments. To the extent that the amount of a follow-on investment opportunity is not based on the amount of the applicable Fund's, the Company Affiliate's and, if applicable, the Adviser's or Adviser Affiliate's initial investments, the relative amount of investment by the Company Affiliate and, if applicable, the Adviser or Adviser Affiliate and the Company will be based on the ratio of the applicable Fund's remaining funds available for investment to the aggregate of such Fund's and the Company Affiliate's (including the interest of the Adviser or Adviser Affiliate) remaining funds available for investment. The applicable Fund will participate in such investment to the extent that the Required Majority determines that it is in such Fund's best interest. The acquisition of follow-on investments as permitted by this condition will be subject to the other conditions set forth in the application.

6. The Required Majority will be provided quarterly for its review all information concerning co-investment transactions, including investments made by the Adviser, Adviser Affiliate and Company Affiliates in which a Fund declined to participate, so that the Required Majority may determine whether all investments made during the preceding quarter, including those investments in which the Fund declined to participate, comply with the conditions of the order. In addition, the Required Majority will consider at least annually the continued appropriateness of the standards established for co-investment by a Fund, including whether the use of the standards continues to be in the best interest of the Funds and its shareholders and does not involve overreaching on the part of any person concerned.

7. Other than as provided in condition 1(d)(iv), neither the Adviser nor any Adviser Affiliate nor any director of the Company will participate in a co-investment with the Company unless a separate exemptive order with respect to such co-investment is obtained.

8. None of the Adviser, Adviser Affiliates, Company Affiliates or the Funds will be involved in the sponsorship of any portfolio company.

9. None of the Adviser, Adviser Affiliates, Company Affiliates or the Funds will be involved in the structuring of any portfolio company or of any security issued by any portfolio company, except that the Adviser may take part in the negotiation of the terms (such as coupon, final maturity, average life, sinking funds, conversion price, registration, put rights and call protection) and appropriate restrictive covenants governing the securities purchased in a co-investment transaction.

10. Each of the Funds will maintain and perserve all records that are required by section 31 of the Act and any other provisions of the Act and the rules and regulations under the Act applicable to the Funds. The Fund also will maintain the records required by section 57(f)(3) of the Act as if each of the Funds were a business development company and the co-investments and any follow-on investments were approved under section 57(f).

11. None of the Adviser, Adviser Affiliates, Company Affiliates or the Funds will ''make available significant managerial assistance,'' within the meaning of section 2(a)(47) of the Act, to any portfolio company whose securities were acquired pursuant to the requested order.

12. None of the Adviser, Adviser Affiliates, or Company Affiliates will receive any transaction fees (including, without limitation, monitoring, ''topping,'' breakup, and termination fees) in connection with any investment made pursuant to the requested order.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–22021 Filed 8–24–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41752; File No. SR–CBOE–99–42]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market-Maker Surcharge Fee Schedule

August 17, 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 August 2, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage.*[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to CBOE Rule 2.40, on July 30, 1999, the Equity Floor Procedure Committee (''Committee'') approved the following fees for the option classes listed in the chart below. The Order Book Official Brokerage Rate (per contract) currently is $.00 for these option classes.[4] The market-maker surcharge for brokerage is proposed to be raised as reflected below.

Option class	Market-Maker surcharge (per contract)
Friede Goldman International, Inc. (FGI)	$0.15
Northwest Airlines Corporation (NAQ)	0.14
Open Market, Inc. (OQM)	0.17
Orbital Sciences Corporation (ORB)	0.11
ONSALE, Inc. (QOL)	0.12
Synovous Financial Corporation (SNV)	0.12
Zebra Technologies Corporation (ZBQ)	0.15

[3] *See* Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999) (order approving CBOE Rule 2.40).

[4] As the Order Book Official Brokerage Rate (per contract) for these classes is already $.00, additional funds generated by the surcharge will be paid to Stationary Floor Brokers as provided in Exchange Rule 2.40. Telephone conversation between Timothy Thompson, Director, Regulatory Affairs, Legal Department, CBOE, and Kenneth Rosen, Attorney, and Matthew Boesch, Paralegal, Division of Market Regulation, Commission, on August 16, 1999.

These fees will be effective as of August 2, 1999. All of the fees will remain in effect until such time as the Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4)[5] of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to section 19(b)(3)(A)(ii)[6] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[8]

IV. Solicitation 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

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–42 and should be submitted by September 15, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–21979 Filed 8–24–99; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3206]

State of Utah

As a result of the President's major disaster declaration on August 16, 1999, I find that Salt Lake County, Utah constitutes a disaster area due to damages caused by a tornado, severe thunderstorms, and hail that occurred on August 11, 1999. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 14, 1999, and for loans for economic injury until the close of business on May 16, 2000 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Utah may be filed until the specified date at the above location: Davis, Morgan, Summit, Tooele, Utah, and Wasatch.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	7.250
Homeowners without credit available elsewhere	3.625
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.000
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 320612 and for economic injury the number is 9D8000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 18, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–21980 Filed 8–24–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 3117]

Information Collection; Comment Request

AGENCY: Department of State.

ACTION: Notice of information collection under emergency review: Department of State intern program statement of interest.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

Type of Request: Emergency Review Notice Request.

Originating Office: PER/REE/REC.

Title of Information Collection: Department of State Intern Program Statement of Interest.

Frequency: Three application periods per year.

Form Number: No number assigned.

Respondents: Sophomore through Graduate level college and university students.

Estimated Number of Respondents: 3,500.

Average Hours Per Response: ½ hour per response.

Total Estimated Burden: 1,750.

The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by August 20, 1999. If granted, the emergency approval is only valid for 180 days. Comments should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until 60 days from date of publication in the Federal Register. The agency requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Richard M. Esper, Bureau Of Personnel, Recruitment Division, Student Programs, (703) 875–4415, U.S. Department of State, Washington, DC 20520.

Dated: August 13, 1999.

Ruben Torres,

Director, PER/EX.

[FR Doc. 99–22039 Filed 8–24–99; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice: 3116]

Calls for Proposals for Scientific and Technological Collaborative Projects Between the United States and Spain

AGENCY: Bureau of Oceans and International Environmental and Scientific Environmental Affairs.

ACTION: Calls for Proposals for Scientific and Technological Collaborative projects between the United States and Spain.

SUMMARY: This announcement is a third call for collaborative projects under the

[9] 17 CFR 200.30–3(a)(12).

Agreement on Scientific and Technological Cooperation for the purposes of encouraging and supporting cooperation between the United States and Spain. Proposals submitted will undergo peer review by both countries and will be approved or disapproved by the Joint Commission.

EFFECTIVE DATE: September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Shauntia Hart Rodney, Program Officer, Office of Science and Technology Cooperation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State—Tel # (202) 647–2245, Fax # (202) 647–2746, or The Commission for Cultural Educational and Scientific Exchange between the United States of America and Spain, Paseo Gral. Martinez Campos, 24, 28080 Madrid, 34–91–308–2436, or via E-Mail at *postmaster@comision*.fulbright.es, or *postmaster@comision-fulbright.org.* The Commission maintains a web-site on this and other programs at *http://www.fulbright.es/welcome.html.*

SUPPLIMENTARY INFORMATION:

Authority:

This program is established under the Agreement for Scientific and Technological Cooperation between the Government of the United States and the Government of Spain.

A solicitation for this program began September 1, and will continue until the closing date of December 1, 1999. The Department of State and the Foreign Ministry of Spain announce the third call for collaborative projects under the Agreement on Scientific and Technological Cooperation, which entered into force in 1996. The purpose of the Agreement is to encourage and support scientific and technological cooperation between the United States and Spain. Grants under this project call, that are approved by the Joint Commission on Scientific and Technological Cooperation will assist with the costs for international collaboration between research teams from science agencies and universities of the two countries. Basic research costs must be funded from other sources. Costs supported will normally not exceed $30,000 in the first year; a renewal may be requested under a later project call.

Basic Terms

The funds available to the Joint Commission as described in Article VII (2) of the Agreement, are being used as follows. Approximately twenty-five percent of the funds were used in the first year of the program, or approximately $750,000 for thirty-six grants. In the second call for proposals, approximately 40% of the funds, or about $1,200,000 were used for new proposals and for approved renewals. The remaining funds will be used in the third year.

Costs supported include travel, at government contract rates or tourist class; per diem lodging, meals and incidentals; international mail and messenger service; minimal amounts of equipment (normally no more than $2000 would be approved), and the like. Living costs will be supported up to a maximum of $175 per day, but teams are encouraged to find less expensive options for meals and lodging for stays of more than a few days, to maximize the funds available. Normally travel should be for a minimum of week and a maximum of a month.

The call for proposals is open until December 1, 1999; grants will be decided in April 2000. There will normally be a maximum of twelve months for use of granted funds. A mid-term report after the first six months will be the basis of an application for a renewal if one is desired. Proposals will be subject to peer review in both countries. Proposals will be submitted as a single package in both English and Spanish; U.S. principal investigators should forward their portion of the document to their Spanish counterpart, to facilitate the submission of the package to the Program Secretariat in Madrid.

Collaborative proposals are expected to have secured funding for the basic research, and preferably be already established projects in at least one of the two countries.

Priorities

Emphasis will be given by the Joint Commission in the 1998 awards to the following fields:

1. Life Sciences
1.1 Infectious and degenerative diseases, including diseases of animals
1.2 Biotechnology of plants, plant health, and integrated pest management
1.3 Food biotechnology
1.4 Molecular design in the production of pharmaceuticals
2. Environment
2.1 Biodiversity
2.2 Natural reserves and protected ecosystems
2.3 Conservation of soils and forests and problems of desertification
2.4 Integrated water management; resources, use and reuse
2.5 Combating pollution and treatment of wastes
3. Information and Communication Technology
3.1 Electronic and microelectronic technology
3.2 Advanced communication technology: satellites, mobile units, Internet II
3.3 Informatics
4. Materials Sciences
4.1 Ceramics, metals, polymers, compounds and superconductors
4.2 Advanced production technology for new materials
5. Energy and High Energy Physics
5.1 Alternate energy: Solar and Wind
5.2 Clean technologies for fossil fuels and/or alternatives
5.3 Cooperative research with U.S. High Energy Physics Labs
6. Space, including earth observation from space.

Applicants will indicate on the cover sheet the number of the field under which the project falls. Projects submitted outside these categories should simply be designated as ''7. Other Fields.''

7. Other

Research Teams

All scientists working in research agencies of the two governments, or in universities of the two countries, are eligible to apply. Each project should have a principal investigator on the U.S. side and on the Spanish side. These should be nationals or residents of the respective countries; teams may include citizens of other countries if this is justified in the research plan. U.S. researchers are reminded that Spain requires a visa for holders of official or diplomatic passports.

Brooke Holmes,

Director, Office of Science and Technology Cooperation, Bureau of Oceans and International Environmental and Scientific Affairs And, Chair, U.S.-Spain S&T Commission.

[FR Doc. 99–22038 Filed 8–24–99; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of Daystar Airways, Ltd. D/B/A Nevis Express for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 99–8–16) Docket OST–99–5062.

SUMMARY: The Department of Transportation is directing all interested

persons to show cause why it should not issue an order finding Daystar Airways, Ltd. d/b/a Nevis Express fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in foreign scheduled air transportation of persons, property, and mail between the United States and Nevis and St. Kitts, West Indies, using aircraft with no more than nine passengers seats.

DATES: Persons wishing to file objections should do so no later than September 7, 1999.

ADDRESSES: Objections and answers to objections should be filed in the Docket OST–99–5062 and addressed to the Department of Transportation Dockets, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: August 19, 1999.

A. Bradley Mims,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–21999 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–1999–6136]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) and its Subcommittee on Proper Cargo Names (PCN) will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. Both meetings will be open to the public.

DATES: CTAC will meet on Thursday, September 16, 1999, from 9 a.m. to 3:30 p.m. The Subcommittee on PCN will meet on Wednesday, September 15, 1999, from 8:30 a.m. to 3 p.m. These meetings may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before September 6, 1999. Requests to have a copy of your material distributed to each member of the committee or subcommittee should reach the Coast Guard on or before September 6, 1999.

ADDRESSES: CTAC will meet at the Greenspoint Marriott Hotel, 255 N. Sam Houston Parkway, Houston, Texas. The Subcommittee on PCN will meet at the American Bureau of Shipping (ABS) Training Academy, ABS Plaza, 16855 Northchase Drive, Houston, Texas. Send written material and requests to make oral presentations to Commander Robert F. Corbin, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Commander Robert F. Corbin, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

Chemical Transportation Advisory Committee (CTAC). The agenda includes the following:

(1) Introduction and swearing-in of the new members.

(2) Status report from the Subcommittee on Prevention Through People (PTP).

(3) Final report from the Subcommittee on PCN.

(4) Report on current International Maritime Organization (IMO) activities relating to the chemical transportation industry.

(5) Presentation on the Coast Guard's bulk cargo finding aid.

(6) Presentation on the ABS chemical initiative (navigating the regulatory maze) and the ABS rapid response program.

Subcommittee/Workshop on PCN

The agenda includes the following:

(1) Discussion of proper cargo name usage and applicable regulatory requirements.

(2) Coast Guard cargo classification process.

(3) Demonstration on Coast Guard bulk cargo finding aid.

Procedural

Both meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than September 6, 1999. Written material for distribution at a meeting should reach the Coast Guard no later than September 6, 1999. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of a meeting, please submit 25 copies to the Executive Director no later than September 6, 1999.

Information on Services for Individuals with Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: August 18, 1999.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 99–22055 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA—1999—6086; (Formerly FRA Docket No. SBR 97–1)]

RIN No. 2130–AB15

Notice of Public Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: In this notice, FRA announces a public meeting that will take place on September 28, 1999 in Washington, D. C. The purpose of the meeting is to discuss the definition of ''small entity,'' for purposes of FRA's small business communication and enforcement policies and procedures, in order to determine the scope of the entities subject to those programs. FRA previously published an Interim Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws and invited comment on the definition of ''small entity'' at that time. FRA received comments from interested parties and plans to discuss those at this meeting.

DATES: *Meeting Date:* The public meeting will be held on September 28, 1999; 10 a.m. in Conference Room 1 of the FRA, 1120 Vermont Ave., NW, Seventh Floor, Washington, DC.

Written Comments: (1) Written comments must be submitted to DOT's Central Docket Management Facility by September 20, 1999. Commenters should reference the docket number and

submit two copies of their comments. Any party that submitted comments to Notice #1 of this proceeding, in former docket number SBR 97–1, need not file comments in this proceeding unless the party has additional or alternate information to submit to FRA.

Notice of Attendance: Any party who wishes to attend or participate in the public hearing should notify the FRA Docket Clerk by September 20, 1999.

ADDRESSES: *Written Comments:* Written comments should be submitted to the DOT's Central Docket Management Facility at Room PL 401, 400 Seventh Street, SW, Washington, DC 20590–0001. All documents in the docket are available for inspection and copying at DOT's Central Docket Management Facility, Plaza level of the Nassif Building at the US Department of Transportation, Room PL 401, 400 Seventh Street, SW, Washington, DC 20590–0001 between the hours of 10 a.m. and 5 p.m. Contents of the docket are also available for viewing on the Internet at http://dms.dot.gov.

Registration: Persons wishing to register for the meeting may do so by contacting Ms. Renee Bridgers, FRA Docket Clerk at 202–493–6030 or by writing her at Office of Chief Counsel, Mail Stop 10, Federal Railroad Administration, 1120 Vermont Avenue, NW, Washington, DC 20590. Ms. Bridgers may also be contacted by e-mail at RENEE.BRIDGERS@FRA.DOT.GOV. Any party wishing to attend and participate in the public meeting should notify Ms. Bridgers no later than September 20, 1999.

FOR FURTHER INFORMATION PLEASE CONTACT:

(1) *Principal Program Officer:* Edward R. English, Director, Office of Safety Enforcement, 400 Seventh Street, SW, Mail Stop 25, Washington, DC 20590; telephone: 202–493–6244.

(2) *Principal Economist:* Jeffery Horn, Office of Safety Analysis, Planning and Evaluation Division, 400 Seventh Street, SW, Mail Stop 25, Washington, DC 20590; telephone: 202-493–6283.

(3) *Principal Attorney:* Christine Beyer, Office of Chief Counsel, FRA, 400 Seventh Street, SW, Mail Stop 10, Washington, DC 20590; telephone: 202–493–6027.

SUPPLEMENTARY INFORMATION:

I. Background

FRA has broad statutory authority to regulate all areas of railroad safety, and pursuant to that authority, administers comprehensive regulatory and enforcement programs to address the safety of equipment, track and roadbed, and workplace safety in the railroad industry. FRA's implementation of these regulatory and enforcement programs includes consideration of the unique concerns of small entities and seeks to minimize adverse economic burdens on them where possible. Small businesses play a vital role in the economic and operational health of the railroad industry, and consequently, it has been FRA's longstanding policy to devote attention to the special needs of small entities, both in the way the agency communicates and in the agency's enforcement efforts.

The Congress enacted The Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA) to address a variety of issues relating to the federal treatment of small businesses. SBREFA established new requirements for federal agencies to follow with respect to small entities, created new duties for the Small Business Administration (SBA), and amended the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) and the Equal Access to Justice Act (5 U.S.C. 501, *et seq.*) SBREFA required federal agencies to institute communication and enforcement polices that would give consideration to the unique concerns of small businesses within their jurisdiction. As a result of SBREFA, FRA formalized its existing communication and enforcement policies by incorporating them into written form, and published the Interim Policy Statement Concerning Small Entities Subject to the Railroad Safety Laws (Interim Policy Statement) on August 11, 1997. 62 FR 43024. The Interim Policy Statement outlines FRA's communication efforts and commitments with respect to small entities, and explains how the agency seeks to accommodate the unique characteristics and limited profit margins of small companies in enforcing the railroad safety standards.

II. Definition of Small Entity in the Railroad Industry

In the Interim Policy Statement, FRA articulated its communication and enforcement policies concerning small entities, and discussed the meaning of the term ''small entity'' for purposes of the formalized policies. The Interim Policy Statement explained that SBREFA incorporated the definition for ''small entity'' established by existing law for those businesses to be covered by the federal policies. *See,* 5 U.S.C. 601, 15 U.S.C. 632, 13 CFR part 121. Generally, a small entity is a business concern that is independently owned and operated, and is not dominant in it field of operation. SBA was granted authority to develop size categories through regulation, which clarify the term ''small entity'' by industry, using number of employees or annual income as criteria. In the SBA regulations, main line railroads with 1500 or fewer employees, and switching or terminal establishments with 500 or fewer employees constitute small entities. However, an agency may establish one or more other definition for this term, in consultation with the SBA and after opportunity for public comment, that are appropriate to the agency's activities. Also, ''small governmental jurisdictions'' that serve populations of 50,000 or less are small entities. (This is significant for the railroad industry because commuter operations are governmental jurisdictions, and some may fit within this statutory definition for small governmental jurisdictions, or small entities, for purposes of treatment under SBREFA.)

As the Interim Policy Statement noted, the Interstate Commerce Commission (ICC) had developed a size classification system for freight railroads, based on annual operating revenue, long before SBA's regulations establishing size categories were promulgated. (The qualifying criteria for the ICC classifications are set forth in 49 CFR part 1201.) The ICC classification system has been used pervasively by the railroad industry and FRA to identify entities by size, and the Surface Transportation Board (STB), which succeeded the ICC, has not changed these classifications. In consultation with SBA, and as a result of its own judgment concerning railroad safety and appropriate limits on the number and economic status of companies that should take advantage of the benefits provided by SBREFA and the Interim Policy Statement, FRA determined that the ICC size classifications should be used, at least on an interim basis, in the railroad industry. Therefore, the Interim Policy Statement established that ''small entity'' in the railroad industry would be Class III railroads, shippers and railroad contractors that meet the economic limits set for Class III railroads, and commuter operations that serve population centers of 50,000 or less. The current annual operating revenue benchmark for Class III railroads is $20 million, adjusted by applying the railroad revenue deflator adjustment; this figure may change, based on calculations made by the STB and consistent with economic trends. However, FRA requested comments from the industry concerning this decision, and alternate classifications that would identify small companies in need of special treatment in such a way

that railroad safety would not be compromised and the intent of SBREFA would be met.

In addition to establishing this interim definition for the railroad industry in the Interim Policy Statement, FRA requested comment on a variety of potential definitions: (1) Fifteen employees subject to the hours of service laws, which Congress used as a benchmark for small business exemptions in the hours of service law, 49 U.S.C. 21102(b); (2) a total of at least 400,000 person/hours worked annually, which equates to approximately 200 employees and which FRA has used as a size classification previously; (3) the Class III designation currently in use; (4) the employee delineations established by SBA regulation; (5) any combination of these; and (6) entirely new designations. FRA invited comment on these possible definitions from all interested parties, and asked those submitting comments to provide the rationale for the proposals offered, including economic and employee data, operating concerns, and an explanation of how SBREFA's intent would be met by adoption of a particular definition. In addition, FRA stated that the agency would conduct a public meeting to discuss comments received and adoption of a permanent definition for ''small entity.''

In response to the Interim Policy Statement, the National Railroad Construction and Maintenance Association, Inc. (NRC) and The American Short Line Railroad Association (now known as The American Short Line and Regional Railroad Association) (ASLRRA) submitted comments to FRA. The comments of these organizations are available for review in the docket of this proceeding. In general terms, the NRC urged FRA to adopt the 400,000/person hours designation, and the ASLRRA urged FRA to expand its definition to include Class II, as well as Class III companies, in its definition of ''small entity.'' Class II railroads are those with annual operating revenues in excess of $20 million and less than $250 million.

FRA will hold a public meeting on September 28 at 10:00 a.m. to discuss these proposals, others FRA has outlined above, and all other appropriate proposals that have not yet been illuminated. FRA also requests comment on methods by which flexibility might be incorporated into the definition to address changing economic trends; sudden changes in employee staffing levels; the development of low cost, innovative equipment improvements; and other future events that could make the definition FRA adopts now obsolete in a very short time. It is important to note that any new definition of ''small entity'' FRA adopts in this proceeding must be consistent with the principles of railroad safety and the intent of SBREFA. That is to say, a definition based solely on economic considerations would not suffice. FRA's statutory mandate and SBREFA require that the safety and health of the public, railroad employees, and the environment are the predominant concerns where a company's economic fitness is juxtaposed against them. Therefore, FRA asks that commenters and participants in the public meeting address how their respective proposals would meet the statutory requirements involved, if the definition proposed broadly covers a substantial sector of the industry, or includes entities in robust financial condition. Participants should keep in mind that the ''small entity'' definition FRA ultimately adopts will not necessarily determine the reach of any particular safety rule. This determination will be used in FRA's communication and enforcement policies under SBREFA. FRA may, as it has in the past, choose different criteria to determine the applicability, content, or effective date of any regulatory provision.

Although the public meeting will be transcribed by a court reporter, it will be conducted in an informal manner. Participants who wish to make an opening statement concerning FRA's definition of ''small entity'' may do so. However, FRA anticipates that all participants and agency representatives will engage in an informal dialogue of questions and answers concerning this subject.

Comments Requested

FRA invites written comments on the definition of ''small entity,'' potential alternate definitions, and supporting rationale for the suggested alternative definitions. Please direct all written comments to the DOT's Central Docket Management Facility, Room PL 401, 400 Seventh Street, SW Washington, DC 20590–0001. Any party that prepared written comments in response to Notice No. 1 in this proceeding in 1997 need not file comments again, unless there is additional or alternate information to share.

Any party wishing to attend the public meeting must notify the FRA Docket Clerk in writing by September 20; any party wishing to attend and participate in the meeting must notify the FRA Docket Clerk in writing by September 20, 1999.

Submitted in Washington, DC, on August 20th, 1999.

Jolene M. Molitoris,

Administrator.

[FR Doc. 99–22000 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. *et seq.*), this notice announces that the information collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. Described below is the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collection was published on June 8, 1999, [64 FR 30560].

DATES: Comments must be submitted on or before September 24, 1999.

FOR FURTHER INFORMATION CONTACT: Daniel Ladd, Financial Analyst, Office of Ship Financing, Maritime Administration, 400 Seventh Street, SW, Room 8122, Washington, DC 20590, telephone number—202–366–5744. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: ''46 CFR Part 298—Title XI Obligation Guarantees''.

OMB Control Number: 2133–0018.

Type of Request: Extension of a currently approved information collection.

Affected Public: Individuals interested in obtaining loan guarantees for construction or reconstruction of vessels satisfying criteria under the Merchant Marine Act, 1936.

Form Number(s): MA–163, MA–163A.

Abstract: In accordance with the Merchant Marine Act, 1936, MARAD is authorized to execute a full faith and credit guarantee by the United States of debt obligations issued to finance or refinance the construction or reconstruction of vessels. The information collected is necessary for MARAD to evaluate an applicant's project and capabilities, make the

required determinations, and administer any agreements executed upon approval of the loan guarantees.

Annual Estimated Burden Hours: 1750 Hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20502, attention MARAD Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Dated: August 20, 1999.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 99–22068 Filed 8–24–99; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–563 (Sub–No. 1X) and STB Docket No. AB–471 (Sub–No. 2X)]

Kansas Eastern Railroad, Inc.—Abandonment Exemption—in Butler and Greenwood Counties, KS and South Kansas and Oklahoma Railroad, Inc.—Discontinuance of Service Exemption—in Butler and Greenwood Counties, KS

Kansas Eastern Railroad, Inc. (KER) and South Kansas and Oklahoma Railroad, Inc. (SKO) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* for KER to abandon and SKO to discontinue its trackage rights over a rail line between milepost 438.5, at Severy, and milepost 483.0 near Augusta, in Butler and Greenwood Counties, KS.[1] The line traverses United States Postal Service Zip Codes 67010, 67074, 67012, 67122 and 67137.

KER and SKO have certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past two years; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 24, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 7, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 14, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representative: Karl Morell, Ball Janik LLP, 1455 F St., N.W., Suite 225, Washington, DC 20005. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

KER and SKO have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by August 30, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), KER shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by KER's filing of a notice of consummation by August 25, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: August 19, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–22075 Filed 8–24–99; 8:45 am]

BILLING CODE 4915–00–P

[1] KER acquired the involved rail line from Burlington Northern Railroad Company as part of the transaction authorized in *Kansas Eastern Railroad, Inc.—Acquisition Exemption—Burlington Northern Railroad Company*, Finance Docket No. 33292 (ICC served Dec. 2, 1996).

SKO's trackage rights were the subject of an exemption in *South Kansas and Oklahoma Railroad, Inc.—Trackage Rights Exemption—Kansas Eastern Railroad, Inc.*, Finance Docket No. 33293 (ICC served Dec. 2, 1996).

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Departmental Offices; International Financial Institution Advisory Commission

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 603 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the International Financial Institution Advisory Commission (the ''Commission'') shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (defined as the

International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation), the World Trade Organization, and the Bank for International Settlements.

DATE: The first meeting of the Advisory Commission will be held on September 9, 1999, beginning at 9:30 a.m. and tentatively ending at 3:30 p.m. in room H 219 in the U.S. Capitol, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue N.W., Washington, D.C., 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda tentatively includes the following:

- Welcome and introduction by Prof. Allan Meltzer, Chairman of the Committee.
- Presentation of Commission objectives by Dr. Meltzer.
- Discussion and review of preliminary research papers.
- Discussion of future meeting dates and the commissioning of further research papers.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. Members of the public may submit written comments. If you wish to furnish comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Commission in advance of the first meeting, 16 copies of any written material should be provided to the Designated Federal Official no later than September 2, 1999.

Dated: August 20, 1999.

William McFadden,

Designated Federal Official.

[FR Doc. 99–22035 Filed 8–24–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Departmental Offices

International Monetary Fund Advisor Committee

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 610 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the Secretary of the Treasury is required to establish an International Monetary Fund Advisory Committee (the ''Committee'') to advise the Secretary on IMF policy.

DATES: The first meeting of the Committee will be held on September 10, 1999, beginning at 2:30 p.m. in the Cash Room located on the second floor of the main Department of the Treasury building, 1500 Pennsylvania Avenue, NW, Washington, DC.

The duration of the meeting will be approximately two to three hours.

FOR FURTHER INFORMATION CONTACT: Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC, 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda tentatively includes the following:

- Background on the establishment of the Committee.
- Discussion on promoting U.S. policy objectives in the IMF.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. If you wish to attend, please FAX your name, birthday, and social security number to the Designated Federal Official no later than 4 P.M., September 9, for clearance into the Treasury building. Members of the public, who have provided such information, must enter the main Treasury building at the entrance on 15th Street between F and G Streets, and must provide a photo ID at the entrance to be admitted into the building.

Members of the public may submit written comments. If you wish to furnish such comments, please provide 16 copies of such comments to the Designated Federal Official. If you wish to have your comments distributed to members of the Committee in advance of the first meeting, 16 copies of any written material should be provided to the Designated Federal Official no later than August 27.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at meetings, contact the Designated Federal Official no later than 24 hours in advance of the meeting time.

Dated: August 19, 1999.

William McFadden,

Designated Federal Official.

[FR Doc. 99–21982 Filed 8–24–99; 8:45 am]

BILLING CODE 4810–25–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: ''The Drawings of Annibale Carracci''

AGENCY: United States Information Agency (USIA).

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 8325, 22 U.S.C. 2459, Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit ''The Drawings of Annibale Carracci,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed objects at the National Gallery of Art from September 26, 1999 to January 9, 2000 is in the national interest.

Public Notice of these Determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects or other information, please contact Carol Epstein, Assistant General Counsel,

Office of the General Counsel, 202/619–6981. The address is Room 700, US Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: August 18, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–21970 Filed 8–24–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determination: ''Gold of the Nomads: Scythian Treasures from Ancient Ukraine''

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Gold of the Nomads: Scythian Treasures from Ancient Ukraine'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed objects at the San Antonio Museum of Art, San Antonio, TX, from on or about November 7, 1999, to on or about January 30, 2000, and The Walters Art Gallery in Baltimore, MD, from on or about March 5, 2000, to on or about May 28, 2000, and the Los Angeles County Museum of Art, Los Angeles, CA, from on or about July 2, 2000, to on or about September 24, 2000, and the Brooklyn Museum of Art, Brooklyn, NY, from on or about October 29, 2000, to on or about January 21, 2001, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects and for further information, contact Ms. Neila Sheahan, Assistant General Counsel, Office of the General Counsel, 202/619–5030. The address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: August 18, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–21972 Filed 8–24–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: ''Masks: Faces of Culture''

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Masks: Faces of Culture,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed objects at The Saint Louis Art Museum, Saint Louis, MO, from on or about October 10, 1999, to on or about January 2, 2000, and The Field Museum, Chicago, IL, from on or about February 19, 2000, to on or about May 4, 2000, and The Museum of Fine Arts, Houston, Houston, TX, from on or about June 25, 2000, to on or about October 1, 2000, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects and for further information, contact Ms. Lorie Nierenberg, Assistant General Counsel, Office of the General Counsel, 202/619–6084. The address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: August 18, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–21973 Filed 8–24–99; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations: ''Tilman Riemenschneider: Master Sculptor of the Late Middle Ages''

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit ''Tilman Riemenschneider: Master Sculptor of the Late Middle Ages,'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with foreign lenders. I also determine that the exhibition or display of the listed objects at the National Gallery of Art from October 3, 1999 to January 9, 2000 and at the Metropolitan Museum of Art, New York, NY from February 7, 2000 to May 14, 2000 is in the national interest.

Public Notice of these Determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: For a copy of the list of exhibit objects or other information, please contact Paul Manning, Assistant General Counsel, Office of the General Counsel, 202/619–5997. The address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001

Dated: August 18, 1999.

Les Jin,

General Counsel.

[FR Doc. 99–21971 Filed 8–24–99; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 64, No. 164
Wednesday, August 25, 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 DEFENSE

48 CFR Part 204

[DFARS Case 98–D027]

Defense Federal Acquisition Regulation Supplement; Taxpayer Identification Numbers and Commercial and Government Entity Codes

Correction

In rule document 99–20283, beginning on page 43098, in the issue of Monday, August 9, 1999, make the following correction(s):

204.603 [Corrected]

1. On page 43099, in the first column, in 204.603(2)(ii), in the third line, after ''at'', remove ''$''.

204.902 [Corrected]

2. On the same page, in the second column, in the heading for 204.902, after ''General'' add a period.

204.7200 [Corrected]

3. On the same page, in the third column, in the heading for 204.7200, after ''subpart'' add a period.

204.7204 [Corrected]

4. On page 43100, in the second column, in 204.7204(b), in the sixth line, after ''North'' add a comma.

204.7303 [Corrected]

5. On page 43101, in the first column, in 204.7303(b), in the second line, ''determined'' should read ''determines''; and in the fifth line, ''awarded'' should read ''award''.

6. On the same page, in the same column, in 204.7303(b)(1), in the third line, ''toward'' should read ''to award''.

[FR Doc. C9–20283 Filed 8–24–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[RP95–363–016]

El Paso Natural Gas Company; Notice of Filing

Correction

In notice document 99–21282 appearing on page 44717 in the issue of Tuesday, August 17, 1999, the docket line should appear as set forth above.

[FR Doc. C9–21282 Filed 8–24–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP 99–376–011]

Venice Gathering System, L.L.C.; Notice of Compliance Filing

Correction

In notice document 99–21409 beginning on page 44915 in the issue of Wednesday, August 18, 1999, the docket line should appear as set forth above.

[FR Doc. C9–21409 Filed 8–24–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–14–004; ER99–1751–003–; ER99–2337–001; ER99-3858–000; ER99–3866–000; ER99–3867–000; ER99–3885–000; ER99–3889–000 and ER99–3928–000]

Select Energy, Inc.; Aquila Energy Marketing Corporation; FPL Services, Inc.; Southwestern Public Service Company; Mobile Energy Services Company; Entergy Services, Inc.; Louisville Gas and Electric Company and Kentucky Utilities; Fitchburg Gas and Electric Light Company; Duquesne Light Company; Notice of Filings

Correction

In notice document 99–21281 appearing on page 44718 in the issue of Tuesday, August 17, 1999, the docket line should appear as set forth above.

[FR Doc. C9–21281 Filed 8–24–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
August 25, 1999

Part II

Environmental Protection Agency

40 CFR Parts 148, 261, 264, 265, 268, 271, and 302

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148, 261, 264, 265, 268, 271, and 302

[SWH–FRL–6413–4]

RIN 2050–AD85

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to list three of six wastes from the chlorinated aliphatics industry as hazardous wastes under the Resource Conservation and Recovery Act (RCRA), which directs EPA to determine whether certain wastes from the chlorinated aliphatics industry present a hazard to human health or the environment. The effect of listing these three wastes will be to subject them to stringent management and treatment standards under RCRA and to subject them to emergency notification requirements for releases of hazardous substances to the environment. EPA is proposing a contingent-management listing approach for one of these wastes, and as one of two options for another of these wastes, such that waste generators will have the option of their waste not being listed if it is sent to a specific type of management facility.

DATES: EPA will accept public comments on this proposed rule until November 23, 1999. Comments postmarked after this date will be marked ''late'' and may not be considered. Any person may request a public hearing on this proposal by filing a request by September 8, 1999.

ADDRESSES: If you wish to comment on this proposed rule, you must send an original and two copies of the comments referencing docket number F–1999–CALP–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, D.C. 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed in the fourth paragraph of **SUPPLEMENTARY INFORMATION**. You also may submit comments electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. See the beginning of **SUPPLEMENTARY INFORMATION** for instructions on electronic submission.

You should not submit electronically any confidential business information (CBI). You must submit an original and two copies of CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460. See the beginning of **SUPPLEMENTARY INFORMATION** for information on viewing public comments and supporting materials.

Address requests for a hearing to Mr. David Bussard at: Office of Solid Waste, Hazardous Waste Identification Division (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (703) 308–8880.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of the rule, contact Ross Elliott of the Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. [E-mail addresses and telephone numbers: elliott.ross@epamail.epa.gov, (703) 308–8748.]

SUPPLEMENTARY INFORMATION: You should identify comments in electronic format with the docket number F–1999–CALP–FFFFF. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters and any form of encryption. If you do not submit comments electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (text) format or a word processing format that can be converted to ASCII (text). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter. Supporting documents in the docket for this Notice are also available in electronic format on the Internet. Follow these instructions to access these documents.

WWW: http://www.epa.gov/epaoswer/hazwaste/id

FTP: ftp.epa/gov

Login: anonymous

Password: your Internet address

Files are located in /pub/gopher/OSWRCRA.

EPA will keep the official record for this action in paper form. Accordingly, we will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. We will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

You may view public comments and supporting materials in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling (703) 603–9230. You may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. For information on accessing paper and/or electronic copies of the document, see the first paragraph of the **SUPPLEMENTARY INFORMATION** section.

Customer Service

How Can I Influence EPA's Thinking on This Proposed Rule?

In developing this proposal, we tried to address the concerns of all our stakeholders. Your comments will help us improve this rule. We invite you to provide different views on options we propose, new approaches we haven't considered, new data, how this rule may affect you, or other relevant information. We welcome your views on all aspects of this proposed rule, but we request comments in particular on the items indicated at the end of each section. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and provide a summary of the reasoning you used to arrive at your

conclusions, as well as examples to illustrate your views, where possible.

- Provide solid technical and cost data to support your views.
- If you estimate potential costs, explain how you arrived at your estimate.
- Tell us which parts you support, as well as those with which you disagree.
- Offer specific alternatives.
- Reference your comments to specific sections of the proposal, such as the sections or page numbers of the preamble, or the regulatory citations.
- Remember that your comments must be submitted by the deadline in this notice.
- Include the name, date, and docket number with your comments.

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I. Overview

A. Who Potentially Will Be Affected by This Proposed Rule?

Beginning January 1, 1999 all documents related to USEPA's regulatory, compliance and enforcement activities including rules, policies, interpretive guidance, and site-specific determinations with broad application, should properly identify the regulated entities, including descriptions that correspond to the applicable SIC codes or NAICS codes (source: 09 October 1998 USEPA memo from Peter D. Robertson, Acting Deputy Administrator of USEPA). Today's action, if finalized, could potentially affect those who handle the wastes that EPA is proposing to add to the Agency's list of hazardous wastes under the RCRA program. This action also may affect entities that may need to respond to releases of these wastes as CERCLA hazardous substances. These potentially-affected entities are described in the Economics Background Document placed in the docket in support of today's proposed rule; a summary is shown in the table below.

SUMMARY OF FACILITIES POTENTIALLY AFFECTED BY THE USEPA'S 1999 CHLORINATED ALIPHATICS MANUFACTURING WASTE LISTING PROPOSAL ACCORDING TO APPLICABLE SIC AND NAICS CODES

Item	Parent company SIC code	Industry sector name	Number of U.S. relevant CAHC mfg. facilities*	Parent company NAICS code equivalent**
1	1311	Mining: Crude petroleum and natural gas	3	211111
2	1400	Mining: Nonmetallic minerals, except fuels	2	212300

SUMMARY OF FACILITIES POTENTIALLY AFFECTED BY THE USEPA'S 1999 CHLORINATED ALIPHATICS MANUFACTURING WASTE LISTING PROPOSAL ACCORDING TO APPLICABLE SIC AND NAICS CODES—Continued

Item	Parent company SIC code	Industry sector name	Number of U.S. relevant CAHC mfg. facilities*	Parent company NAICS code equivalent**
3	2295	Manufacturing: Coated fabrics, not rubberized	1	31332
4	2800	Manufacturing: Chemicals & allied products	3	325000
5	2810	Manufacturing: Chemicals & allied products	1	325000
6	2812	Manufacturing: Alkalies & chlorine manufacture	1	325181
7	2821	Manufacturing: Plastics materials & resins	8	325211
8	2851	Manufacturing: Paints & allied products	1	32551
9	2869	Manufacturing: Industrial organic chemicals, nec	1	32511
10	2911	Manufacturing: Petroleum refining	1	32411
11	3600	Manufacturing: Electronic & other electric equipment	1	335000
		Total Applicable Facilities	23	

*The number of relevant facilities is based on the (a) type of CAHC products manufactured, (b) types of wastes generated, and (c) baseline waste management practices, in relation to the terms and conditions of the proposed listing options. However, all CAHC manufacturing facilities in each industrial sector code may not be affected by the proposed listing options.

**OSW–EMRAD derived the NAICS code equivalents above from the SIC-to-NAICS conversion tables provided by the US Department of Commerce, Bureau of the Census, at the following website: *http://www.census.gov/epcd/www/naicstab.htm.* There is no direct match in the SIC–NAICS conversion tables for SIC codes 1400, 2800, 2810, and 3600, so a generalized six-digit NAICS code is provided above for these four cases.

The list of potentially affected entities in the above table may not be exhaustive. Our aim is to provide a guide for readers regarding entities likely to be regulated by this action. This table lists those entities that EPA is aware potentially could be affected by this action. However, this action may affect other entities not listed in the table. To determine whether your facility is regulated by this action, you should examine 40 CFR 260 and 261 carefully in concert with the proposed rules amending RCRA that are found at the end of this **Federal Register** notice. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled FOR FURTHER INFORMATION CONTACT.

B. Why Does This Rule Read Differently From Other Listing Rules?

Today's proposed listing determination preamble and regulations are written in ''readable regulations'' format. The authors tried to use active rather than passive voice, plain language, a question-and-answer format, the pronouns ''we'' for EPA and ''you'' for the owner/generator, and other techniques to make the information in today's rule easier to read and understand. This new format is part of the Agency's efforts at regulatory reinvention, and it makes today's rule read differently from other listing rules. The Agency believes that this new format will increase readers' abilities to understand the regulations, which should then increase compliance, make enforcement easier, and foster better relationships between EPA and the regulated community.

C. What Are the Statutory Authorities for This Rule?

These regulations are being proposed under the authority of Sections 2002(a), 3001(b), 3001(e)(2) and 3007(a) of the Solid Waste Disposal Act, 42 U.S.C. 6912(a), 6921(b) and (e)(2), and 6927(a) as amended several times, most importantly by the Hazardous and Solid Waste Amendments of 1984 (HSWA). These statutes commonly are referred to as the Resource Conservation and Recovery Act (RCRA), and are codified at Volume 42 of the United States Code (U.S.C.), Sections 6901 to 6992(k) (42 U.S.C. 6901–6992(k)).

Section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9602(a) is the authority under which the CERCLA aspects of this rule are being proposed.

II. Background

A. Schedule Suit

In 1989, the Environmental Defense Fund (EDF) sued the Environmental Protection Agency (EPA), in part for failing to meet the statutory deadlines of Section 3001(e)(2) of RCRA (EDF vs. Browner; Civ. No. 89–0598 D.D.C.). To resolve most of the issues in the case, EDF and EPA entered into a consent decree, which has been amended several times to revise dates. The consent decree sets out deadlines for promulgating certain RCRA rules and for completing certain studies and reports. Paragraph 1. m. of the consent decree obliges EPA to propose a hazardous waste listing determination for wastewaters and wastewater treatment sludges generated from the production of specified chlorinated aliphatic chemicals. The wastewater and wastewater treatment sludges subject to the consent decree are those from the production of chlorinated aliphatics for which other process wastes already have been designated as hazardous waste F024 in 40 CFR 261.31. According to the consent decree, EPA must propose listing determinations by July 30, 1999 and promulgate final listing determinations on or before September 30, 2000. Today EPA is proposing listing determinations for these wastes in accordance with the consent decree.

B. Existing Chlorinated Aliphatics Listings

Today's proposal does not affect the scope of the chlorinated aliphatics process wastes that already have been listed as hazardous in prior EPA rulemakings. These wastes include wastes designated as hazardous waste code F024 as well as a number of other chlorinated aliphatic wastes listed below in Table II–1. EPA is not soliciting comment on these existing hazardous waste listings and does not intend to respond to such comments, if received.

Likewise, EPA is not soliciting comments in today's rule on the applicability of the existing chlorinated aliphatics listings to the provisions of CERCLA. Wastes listed as hazardous

under RCRA are by definition hazardous substances under CERCLA, and are included in the list of hazardous substances in 40 CFR 302.4, along with their corresponding reportable quantities (''RQs''). Hazardous substance RQs are those quantities of the designated chemical or waste that trigger certain reporting requirements if released to the environment. The previously listed hazardous wastes from chlorinated aliphatics production and their corresponding RQs are listed below in Table II–1.

TABLE II–1.—LIST OF CURRENTLY-REGULATED CHLORINATED ALIPHATIC PROCESS WASTES AND CORRESPONDING REPORTABLE QUANTITIES AS CERCLA HAZARDOUS SUBSTANCES

Hazardous substance	RQ pounds (KG)
F024—Process wastes, including but not limited to, distillation residues, heavy ends, tars, and reactor cleanout wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution. [This listing does not include wastewaters, wastewater treatment sludges, spent catalysts, and wastes listed in 40 CFR 261.31 or 261.32.]	1 (0.454)
F025—Condensed light ends, spent filters and filter aids, and spent dessicant wastes from the production of certain chlorinated aliphatic hydrocarbons, by free radical catalyzed processes. These chlorinated aliphatic hydrocarbons are those having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.	1 (0.454)
K016—Heavy ends or distillation residues from the production of carbon tetrachloride.	1 (0.454)
K018—Heavy ends from the fractionation column in ethyl chloride production.	1 (0.454)
K019—Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production.	1 (0.454)
K020—Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production.	1 (0.454)
K028—Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane.	1 (0.454)
K029—Waste from the product steam stripper in the production of 1,1,1-trichloroethane.	1 (0.454)
K030—Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene.	1 (0.454)
K095—Distillation bottoms from the production of 1,1,1-trichloroethane.	1 (0.454)
K096—Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane.	1 (0.454)

III. Today's Action

A. Summary of Today's Action

1. Scope of the Listing Determination

Aliphatic hydrocarbons are compounds composed of the atoms of hydrogen and carbon, where the carbon atoms are linked by covalent bonds in an open-chain (straight and branched) structure, and those cyclic compounds that resemble the open-chain compounds. Aliphatics are distinguished from aromatic hydrocarbons, which are defined as benzene and compounds that resemble benzene in chemical behavior. For an aliphatic to be chlorinated, one or more hydrogen atoms have been chemically replaced with chlorine atoms. The chlorinated aliphatic chemicals, the wastes of which are described in the (existing) F024 listing description, and identified in the consent decree, are those produced by free-radical catalyzed processes with carbon chain lengths ranging from one to five.

EPA performed an initial review and investigation of the waste categories identified in the consent decree, as well as a review of chlorinated aliphatics production processes and the wastewaters and wastewater treatment sludges generated by these processes. The Agency decided, for the purpose of studying chlorinated aliphatic wastes, to divide the wastestreams into several distinct waste groupings. Waste groupings were defined to differentiate between unique residuals, as well as to differentiate between unique management practices (e.g., on-site land treatment) and/or particular constituents (e.g., mercury). The Agency segregated chlorinated aliphatics wastewaters into two groupings, with one group being wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. These wastewaters were evaluated as one group due to the unique nature of this production process, the fact that these wastewaters are treated in a dedicated wastewater treatment system, and the presence of mercury in the wastestream. All other chlorinated aliphatic wastewaters were included in a second group and evaluated collectively. The Agency found that many producers of chlorinated aliphatics manufacture several different chlorinated aliphatic products at a single facility and commingle the wastewaters generated by all processes prior to treatment in a single wastewater treatment system.

The Agency identified four waste groupings for wastewater treatment sludges generated by the chlorinated aliphatics industry. These waste groupings were defined based primarily upon the particular management practices used to manage the wastes, but also based on particular production processes. The Agency identified four waste groups for chlorinated aliphatics wastewater treatment sludges. These waste groups include sludges generated from the treatment of wastewaters from the production of:

- Ethylene dichloride and/or vinyl chloride monomer (EDC/VCM);
- Vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM-A);
- Methyl chloride; and
- allyl chloride.

The scope of today's notice does not include any other process residuals generated by the chlorinated aliphatics industry. In particular, the Agency is not re-evaluating previous listing determinations concerning wastes generated by chlorinated aliphatics production processes.

The Agency also points out that the consent decree specifies that this listing determination ''shall include wastewaters and wastewater treatment sludges generated from the production of chlorinated aliphatics specified in the F024 listing'' (a listing which is limited to wastes from chlorinated aliphatic production using the ''free radical catalyzed process'' but does not include wastewaters or wastewater treatment sludges). However, for today's proposed rule the Agency did not restrict its evaluation of wastewaters and wastewater treatment sludges to only those generated from chlorinated aliphatics manufacturers using the free radical catalyzed process. In the rulemaking for the F024 listing (which includes process wastes such as distillation residues, heavy ends, and tars, but not wastewaters and

wastewater treatment sludges) we found that there were distinct differences in the amount and type of chemical constituents present in these production wastes as a direct result of the production process used. For example, the free radical catalyzed reactions tended to produce unwanted organic compounds, as well as the desired chemical product, because this type of reaction is less specific (in terms of desired product) than other types of processes used. As a result, the chemical constituents that were the basis for listing F024 includes many organic compounds that are more prevalent in process wastes (again, tars, heavy ends, etc.) generated from the free radical catalyzed process.

However, in developing the information for today's proposed listing, EPA was concerned that limiting the scope of the investigation to free radical catalyzed processes might not be appropriate because of the different nature of wastewaters and wastewater treatment sludges as compared with the F024 process wastes. Wastewaters may be generated in different ways, including from scrubber waters, cooling waters, as well as reaction media, etc. Ultimately, our primary reason for not restricting our evaluation of wastewaters and wastewater treatment sludges to those generated by free radical catalyzed processes is that our preliminary analysis of these wastes indicated that the constituents of concern (i.e., dioxins, chloroform, arsenic) were not the same as the constituents of concern associated with the previously-listed F024 and F025 wastes. In those previous listing determinations (which did not include wastewaters or wastewater treatment sludges) the Agency was able to distinguish risk levels of concern based upon particular production processes.

In the case of today's proposed listing determination, we were not able to make such a distinction. The primary constituents of concern in the wastes we are proposing to list as hazardous in today's notice are dioxins, whereas dioxins were not a basis for listing the F024 and F025 wastes. Data currently available to the Agency does not support a conclusion that wastewaters and wastewater treatment sludges generated by free radical catalyzed processes have significantly different concentrations of dioxins than other types of production processes used to manufacture chlorinated aliphatics. However, EPA requests comment and data addressing the issue of whether one type of manufacturing process (e.g., free radical catalyzation) versus all other potential processes (e.g., ionic catalyzed processes) would result in different levels of dioxins in the resulting wastestream. The Agency will consider modifying the listing description proposed in today's rulemaking as appropriate to account for distinctions identified in information available to EPA at the time of the final rule.

2. Summary of the Proposed Listing Determinations

In today's notice, EPA is proposing to add three wastes generated by the chlorinated aliphatics industry to the list of hazardous wastes in 40 CFR 261.32. Below are the wastestreams EPA is proposing to list as hazardous with their corresponding proposed EPA Hazardous Waste Numbers.

K173 Wastewaters from the production of chlorinated aliphatic hydrocarbons, except for wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. This listing includes wastewaters from the production of chlorinated aliphatic hydrocarbons that have carbon chain lengths ranging from one to, and including five, with varying amounts and positions of chlorine substitution.

K174 Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (EDC/VCM).

K175 Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.

EPA is proposing to list these wastes because these residuals meet the criteria set out in 40 CFR 261.11(a)(3) for listing a waste as hazardous. EPA assessed and considered these criteria for all six wastestreams through the use of risk assessments and risk modeling, as well as a consideration of other pertinent factors. Today's proposed listing determination follows the elements of the Agency's listing decision policy that was presented in the proposed listing for wastes generated by the dye and pigment industries published in the **Federal Register** on December 22, 1994 (see 59 *FR* 66073). This policy uses a ''weight-of-evidence'' approach in which calculated risk information is a key factor considered in making a listing determination.

Upon promulgation of these proposed listings, wastes meeting the listing descriptions will become hazardous wastes and need to be managed in accordance with RCRA subtitle C requirements. Residuals from the treatment, storage, or disposal of the wastewater treatment sludges proposed to be listed as hazardous also will be classified as hazardous wastes pursuant to the ''derived-from'' rule (40 CFR 261.3(c)(2)(i)).[1] Also, with certain limited exceptions, any mixture of a listed hazardous waste and a solid waste is itself a RCRA hazardous waste (40 CFR 261.3(a)(2)(iv), ''the mixture rule'').

In today's notice, the Agency is proposing an alternative approach to listing two of the wastes from chlorinated aliphatics processes as hazardous, rather than proposing to list these wastes in accordance with the Agency's traditional listing approach. The Agency is proposing a conditional listing approach for one waste, and as one of two alternative approaches for a second waste, because the Agency has evaluated the ways in which the wastes are likely to be managed and has determined that certain waste management activities would present significant risks but that others would be protective of human health and the environment. Under a contingent management approach, EPA is proposing to list particular wastes as hazardous only if the wastes are managed in a way other than the manner in which the Agency has determined is protective of human health and the environment. In implementing a conditional-listing approach, the Agency is proposing that wastes that fall outside the scope of the listing description (*e.g.*, are destined for the appropriate type of disposal) are non-hazardous when generated. However, if it turns out that the waste actually is not handled in accordance with the conditions of the listing at any point in its management, the generators or other handlers of the waste would be subject to various enforcement actions or, depending on the violations, the waste could become a hazardous waste and may even be considered hazardous from the point of generation. The Agency's proposed conditional-listing approach for wastes generated from chlorinated aliphatics processes is further discussed in section III.E of today's notice.

Today's action also proposes not to list as hazardous the following three wastes:

- Process wastewaters from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process,
- Wastewater treatment sludges from the production of methyl chloride, and

[1] As explained later in this notice, residuals generated from the management of wastewaters proposed to be listed as hazardous (i.e., wastewater treatment sludges) will not be subject to the derived-from rule due to the fact that EPA conducted separate investigations of these residuals and they are the subject of independent listing determinations.

• Wastewater treatment sludges from the production of allyl chloride.

3. Summary of the Remainder of this Preamble

Section III.B. describes the chlorinated aliphatics industry. Section III.C. describes how the information was gathered in support of today's proposed rule. Section III.D. is a description of the risk assessment performed for three of the wastes evaluated in today's rule, including chlorinated aliphatic wastewaters, EDC/VCM sludges, and methyl chloride sludges, and the results of these assessments. Section III.E provides the rationale for the proposed listing decisions for all six wastes analyzed in today's rule. Because full risk analyses were not necessary for VCM-A wastewaters, VCM-A wastewater treatment sludges, or allyl chloride sludges, we discuss our assessment of risks attributable to each of these wastes in the same sections where we describe our listing decisions for the wastes. Section IV contains the economic assessment of the industry and the estimated impact of today's proposed listing determinations. Section V describes the proposed land disposal restriction requirements for those wastes we propose to list as hazardous, along with determinations of whether there is adequate treatment and disposal capacity for these wastes. Sections VI (compliance dates), VII (state authority), VIII (designating CERCLA hazardous substances) and IX (administrative assessments) discuss other analyses required by statute and various executive orders.

B. Description of the Industry

In 1992, when EPA began gathering information about the U.S. chlorinated aliphatics industry, it consisted of 27 facilities owned by 20 corporations. However, as a result of information updates in 1997, we determined that two chlorinated aliphatics facilities had closed and two additional facilities manufacture de minimis quantities of chlorinated aliphatics, lowering the number of facilities affected by today's proposed rulemaking to 23 and corporations to 19.

Chlorinated aliphatics production facilities are located primarily in and around the petroleum/petrochemical industry which generally is located along the Gulf Coast. The majority of facility locations are fully integrated petrochemical processing facilities. A few facilities are co-located with other chemical manufacturing and/or petroleum refining facilities. These integrated facilities often manage wastes generated across different production processes within the same waste management systems. For example, these facilities often combine chlorinated aliphatic wastewaters with non-chlorinated aliphatics wastewaters prior to treatment. The combined wastewater treatment system generates a commingled sludge. In addition, there are facilities that manage chlorinated aliphatics wastewaters in separate or dedicated wastewater treatment systems. For the purpose of this listing determination, the Agency refers to these treatment systems, and resulting sludges, as ''dedicated'' systems and ''dedicated'' sludges.

Nearly 10 million metric tons of chlorinated aliphatics were produced in 1996. More than 85 percent of the chlorinated aliphatic products manufactured in 1996 was ethylene dichloride and vinyl chloride monomer (EDC/VCM) manufactured via the ''balanced process.'' This process involves the production of EDC as an intermediate product using direct chlorination and oxyhydrochlorination of ethylene, followed by cracking to produce VCM. Other chlorinated aliphatics production includes chlorinated methanes, methyl chloride, and a variety of other products.

C. Overview of EPA's Information Collection Activities

EPA's investigation of the wastes generated by the chlorinated aliphatics industry can be characterized in terms of two major information collection efforts: field investigations and survey evaluation. The Agency's field investigations included engineering site visits, ''familiarization sampling'' (sample collection and analysis to gain a preliminary understanding of the nature and concentration of potential constituents of concern), and ''record sampling'' (sample collection and analysis to provide data to use in assessing the potential risks posed by the wastes). The survey effort included the development, distribution, and assessment of an extensive industry-wide RCRA Section 3007 survey. Each of these efforts is summarized below.

1. Field Investigations and Sampling

EPA initiated its work activities with a series of engineering site visits. The primary purpose of the site visits was to gather information on chlorinated aliphatic manufacturing processes and the generation, management, and characterization of the consent decree wastes. In addition, the field teams identified potential record sampling locations. The Agency conducted site visits at 16 facilities prior to record sampling; site visit facilities were selected based on a goal of obtaining first hand information from a representative sampling of all chlorinated aliphatic manufacturers as well as all relevant manufacturing and waste management processes, including an investigation of dedicated wastewater treatment units.

Concurrently, the Agency initiated the analytical phase of this listing determination with the development of a Quality Assurance Project Plan (QAPjP) for sampling and analysis, followed by collection of 15 familiarization samples from three different manufacturing facilities (collected during the engineering site visits). The purpose of collecting familiarization samples is to assess the effectiveness of the analytical methods identified in the QAPjP for the analysis of the residuals of concern.

Upon successful completion of the familiarization sampling and analysis effort, the Agency initiated record sampling and analysis of the consent decree wastes. The Agency sampled wastewaters and wastewater treatment sludges from twelve facilities. During a four-month period beginning in April of 1997, the Agency collected 52 samples, excluding additional blanks and matrix spike/matrix spike duplicates(MS/MSD) collected for quality assurance purposes. Of these 52 samples, 41 were wastewater samples, and 11 were wastewater treatment sludge samples.

2. RCRA Section 3007 Survey

EPA developed an extensive questionnaire under the authority of Section 3007 of RCRA for distribution to the chlorinated aliphatics manufacturing industry. The purpose of the survey was to gather information about solid and hazardous waste generation and management practices in the U.S. chlorinated aliphatics manufacturing industry necessary to support the listing determination. The questionnaire covered topics such as chlorinated aliphatic product information, facility and unit process flow diagrams, process descriptions, residual generation and residual management profiles.

The Agency distributed the survey in November of 1992 to 57 facilities and/or corporations identified as potential chlorinated aliphatics manufacturers from the most recent information available at the time. Of the 57 surveys distributed, completed surveys were received from 27 facilities. These facilities represent 20 companies that reported that they had manufactured chlorinated aliphatics in 1991. The remaining facilities notified EPA that they had either stopped operations or

did not manufacture chlorinated aliphatic products.

We also conducted an exhaustive engineering review of the submitted surveys for accuracy and completeness. Data from the survey responses was then entered into a data base known as the Chlorinated Aliphatics Industry Studies Data Base (ISDB). We conducted quality assurance reviews of the ISDB to identify any inappropriate entries and missing data links. The exhaustive engineering review of each facility's response resulted in follow-up letters and/or telephone calls to facility representatives seeking clarifications, corrections, and additional data where needed. The responses to these requests for clarification, along with additional information gathered during engineering site visits and familiarization and record sampling activities were entered into the data base.

In 1996 we conducted a review of data collected previously, and re-contacted facility representatives to verify the status of chlorinated aliphatics manufacturing operations. In June of 1997, the Agency sent requests for updated data (for calendar year 1996) regarding consent decree wastes generated to each facility. We processed the data received from this request in the same manner as the original RCRA surveys, and entered the new information into the ISDB. Between 1993 and 1996, two chlorinated aliphatics manufacturers ceased operations, resulting in a universe of 23 chlorinated aliphatics manufacturing facilities owned and operated by 19 different companies. Each of the 23 current manufacturers of chlorinated aliphatics generate at least one wastestream identified in the consent decree. All 23 facilities generate at least one wastewater residual, while 14 facilities reported that they generate wastewater treatment sludges.

D. What Are the Risks Associated With Management of Wastewaters and Wastewater Treatment Sludges From the Production of Chlorinated Aliphatic Chemicals?

As discussed in Section III.A.2. of this preamble, EPA considers the Listing criteria set out in 40 CFR 261.11, as well as any other information relevant to the criteria, in making listing determinations. The criteria provided in 40 CFR 261.11 include eleven factors for determining ''substantial present or potential hazard to human health and the environment.'' Nine of these factors, as described generally below, are directly incorporated into EPA's completion of a risk assessment for the wastestreams of concern:

- Toxicity (§ 261.11(a)(3)(i)) is considered in developing the health benchmarks used in the risk assessment modeling.
- Constituent concentrations and waste quantities (§ § 261.11(a)(3)(ii) and 261.11(a)(3)(viii)) are used to define the initial conditions for the risk evaluation.
- Potential to migrate, persistence, degradation, and bioaccumulation of the hazardous constituents and any degradation products (261.11(a)(3)(iii), 261.11(a)(3)(iv), 261.11(a)(3)(v), and 261.11(a)(3)(vi)) are all considered in the design of the fate and transport models used to determine the concentrations of the contaminants to which individuals are exposed.

We consider two of the remaining factors, plausible mismanagement and other regulatory actions (§ § 261.11(a)(3)(vii) and 261.11(a)(3)(x)) in establishing the waste management scenario(s) modeled in the risk assessment.

EPA conducted analyses of the risks posed by wastewaters and wastewater treatment sludges from the production of chlorinated aliphatic chemicals to assist in the determination of whether the wastes meet the criteria for listing set forth in 40 CFR 261.11(a)(3). This section (III.D.) discusses the human health risk analyses and ecological risk screening analyses EPA conducted to support our proposed listing determinations for chlorinated aliphatics wastewaters (other than VCM-A wastewaters), EDC/VCM wastewater treatment sludges, and methyl chloride wastewater treatment sludges. We consider the risk analyses in developing our listing decisions for each of the wastestreams (described in Sections III.E.1.a. for chlorinated aliphatics wastewaters, III.E.2. for EDC/VCM sludges, and III.E.4. for methyl chloride sludges). The risk analyses we describe in this section (III.D.) are presented in detail in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination which is located in the docket for today's proposed rule.

Because full risk analyses were not necessary for VCM-A wastewaters, VCM-A sludges, or allyl chloride sludges, we discuss our assessment of risks attributable to each of these wastes in the same sections where we describe our listing decisions for each of the wastes, that is, Sections III.E.1.b., III.E.3, III.E.5, respectively.

1. What are the Risks for Potential Human Receptors?

a. What was EPA's Approach to Conducting the Human Health Risk Assessment?

EPA's human health risk analyses for chlorinated aliphatics wastewaters and EDC/VCM and methyl chloride sludges provide estimates of the incremental human health risks resulting from exposure to contaminants detected in these wastes. The incremental human health risks are expressed as estimates of excess lifetime cancer risk for individuals (''receptors'') who may be exposed to carcinogenic (cancer-causing) contaminants and hazard quotients (HQs) for those contaminants that produce noncancer health effects. Excess lifetime cancer risk is the incremental probability (chance) of an individual developing cancer over a lifetime as a result of exposure to a carcinogen. A hazard quotient is the ratio of an individual's chronic daily dose of a noncarcinogen to an acceptable daily dose for chronic exposures to the noncarcinogen.

EPA used two different methods of analysis to estimate risks. These methods are called ''deterministic risk analysis'' and ''probabilistic risk analysis.'' A deterministic risk analysis produces a point estimate of risk or hazard for each receptor based on using a single value for each parameter in the analysis. A probabilistic analysis calculates risk or hazard by allowing some of the parameters to have more than one value, consequently producing a distribution of risk or hazard for each receptor. A parameter is any one of a number of inputs or variables (such as waste volume or distance between the waste management unit and the receptor) required for the fate and transport and exposure models and equations that EPA uses to assess risk. (In some cases EPA treats multiple parameters as a single parameter for the purpose of conducting our analyses. We do this to prevent inadvertently combining parameters in our analyses in ways that are unrealistic. For example, EPA treats environmental setting [location] parameters such as climate, depth to groundwater, aquifer type as a single set of parameters. We believe that, for example, allowing the climate from one location to be paired with the depth to groundwater for another location could result in a scenario that would not occur in nature.)

EPA conducts both ''central tendency'' and ''high end'' deterministic risk assessments to attempt to quantify the cancer risk or non-cancer hazard for the ''average'' receptor in the population

(the central tendency risk) and the risk or hazard for individuals in small, but definable ''high end'' segments of the population (the high end risk). For central tendency deterministic risk analyses, we set all parameters at their central tendency values. For the chlorinated aliphatics risk assessments, the central tendency values generally are either mean (average) or 50th percentile (median) values.

We use high end deterministic risk analysis to predict the risks and hazards for those individuals exposed at the upper range of the distribution of exposures. EPA's Guidance For Risk Characterization (EPA 1995)[2] advises that ''conceptually, high end exposure means exposure above about the 90th percentile of the population distribution, but not higher than the individual in the population who has the highest exposure,'' and recommends that ''* * * the assessor should approach estimating high end by identifying the most sensitive variables and using high end values for a subset of these variables, leaving others at their central values.'' For the chlorinated aliphatics high end deterministic risk analyses, EPA set two parameters at their high end values (generally 90th percentile values), and set all other parameters at their central tendency values. We used a ''sensitivity analysis'' to identify the two parameters that we set at high end. A sensitivity analysis is an iterative procedure in which an analysis is performed by alternately setting different parameters at high end to identify the parameters that most influence the analysis' outcome. EPA compares the different results generated by the sensitivity analysis and selects the two high end parameters to which the analysis was ''most sensitive,'' that is, the two parameters that are expected to generate the greatest estimate of risk or hazard.

EPA used probabilistic risk assessment to support the results of the deterministic risk analyses and to allow EPA to quantify individual risk at selected percentiles of the risk distribution (for example, 50th percentile, 90th percentile, 95th percentile). EPA conducted probabilistic risk analyses for those combinations of receptor, contaminant, and pathway for which risk or hazard estimated using a deterministic analysis exceeded the following criteria: a cancer risk of 1×10^{-6} or a hazard quotient of 1. In a probabilistic analysis, each parameter may have more than one value. EPA develops ''probability density functions'' (PDFs), distributions that describe the full range of values that the various input parameters may have. Some of the parameters in the probabilistic analysis are set as constant values because (1) there are insufficient data to develop a PDF; (2) EPA made assumptions to simplify the analysis in cases where such simplifications would improve the efficiency of the analysis without significantly affecting the results; (3) site-specific constants are available; or (4) the analysis has not been shown to be sensitive to the value of the parameter, that is, even if the parameter varies, the resulting risk estimate does not vary significantly. The Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination describes the input parameters used in the probabilistic analysis. In the probabilistic analysis, risk is approximated through repetitive calculation of the fate and transport and exposure equations and models using input parameters randomly selected from the PDFs. The result of the probabilistic analysis is a distribution of the risks or hazards for each of the receptors.

The human health risk assessments that EPA conducted to support the chlorinated aliphatics listing determination included four primary tasks: (1) establishing that there are constituents in the wastes that are of concern to the Agency and that warrant analysis to determine their risk to human health; (2) establishing a scenario under which contaminants are released from a waste management unit and subsequently are transported in the environment to a human receptor; (3) estimating the concentrations of contaminants to which the receptor might be exposed; (4) quantifying the receptor's exposure to contaminants and the contaminants' toxicity to the receptor; and (5) describing the receptor's predicted risk. The following sections discuss how EPA completed each of these tasks for the risk assessments conducted to support the chlorinated aliphatics listing determination.

b. How Did EPA Determine Which Waste Constituents and Waste Volumes Would Be Evaluated in the Risk Assessments?

To support the chlorinated aliphatics listing determination, EPA collected and analyzed samples of wastewaters from the production of chlorinated aliphatic chemicals, wastewater treatment sludges from the production of EDC/VCM, and wastewater treatment sludges from the production of methyl chloride (see Section III.E of today's preamble, as well as the Background Document for Identification and Listing of Chlorinated Aliphatics Production Wastes, for further discussion of EPA's waste characterization efforts). We used the results of these waste analyses to establish the ''constituents of potential concern'' (COPCs) in the wastes. We derived waste volume information from data provided by facilities in their RCRA Section 3007 questionnaire responses.

EPA collected and analyzed 41 samples of wastewaters generated from the production of chlorinated aliphatic chemicals. EPA collected six of these samples at the influent (or ''headworks'') of wastewater treatment systems that manage only wastewaters derived from the production of chlorinated aliphatic chemicals. We call these samples ''dedicated'' chlorinated aliphatics wastewater samples,[3] and we chose to use these samples in our assessment of the risks and hazards attributable to the management of chlorinated aliphatic wastewaters. (The assessment of dedicated sample data allows us to evaluate without question what risks are attributable to the wastes of concern to the Agency.) Because we used analytical data for dedicated chlorinated aliphatics wastewater samples in our analysis, we also used dedicated chlorinated aliphatic wastewater volumes in our analysis. We identified eight wastewater volumes that represent the volumes of dedicated chlorinated aliphatics wastewaters discharged to the headworks of chlorinated aliphatics facility wastewater treatment systems.

EPA collected and analyzed seven samples of nonhazardous EDC/VCM sludge. (Some sludges generated by this industry already are designated as hazardous because they include material derived from wastes that EPA previously listed as hazardous waste.) Four were samples of sludges that were derived from wastewater treatment systems that manage only EDC/VCM process wastewaters. These samples are ''dedicated'' EDC/VCM sludge samples. Three were samples of sludges that result from the treatment of EDC/VCM process wastewaters combined with wastewaters from non-EDC/VCM processes and sources. EPA chose to use only the dedicated EDC/VCM sample data in our analysis. Because we used

[2] EPA. 1995. Guidance for Risk Characterization. U.S. Environmental Protection Agency Science Policy Council. February.

[3] ''Dedicated'' chlorinated aliphatic wastewaters are those that are comprised only of chlorinated aliphatics process wastewaters, that is, wastewaters generated from the production of the chlorinated aliphatic chemicals of concern to this listing determination.

analytical data for dedicated EDC/VCM sludge samples in our analysis, we also used ''dedicated'' EDC/VCM sludge volumes. EPA divided the volume of wastewater attributable to EDC/VCM processes by the total volume of wastewater influent, and applied the resultant ratio to the total sludge volumes to obtain the volume of wastewater treatment sludge attributable to EDC/VCM processes (that is, the ''dedicated '' EDC/VCM sludge volume).

The methyl chloride sludge, generated by only one facility, results from treatment of the combined wastewaters from the facility's methyl chloride production process and other facility processes and sources. The facility reports that approximately 18 percent of the wastewater that generates the sludge is from the methyl chloride process. The remainder of the wastewater is from other processes. Because the sludge, as generated, is not dedicated, and there is no means to obtain a dedicated sample of the methyl chloride sludge, we conducted our risk assessment using the sample data for the nondedicated methyl chloride sludge sample, and, comparably, the nondedicated (total) methyl chloride sludge volume.

Using the results of the analysis of the waste samples, EPA developed a list of ''chemicals of potential concern'' (COPCs) for the chlorinated aliphatics wastewaters, EDC/VCM sludges, and methyl chloride sludges. The COPCs are the constituents which were the subject of EPA's risk assessment. EPA developed the COPC lists by taking the complete list of detected constituents in the wastes and eliminating constituents from the list that occurred at concentrations clearly below levels of concern, based on screening analyses developed to maximize risk estimates. For chlorinated aliphatics wastewaters and EDC/VCM sludges, EPA also eliminated constituents when a constituent was detected in only one of the samples and the concentration of the constituent in the one sample was qualified with the ''J'' qualifier, indicating that the constituent was detected below the quantitation limit and the reported value was estimated. Specifically, the laboratory detected 69 constituents in chlorinated aliphatics wastewater samples of which we eliminated 28; 53 constituents in EDC/VCM sludges of which we eliminated 16; and 19 constituents in methyl chloride sludges of which we eliminated 11.

Six polychlorinated dibenzodioxin (''dioxin'') congeners and ten polychlorinated dibenzofuran (''furan'') congeners were among the constituents detected in samples of the chlorinated aliphatics wastewaters, EDC/VCM sludges, and methyl chloride sludges and evaluated in the risk assessment. EPA classifies the furan congeners and certain polychlorinated biphenyl (PCB) congeners as ''dioxin-like compounds'' because of their structural similarity to the dioxins (EPA 1994a [4]). In today's preamble we use the term ''dioxins'' to represent both the dioxin and furan congeners. Our use of the term ''dioxins'' does not refer to dioxin-like PCBs because we did not analyze for PCBs in our waste samples from the chlorinated aliphatics industry since we do not expect PCBs to be constituents of the chlorinated aliphatics wastes that are the subject of today's listing determination.

c. What Exposure Scenarios Did EPA Evaluate?

Prior to conducting the risk assessments, EPA had to establish that there is a plausible scenario under which a receptor might be exposed to contaminants in the wastewaters and sludges. Establishing this scenario required that EPA determine:

- How the waste is managed or is likely to be managed;
- How contaminants could be released from the waste management unit;
- How contaminants could be transported in the environment to a point of contact with a receptor; and
- How a receptor could be exposed to the contaminants.

One respondent to EPA's § 3007 questionnaire reported that they discharge a portion of their nonhazardous chlorinated aliphatics wastewaters to nonhazardous underground injection wells. Section III.E.1.a.i. discusses EPA's evaluation of the underground injection waste management scenario. Twenty-three respondents reported that they manage their nonhazardous or exempt chlorinated aliphatics wastewaters in tanks. Because management of wastewaters in tanks is the dominant wastewater management practice in the chlorinated aliphatics industry, EPA chose to evaluate tanks in our risk assessment for chlorinated aliphatics wastewaters. For reasons discussed in III.E.1.a.i., EPA chose to evaluate risks attributable to management of chlorinated aliphatics wastewaters in uncovered aerated biological treatment tanks.

One respondent to EPA's § 3007 questionnaire reported that they manage their EDC/VCM wastewater treatment sludges in an onsite land treatment unit. All other respondents reported that nonhazardous EDC/VCM sludges are managed in landfills. Eight facilities send EDC/VCM sludges to offsite nonhazardous waste landfills, two facilities manage EDC/VCM sludge in onsite nonhazardous industrial waste landfills, and one facility manages their nonhazardous EDC/VCM sludge in an onsite hazardous waste landfill (see section III.E.2.a. in today's preamble for a description of current methods for managing EDC/VCM sludges). For this assessment, EPA evaluated the risks associated with management of EDC/VCM sludges in unlined municipal landfills and in a land treatment unit. Because the only facility that generates methyl chloride sludges manages them in an onsite nonhazardous industrial waste landfill, EPA evaluated this management scenario in our risk assessment for methyl chloride sludges. The Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination provides a complete discussion of the parameters that define the characteristics of the waste management units.

EPA determined that releases from all of the waste management units (tank, land treatment unit, and landfill) could occur through release of vapor emissions to the air. In addition, for the land treatment unit and the landfill, EPA determined that releases could occur through leaching of the waste into the subsurface. We assumed that the chlorinated aliphatics industry's tanks retain sufficient structural integrity to prevent wastewater releases to the subsurface (and therefore to groundwater), and that overflow and spill controls prevent wastewater releases to the ground surface. For the land treatment unit, releases also could occur through release of particulate emissions to the air and runoff and erosion of waste from the unit. EPA assumed that wastewater would entrain any particulate matter such that particulates would not be released from the tanks. EPA did not evaluate particulate emissions from the landfills because the moisture content of the sludges (41 to 74 percent moisture) would prevent generation and release of particulates to the air in the time between placement of the waste in the landfill and application of daily cover or a new day's waste addition. EPA also assumed that runon/runoff controls would prevent releases from the landfills due to erosion and runoff.

EPA also evaluated the mechanisms and pathways by which contaminants

[4] EPA. 1994a. Estimating Exposure to Dioxin-Like Compounds, Volume I: Executive Summary. Review Draft. EPA/600/6–88/005Ca. Office of Research and Development. June.

might be transported to the points where receptors are exposed. The mechanisms and pathways we evaluated are as follows:

- Eroded waste can be transported by runoff and deposited onto the soil and into surface water bodies.
- Leachate can migrate through the unsaturated [5] zone to the saturated [6] zone, where contaminants are transported in groundwater to drinking water wells and to points of discharge to surface water bodies.
- Vapor emissions can remain dispersed in the air, or can be deposited through wet and dry deposition. Specifically, EPA models:
- The concentration of vapor phase contaminants in air,
- The diffusion of vapor phase contaminants into plants,
- The diffusion of vapor phase contaminants into surface water,
- Wet deposition of vapors onto soils and surface water (for example, due to wash-out [scavenging] by precipitation).
- Dry deposition of vapors onto soils (for example, due to density).
- Although we do not evaluate wet and dry deposition of vapors onto plants, we do assume that wet and dry deposition of vapors onto soils increase the contaminant concentrations in the soil and result in additional uptake of contaminants into plants via soil-to-plant uptake.
- Particulate emissions can remain dispersed in the air or be deposited through wet deposition (in precipitation) or dry deposition (particle settling). We assume that particulates may be deposited onto soil and surface water through both wet and dry deposition, and onto plants through dry deposition.

Human receptors indirectly may come into contact with vapors that diffuse into vegetation, particulates that are deposited on vegetation, or contaminants that are taken up by vegetation from the soil through exposure to contaminated home-grown fruits and vegetables, as well as exposure to contaminated beef and dairy products derived from cattle which have ingested contaminated forage, silage, grain, and surface soil. Receptors that ingest fish also indirectly may come into contact with contaminants in air-borne vapors and particulates (through vapor diffusion into surface water, vapor deposition onto surface water, and particulate deposition onto surface water), contaminated groundwater (through groundwater discharge into surface water), and runoff and eroded soil that enter surface water.

EPA determined that the following receptors reasonably represent the types of individuals that could be exposed to contaminants in chlorinated aliphatics wastes, and were the receptors evaluated in our risk analyses:

- an adult resident
- the child of a resident
- a home gardener
- a farmer
- the child of a farmer
- a fisher

The following sections describe briefly EPA's primary assumptions regarding the characteristics and activities of each of the receptor types, and the routes by which each receptor is exposed.

Adult Resident and Child of Resident—We assume that an adult and child reside near the waste management unit. The residential receptors inhale vapors and particulate matter that are dispersed in the ambient air. EPA assumes that household water is supplied to the residential receptors by a domestic groundwater well that is located near their home. The adult resident and child of the resident drink water that comes from the well. We assume that the adult resident inhales vapors that are emitted from the water that they use in their house (for example, during showering), and that the adult resident's skin also is exposed to groundwater when he/she bathes. The residential receptors do not ingest foods that are grown in the vicinity of their home, however they do incidentally ingest surface soil from their yard.

Home Gardener—We assume that the residential receptor may have a home garden. The home gardener grows fruit, exposed vegetables (vegetables with edible parts that are exposed at land surface), and root vegetables. Approximately 23 percent of the exposed vegetables, 11 percent of the root vegetables, and 12 percent of the fruits eaten by the gardener are grown in his/her garden (EPA 1997a, Table 13–71) [7]. The gardener's other characteristics and activities are the same as those of the adult resident.

Fisher—We assume that the residential receptor may be a recreational angler. Approximately 32 percent of the fish eaten by the fisher are from a stream located near the waste management unit (EPA 1997a, Table 13–71). The fisher's other characteristics and activities are the same as those of the adult resident.

Adult Farmer and Child of Farmer—We assume that a farmer raises fruits, exposed vegetables, root vegetables, beef cattle, and dairy cattle in an agricultural field located near the waste management unit. Approximately 42 percent of the exposed vegetables, 17 percent of the root vegetables, 33 percent of the fruits, 49 percent of the beef, and 25 percent of the dairy products eaten by the farmer and the child of the farmer are grown/raised on the farmer's agricultural field (EPA 1997a, Table 13–71). We assume that the farmer incidentally ingests soil from the agricultural field, and that the child of the farmer incidentally ingests soil from his/her yard. The farmer's and child's exposure to groundwater via ingestion, inhalation, and dermal contact are the same as that for the adult resident and child of the resident.

EPA establishes the locations of receptors relative to waste management units based on information obtained from national surveys. Exposure to groundwater occurs through the use of water from drinking water wells, and exposure via nongroundwater pathways occurs through runoff/erosion and releases to air. Therefore, ''distance to receptor'' for groundwater exposure pathways actually is the distance to the drinking water well that the receptor is using (the ''receptor well''). ''Distance to receptor'' for nongroundwater pathways is the distance to the residence where the receptor is inhaling air or contacting soil, the distance to the garden where the receptor is growing fruits and vegetables, or the distance to the field where the receptor is growing crops or raising livestock. Consequently, EPA uses different databases to establish ''distance to receptor,'' depending on whether we are evaluating a groundwater or a nongroundwater pathway.

For analysis of the nongroundwater pathway (air pathways and erosion/runoff) risks in the deterministic analysis we assume that the receptors live either 75 meters (m) (high end) or 300 m (central tendency) from the waste management unit. The distance of 250 feet (ft) (approximately 75 m) is based on the actual measured distance to the nearest resident for the worst-case facility evaluated in the risk assessment conducted to support the ''Hazardous Waste Treatment, Storage, and Disposal Facilities—Organic Air Emissions Standards for Process Vents and Equipment Leaks Final Rule'' (55 FR

[5] The unsaturated (vadose) zone is a subsurface zone in which the pore spaces contain both water and air.

[6] The saturated zone is a subsurface zone in which all pore spaces are full of water.

[7] EPA. 1997a. Exposure Factors Handbook, Volumes I, II, and III. Office of Research and Development, Washington, D.C., EPA/600/P–95/002Fa, b, c. August 1997; www.epa.gov/ordntrnt/ord/webpubs/exposure/index.html.

25454), and was used as distance to the nearest resident for that rulemaking. In the same risk assessment, EPA identified the receptor distance of 1000 ft (approximately 300 m) as the median distance in a random sample of distances to the nearest residence. For the probabilistic analysis, we assume the receptors live either 50, 75, 100, 200, 300, 500, or 1000 m from the waste management unit. For air pathway analyses, we always assume that the receptors (including cattle) are located along the centerline of the area most greatly impacted by air releases from the waste management units. However, at distances of a few hundred meters from the waste management unit, the air concentrations within about a 100 meter lateral distance do not vary appreciably.

For deterministic analyses we assume that a receptor well is located 102 m (high end) or 430 m (central tendency) from the waste management unit, and that the receptor well is located on centerline of the contaminant plume (high end) or halfway between the centerline and the edge of the contaminant plume (central tendency). The 102 m distances is the 10th percentile value in the distribution of distances derived from EPA's 1988 survey of Solid Waste (Municipal) Landfill Facilities (DPRA 1993[8]). The 430 m value is the 50th percentile value in that same distribution. For the Monte Carlo analysis, the distance from the waste management unit to the receptor well is based on the complete distribution of distances to receptor well reported by the survey respondents, and ranges from 0.02 m (the location of the closest reported well was 0 m) to 1604 m (the maximum distance for which EPA requested receptor well information was 1 mile). For the Monte Carlo analysis we assume that the receptor well is located anywhere within the contaminant plume.

The *Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination* provides a complete discussion of the values of additional parameters that define the characteristics of each receptor, such as the amounts of contaminated food and water they ingest, their inhalation rates, and how long they live near the waste management unit.

d. How Did EPA Predict What Contaminant Concentrations Are at the Points Where Receptors Are Exposed?

EPA conducts contaminant fate and transport modeling and indirect exposure modeling to determine what the concentrations of contaminants will be in the media (for example, groundwater, air, soil, food items) that the receptor comes into contact with. These concentrations are called ''exposure point concentrations'' (that is, they are the contaminant concentrations at the point where the receptor is exposed to the contaminants). There are a number of computer-based models and sets of equations that EPA uses to predict exposure point concentrations. In the following sections we briefly discuss these models and equations and their application in the risk analyses.

i. Partitioning Model

For the landfill and the land treatment unit, EPA uses a series of ''partitioning'' equations to determine how much contaminant mass is retained in the waste management unit and how much is released into the environment. These equations are based upon equations presented in a series of articles by Jury et al. (Jury et al. 1983, 1984, and 1990[9]). EPA used the partitioning equations to estimate the mass of a contaminant that will be lost from the land treatment unit due to volatilization into the air, contaminant leaching into the subsurface, runoff from the land treatment unit, and degradation. For the landfill scenarios, EPA used the partitioning equations to determine how much of the contaminant mass would be lost due to volatilization into the air; EPA assumed that the remainder of the mass would be available to leach into the subsurface. We assumed that volatilization losses could occur prior to the landfill being covered with daily cover or daily waste addition, through the daily cover or daily waste addition, and through the cap that is placed on the landfill after closure. For the landfill, we used toxicity characteristic leaching procedure (TCLP) analytical results (rather than the partitioning equations) as the predictor of leachate concentration. The TCLP is an analytical procedure that ''leaches'' a waste sample in a way that mimics the leaching of waste in a municipal landfill. Thus, TCLP results are a proxy for the concentrations of contaminants that would be generated in leachate if the waste were placed in a municipal landfill.

ii. Tank Emissions Model

EPA modeled emissions from aerated biological wastewater treatment tanks using the CHEMDAT8 model (EPA 1994b[10]). We used the emissions estimates in conjunction with the air dispersion modeling results (see Section D.1.d.iii) to estimate constituent-specific air concentrations and deposition rates. CHEMDAT8 accounts for most of the competing removal pathways that might limit air emissions, including adsorption, biodegradation, and hydrolysis. Chemicals that sorb to solids or decompose due to either biodegradation or hydrolysis have lower potential for emission to the air. CHEMDAT8 is considered to provide reasonable to slightly high estimates of air emissions.

CHEMDAT8 requires that the user specify parameters relating to tank characteristics, waste characteristics, contaminant physical and chemical properties, and location-specific meteorological conditions (for example, windspeed and temperature). The tank characterization data required by the model include both tank physical parameters (for example, tank dimensions) and tank operating parameters (for example, the number of aerators in the tank). In the absence of site-specific data, we developed tank dimensions based on facility-reported wastewater generation rates, an assumed wastewater depth in the tank of 15 feet, and a retention time in the tank of two days. We selected operating parameters that we believe represent typical operating conditions of an aerated tank. The Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination provides a complete list of the parameters used in the CHEMDAT8 model.

iii. Air Dispersion and Deposition Model

We used EPA's Industrial Source Complex Short Term model (version 3;

[8] DPRA. 1993. Parameter Values for Developing Nationwide Regulations with the EPA's Composite Model for Landfills (EPACML). EPA Contract Number 68–WO–0029. July.

[9] Jury, W.A., W.F. Spencer, and W. J. Farmer. 1983. Behavior assessment model for trace organics in soil: i. model description. J. Environ. Qual. 12(4):558–564.

Jury, W.A., W. J. Farmer, and W.F. Spencer. 1984. Behavior assessment model for trace organics in soil: ii. chemical classification and parameter sensitivity. *J. Environ. Qual.* 13(4):567–572.

Jury, W.A., D. Russo, G. Streile, and H.E. Abd. 1990. Evaluation of volatilization by organic chemicals residing below the soil surface. *Water Resources Research.* 26(1):13–20.

[10] EPA. 1994b. CHEMDAT8 User's Guide, EPA–453/C–94–080B. Office of Air Quality Planning and Standards, US Environmental Protection Agency, Research Triangle Park, NC, November. This model is publicly available from EPA's Web page at http://www.epa.gov/ttn/chief/software.html.

ISCST3 [11]) to estimate the dispersion and deposition of vapors emitted from the wastewater treatment tank, the municipal landfill, the onsite industrial landfill, and the land treatment unit. EPA also used ISCST3 to estimate the dispersion and deposition of particulate emissions from the land treatment unit. For the land treatment unit, EPA used equations documented in EPA's ''Compilation of Air Pollutant Emission Factors (AP–42)'' (EPA 1985) [12] to estimate particulate emissions resulting from wind erosion and tilling activities. Vapor emissions from the landfill and the land treatment unit were estimated using the partitioning models discussed in Section III.D.1.d.i. Vapor emissions from the wastewater treatment tank were estimated using the CHEMDAT8 model discussed in Section III.D.1.d.ii. ISCST3 was used to estimate the air concentration of vapors, wet deposition of vapors, the air concentration of particulates, wet deposition of particulates, and dry deposition of particulates. We calculate dry deposition of vapors using the air concentration of vapors and a contaminant deposition velocity.

iv. Overland Transport Model

The Universal Soil Loss Equation (USLE) is an erosion model originally designed to estimate long-term average soil erosion losses to a nearby surface water body from an agricultural field having uniform slope, soil type, vegetative cover, and erosion-control practices. We used a modified form of the USLE to estimate the mass of soil lost per year per unit area from the land treatment unit and deposited directly onto the adjacent receptor site (agricultural field, residential lot, home garden) and into a nearby stream.

Because the basic USLE equation estimates only soil erosion to surface water bodies, EPA assumes the receptor location is located between the land treatment unit and the surface water body. The area including the land treatment unit, the receptor site, and the intervening area is considered for the purposes of the analysis to be an independent, discrete drainage subbasin that is at steady-state. We estimate the soil erosion load from the subbasin to the surface water body using a distance-based sediment delivery ratio, and consider that the sediment not reaching the surface water body is deposited evenly over the area of the subbasin. Using mass balance equations, EPA estimates contaminant contributions to the surface water body and the receptor soil. ''Mass balance equations'' are equations that honor the law of conservation of mass, that is, the mass of a contaminant that is present at the beginning of the analysis (for example, the mass of a contaminant in a waste placed in a waste management unit) is equal to the mass of the contaminant present at the end of the analysis. Even though at the end of the analysis the contaminant mass may be partitioned into a number of environmental ''compartments'' (for example, the waste management unit, the soil, and the surface water body), there is in total no more or no less mass than was present at the start of the analysis.

Contaminated particles are transported from the land treatment unit to receptor sites via air deposition as well as runoff/erosion. We applied mass balance for each area of interest (for example, buffer area between source and receptor site, receptor site, or surrounding area). Consequently, the respective air deposition value for each area of interest is included in the evaluation of the mass balance. We considered that the air deposition over the entire subbasin area is uniform and equal to the air deposition modeled for the receptor site.

v. Groundwater Model

We used EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP; EPA 1996a, 1996b, 1996c, 1997 [13]) to model the subsurface fate and transport of contaminants that leach from the waste management units (the land treatment unit or the landfill) and migrate to a residential drinking water well or discharge from groundwater to surface water.

Precipitation that migrates through the waste management unit generates leachate, which infiltrates the bottom of the waste management unit and migrates into the unsaturated zone. The contaminants dissolved in the leachate subsequently are transported in the aqueous phase through the unsaturated zone to the underlying saturated zone and then downgradient to a receptor (drinking water) well or surface water body located at a specified distance from the boundary of the waste management unit. EPACMTP accounts for the following processes affecting contaminant fate and transport: advection, hydrodynamic dispersion, equilibrium linear or nonlinear sorption by the soil and aquifer solids (both in the unsaturated and saturated zones), and contaminant hydrolysis. In the event that the hydrolysis daughter products are toxic and their chemical properties are known, the model also accounts for the formation and subsequent fate and transport of the daughter products.

The landfill analysis employed two simplifying assumptions. First, we assumed that contaminant leaching from the landfill does not occur until after the landfill closes (that is, after 30 years). EPA made this assumption because of complexities associated with linking the output of the landfill partitioning equations (discussed in Section III.D.1.d.i.) and the groundwater model, EPACMTP. Second, we assumed that there are no contaminant losses due to mechanisms other than leaching after the landfill has been closed (that is, after 30 years). This effectively over-estimates the total mass of volatile contaminants that would leach to groundwater because it does not allow contaminant loss due to volatilization from the landfill to deplete the total contaminant mass available for leaching from the landfill in the years after closure. EPA determined that if volatile constituents caused significant risk via the groundwater pathway, we would have to re-evaluate our methodology for conducting the landfill analysis. This situation did not occur.

vi. Surface Water Model

EPA assumed that fish are exposed to waste constituents in surface water. Specifically, we assumed that fish are exposed to contaminants dissolved in the water column, contaminants sorbed to suspended solids in the water

[11] EPA. 1995. User's Guide for the Industrial Source Complex (ISC3) Dispersion Models (Draft) (Revised). Volume I. EPA–454/B–95–003a. Office of Air Quality Planning and Standards, Emissions, Monitoring and Analysis Division, Research Triangle Park, NC. The ISCST3 model and meteorological preprocessor, PCRAMMET, and related user's guides can be accessed and downloaded through the Internet from the Support Center for Regulatory Air Models (SCRAM) web page (http://www.epa.gov/scram001). The SCRAM is part of EPA's Office of Air Quality Planning and Standards (OAQPS) Technology Transfer Network (TTN).

[12] EPA. 1985. Compilation of Air Pollutant Emission Factors, AP–42, Fifth Edition, Volume I: Stationary Point and Area Sources. Office of Air Quality Planning and Standards, Emissions Inventory Group, Research Triangle Park, NC. AP–42 can be downloaded through the Internet at http://www.epa.gov/ttn/chief/ap42.html.

[13] EPA. 1996a. EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP) Background Document. Office of Solid Waste, Washington, DC.

EPA. 1996b. EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP) Background Document for the Finite Source Methodology. Office of Solid Waste, Washington, DC.

EPA. 1996c. EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP) Background Document for Metals. Office of Solid Waste, Washington, DC.

EPA. 1997. EPA's Composite Model for Leachate Migration with Transformation Products (EPACMTP) User's Guide. Office of Solid Waste, Washington, DC.

column, and contaminants associated with the bed sediment in the surface water body. The method used to estimate how management of chlorinated aliphatics wastewaters and wastewater treatment sludges impacts surface water is based on the methodology presented in Addendum to Methodology for Assessing Health Risks Associated with Indirect Exposure to Combustor Emissions (EPA 1993)[14]. The model accounts for six ways in which contaminants may enter the surface water body: (1) contaminants may be sorbed to eroded soils that enter the surface water body, (2) contaminants may be dissolved in runoff that enters the surface water body, (3) contaminants may be bound to airborne particles that are deposited on the surface water body, (4) vapor phase contaminants in air may be deposited on the surface water body in precipitation (that is, wet deposition of vapor phase contaminants), (5) vapor phase contaminants in air may enter the surface water body through direct diffusion from the air, and (6) contaminants in groundwater may discharge into the surface water body. The model also accounts for processes that remove contaminants from the surface water body. These include: (1) volatilization of contaminants that are dissolved in surface water and (2) burial of contaminants in the sediment at the bottom of the surface water body. The model assumes that the impact to the water body is uniform, which is more realistic for smaller surface water bodies than for larger ones. The model estimates the concentrations of contaminants in the water column and bed sediment. We used the water column or bed sediment concentrations and bioconcentration factors (BCFs), bioaccumulation factors (BAFs), or biota-sediment accumulation factors (BSAFs) to estimate contaminant concentrations in fish tissue.

vii. Indirect Exposure Equations

EPA uses a series of ''indirect exposure equations'' to quantify the concentrations of contaminants that pass indirectly from contaminated environmental media to the receptor. For example, contaminants that are transported in air may be deposited on plants or onto the soil where they may accumulate in forage, grain, silage or soil that is consumed by beef cattle and dairy cattle. Individuals may then ingest contaminated beef and dairy products. Similarly, contaminants may be transported in groundwater to domestic groundwater wells where the groundwater is extracted and used for showering. The water vapor generated in the shower may be inhaled by the receptor. The indirect exposure equations allow EPA to calculate exposure point concentrations for these pathways and routes of exposure. The indirect exposure equations used by EPA to conduct the chlorinated aliphatic wastewater, EDC/VCM sludge, and methyl chloride sludge risk assessments are presented in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination.

e. How Did EPA Quantify Contaminant Exposure and Toxicity?

Exposure is the condition that occurs when a contaminant comes into contact with the outer boundary of the body, such as the skin, mouth and nostrils. Once EPA establishes the concentrations of contaminants at the points of exposure, EPA can estimate the magnitude of each receptor's exposure, or the contaminant dose. Dose is the amount of the contaminant that crosses the outer boundary of the body and is available for absorption at internal exchange boundaries (lungs, gut, skin; EPA 1992[15]). For example, for exposure to a carcinogen through ingestion of contaminated drinking water, dose is a function of the concentration of the contaminant in drinking water (the exposure point concentration), as well as certain ''exposure factors,'' such as how much drinking water the receptor consumes each day (the intake rate), the number of years the receptor is exposed to contaminated drinking water (the exposure duration), how often the receptor is exposed to contaminated drinking water (the exposure frequency), the body weight of the receptor, and the period of time over which the dose is averaged.

EPA's primary source of exposure factors is the ''*Exposure Factors Handbook*'' published by EPA in August 1997 (EPA 1997a[16]). For probabilistic risk analyses, EPA used the distributions of exposure factor values provided in the Exposure Factors Handbook to develop PDFs for exposure factors. The one situation where EPA does not develop an expression of dose is the case where we use Reference Concentrations (RfCs)[17] to estimate noncancer hazard for the inhalation exposure route. In this situation, EPA calculates noncancer hazard from concentration of the contaminant in air and the RfC, without considering exposure factors (inhalation rate, body weight) other than those inherent in the RfC.

We express the toxicity of contaminants as health benchmarks. Health benchmarks include cancer slope factors (CSFs, EPA's measure of cancer potency)[18] for oral exposure carcinogenic contaminants; reference doses (RfDs, EPA's acceptable contaminant dose via ingestion)[19] for oral exposure to noncarcinogenic contaminants; inhalation CSFs for inhalation exposure to carcinogenic contaminants; and RfCs for inhalation exposure to noncarcinogenic contaminants. EPA derived inhalation CSFs from Unit Risk Factors (URFs) for inhalation exposure to carcinogens. EPA uses Toxicity Equivalency Factors (TEFs) to express the toxicity of specific dioxin congeners in terms of the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8–TCDD) (see Section III. D.1.g.ii. for an explanation of TEFs). Health benchmark values are available from a number of sources. For the chlorinated aliphatics wastewater, EDC/VCM sludge, and methyl chloride sludge risk assessments, EPA established an order of preference for the sources of health benchmarks. The order of preference is as follows (from most preferred to least preferred): (1) the Integrated Risk Information System (IRIS) online database of verified health benchmarks (http://www.epa.gov/iris/subst/index.html)[20]; (2) the Health Effects Assessment Summary Tables (HEAST;

[14] EPA. 1993. Addendum to Methodology for Assessing Health Risks Associated with Indirect Exposure to Combustor Emissions. EPA/600/AP–93003. Office of Health and Environmental Assessment, Washington, DC.

[15] 57 FR 22888. Final Guidelines for Exposure Assessment. U.S. Environmental Protection Agency, May 29, 1992.

[16] EPA. 1997a. *Exposure Factors Handbook, Volumes I, II, and III.* Office of Research and Development, Washington, D.C., EPA/600/P–95/002Fa, b, c. August 1997, www.epa.gov/ordntrnt/ord/webpubs/exposure/index.html.

[17] Very simply, an RfC is EPA's acceptable concentration in air for a contaminant that causes non-cancer health effects. An RfC is an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious noncancer effects during a lifetime.

[18] A cancer slope factor is the slope of the dose-response curve in the low-dose region. When low-dose linearity cannot be assumed, the slope factor is the slope of the straight line from 0 dose (and 0 excess risk) to the dose at 1% excess risk. An upper bound on this slope is usually used instead of the slope itself. The units of the slope factor usually are expressed as 1/(mg/kg-day).

[19] An RfD is an estimate (with uncertainty spanning perhaps an order of magnitude) of a daily exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.

[20] EPA. 1998. Integrated Risk Information System. Online database. (IRIS) Office of Research and Development (ORD). Cincinnati, OH.

EPA 1997b)[21]; (3) EPA's National Center for Environmental Assessment (NCEA) provisional values, and (3) benchmarks developed by the California Environmental Protection Agency (CALEPA)[22]. The specific health benchmarks used in the analysis are presented in Appendix C of the Background Document for the Chlorinated Aliphatics Risk Assessment.

f. What Are the Risks From Exposure to Chlorinated Aliphatics Wastewaters, and EDC/VCM and Methyl Chloride Sludges?

The following sections discuss EPA's estimates of individual and population risk for chlorinated aliphatics wastewaters, EDC/VCM sludges, and methyl chloride sludges.

i. What Are the Individual Risks?

EPA combined estimates of dose and estimates of toxicity (the health benchmarks) to calculate individual incremental lifetime carcinogenic risk estimates and hazard quotients for the potential contaminants of concern in chlorinated aliphatic wastewaters, EDC/VCM sludge, and methyl chloride sludge. Complete results of these calculations are provided in the *Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination*. EPA typically considers a decision to list a waste when carcinogenic risks are $1x10^{-5}$ or greater or when the noncancer HQ is 1 or greater. None of the contaminants generated noncancer hazards with an HQ greater than 1, nor did the sum of the contaminant HQs exceed 1. In summing carcinogenic risk estimates and noncancer hazard quotients, EPA does not sum those risks or hazards that could not occur within the lifetime of an individual. For example, if estimated risks due to nongroundwater pathways occur during the operating or post-closure life of the unit (that is, due to releases to air and runoff/erosion) and risk via the groundwater pathways are not projected to occur for hundreds, or even thousands, of years due to long times required for contaminant migration, then these two pathway risks would not be added together.

The following sections present separately our deterministic and probabilistic estimates of individual risk for:

- Wastewaters from the production of chlorinated aliphatic chemicals,
- Wastewater treatment sludges from the production of EDC/VCM, and
- Wastewater treatment sludges from the production of methyl chloride.

Chlorinated Aliphatic Wastewaters

Table III–1 summarizes the significant (greater than $1x10^{-5}$ risk estimates for chlorinated aliphatic wastewaters managed in onsite aerated biological wastewater treatment tanks. The highest deterministic risk estimate, $2x10^{-5}$, occurs for the farmer. The risk is attributable to the farmer's ingestion of dioxins, which in Table III–1 are expressed as the 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) toxicity equivalent (TEQ). The farmer's high end deterministic risk falls slightly below the 90th percentile probabilistic risk estimate (the 80th percentile risk estimate is $1x10^{-5}$). Table III–2 summarizes our deterministic estimates of risk due to the direct inhalation of chloroform. The high end chloroform risks are $3x10^{-6}$ for the farmer and $2x10^{-6}$ for all other receptors. The chloroform deterministic risk estimates for the adult receptors are roughly equal to the 97.5th percentile probabilistic risk estimates. Although the chloroform risks are not greater than $1x10^{-5}$, they are additive to the risks that EPA estimated for dioxins because they would occur within the same timeframe.

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[21] EPA. 1997b. Health Effects Assessment Summary Tables: Annual Update. (HEAST) Office of Emergency and Remedial Response. Washington, D.C. July.

[22] California Environmental Protection Agency (CalEPA). 1997. *Air Toxics Hot Spots Program Risk Assessment Guidelines: Technical Support Document for Determining Cancer Potency Factors.* Draft for Public Comment. Office of Environmental Health Hazard Assessment, Berkeley, CA, www.oehha.org/ra__guidance/.

Table III-1. Summary of Excess Lifetime Dioxin Cancer Risk (expressed as 2,3,7,8-TCDD TEQ) Attributable to Management of Chlorinated Aliphatic Wastewaters in an Aerated Biological Treatment Tank

Table III-1A. Deterministic Risk Results

Receptor	HE	CT	High End Parameters
Farmer	2E-05	4E-07	Exposure Duration and Contaminant Concentration
Child of Farmer	7E-06	3E-07	Contaminant Concentration and Waste Quantity
Home Gardener	2E-08	1E-09	Exposure Duration and Contaminant Concentration
Adult Resident/Fisher	2E-09	1E-11	Contaminant Concentration and Meteorological Location
Child of Resident	7E-09	4E-11	

HE = High End; CT = Central Tendency

Table III-1B. Probabilistic Risk Results

Receptor	Percentile				
	50th	90th	95th	97.5th	100th
Farmer	2E-07	5E-05	1E-04	3E-04	2E-02
Child of Farmer					
Age 1-5	2E-07	4E-05	1E-04	2E-04	8E-03
Age 6-11	2E-07	4E-05	1E-04	2E-04	9E-03
Age 12-18	2E-07	4E-05	1E-04	2E-04	1E-02

Table III-2. Summary of Excess Lifetime Chloroform Cancer Risk Attributable to Management of Chlorinated Aliphatic Wastewaters in an Aerated Biological Treatment Tank

Table III-2-A: Deterministic Results

Receptor	HE	CT	High End Parameters
Farmer	3E-06	8E-08	Exposure Duration and Distance To Receptor
Child of Farmer / Child Resident	2E-06	8E-08	Contaminant concentration and Distance to Receptor
Home Gardener/Fisher/Adult Resident	2E-06	8E-08	

Table III-2B. Probabilistic Results

Receptor	Percentile				
	50th	90th	95th	97.5th	100th
Farmer	3E-08	6E-07	1E-06	2E-06	6E-05
Adult Resident/Home Gardener/Fisher	2E-08	5E-07	1E-06	2E-06	5E-05
Child Resident					
Age 1-5	3E-08	6E-07	1E-06	2E-06	6E-05
Age 6-11	3E-08	6E-07	1E-06	2E-06	5E-05
Age 12-18	2E-08	4E-07	8E-07	1E-06	4E-05
Child of Farmer					
Age 1-5	6E-08	1E-06	2E-06	4E-06	6E-05
Age 6-11	4E-08	8E-07	2E-06	3E-06	5E-05
Age 12-18	3E-08	6E-07	1E-06	2E-06	4E-05

EDC/VCM Sludges

Tables III–3 and III–4 summarize the significant (greater than $1x10^{-5}$) risk estimates for EDC/VCM wastewater treatment sludges managed in an onsite land treatment unit. In all cases, we estimated that the highest risk occurs for the farmer. Table III–3 presents dioxin (expressed as 2,3,7,8–TCDD TEQ) risk estimates for the land treatment unit nongroundwater pathways. The high end deterministic risk estimate for the farmer is $2x10^{-4}$, which also corresponds to the 95th percentile probabilistic risk estimate. Table III–4 presents arsenic risk estimates for the land treatment unit groundwater pathways. The high end deterministic risk estimate for the farmer is $1x10^{-5}$, which falls between the 97.5th percentile probabilistic risk estimate ($6x10^{-6}$) and the 100th percentile probabilistic risk estimate ($5x10^{-5}$). EPA estimates that the groundwater pathway risks in Table III–4 would occur approximately 1500 years in the future, whereas the dioxin nongroundwater pathway risks in Table III–3 would occur during the assumed operating life of land treatment unit.

Table III–5 summarizes the significant risk estimates for EDC/VCM sludges managed in an offsite municipal landfill. The risk estimates presented in Table III–5 are arsenic groundwater pathway risks. The high end deterministic risk estimate for the farmer is $3x10^{-5}$, which falls between the 97.5th percentile ($1x10^{-5}$) and 100th percentile ($3x10^{-4}$) probabilistic risk estimates. We estimate that the arsenic risks attributable to the landfill (presented in Table III–5) would occur thousands of years in the future.

Table III-3. Summary of Excess Lifetime Dioxin (expressed as 2,3,7,8-TCDD TEQ) Cancer Risk Attributable to Management of EDC/VCM Sludge in An Onsite Land Treatment Unit

Table III-3A. Deterministic Risk Results

Receptor	HE	CT	High End Parameters
Farmer	2E-04	4E-06	Exposure Duration and Contaminant Concentration
Child of Farmer	8E-05	3E-06	Contaminant Concentration and Beef Intake
Home Gardener	2E-06	6E-08	Exposure Duration and Contaminant Concentration
Fisher	2E-05	6E-07	
Adult Resident	2E-06	5E-08	
Child of Resident	5E-06	1E-07	Contaminant Concentration and Soil Intake

HE = High End; CT = Central Tendency

Table III-3B. Probabilistic Risk Results

Receptor	Percentile				
	50th	90th	95th	97.5th	100th
Farmer	7E-06	1E-04	2E-04	4E-04	2E-03
Home Gardener	5E-08	2E-06	2E-06	4E-06	2E-05
Resident	3E-08	1E-06	2E-06	2E-06	7E-06
Fisher	2E-07	3E-06	8E-06	2E-05	4E-04
Child of Resident					
Age 1-5	1E-07	2E-06	4E-06	6E-06	1E-04
Age 6-11	5E-08	1E-06	2E-06	2E-06	6E-06
Age 12-18	3E-08	8E-07	1E-06	1E-06	4E-06
Child of Farmer					
Age 1-5	9E-06	1E-04	2E-04	3E-04	1E-03
Age 6-11	7E-06	9E-05	2E-04	2E-04	1E-03
Age 12-18	5E-06	7E-05	1E-04	2E-04	1E-03

Table III-4. Summary of Excess Lifetime Arsenic Cancer Risk Attributable to Management of EDC/VCM Sludge in An Onsite Land Treatment Unit

Table III-4A. Deterministic Risk Results

Receptor	HE	CT	High End Parameters
Farmer	1E-05	8E-07	Leachate concentration and Exposure Duration
Child of Farmer/Child of Resident	3E-06	6E-07	
Adult Resident/Gardener/Fisher	6E-06	7E-07	

HE = High End; CT = Central Tendency

Time for Peak concentration to reach receptor is approximately 1500 years

Table III-4B. Probabilistic Risk Results

Receptor	Percentile				
	50th	90th	95th	97.5th	100th
Farmer	9E-08	2E-06	4E-06	6E-06	5E-05
Adult Resident/Gardener/Fisher	7E-08	1E-06	3E-06	5E-06	3E-05
Child Resident					
Age 1-5	6E-08	1E-06	2E-06	4E-06	5E-05
Age 6-11	5E-08	1E-06	2E-06	3E-06	4E-05
Age 12-18	4E-08	9E-07	2E-06	3E-06	4E-05
Farm Child					
Age 1-5	1E-07	2E-06	4E-06	6E-06	4E-05
Age 6-11	8E-08	2E-06	3E-06	4E-06	2E-05
Age 12-18	6E-08	1E-06	2E-06	4E-06	2E-05

Table III-4. Summary of Excess Lifetime Arsenic Cancer Risk Attributable to Management of EDC/VCM Sludge in An Onsite Land Treatment Unit

Table III-4A. Deterministic Risk Results

Receptor	HE	CT	High End Parameters
Farmer	1E-05	8E-07	Leachate concentration and Exposure Duration
Child of Farmer/Child of Resident	3E-06	6E-07	
Adult Resident/Gardener/Fisher	6E-06	7E-07	

HE = High End; CT = Central Tendency

Time for Peak concentration to reach receptor is approximately 1500 years

Table III-4B. Probabilistic Risk Results

Receptor	Percentile				
	50th	90th	95th	97.5th	100th
Farmer	9E-08	2E-06	4E-06	6E-06	5E-05
Adult Resident/Gardener/Fisher	7E-08	1E-06	3E-06	5E-06	3E-05
Child Resident					
Age 1-5	6E-08	1E-06	2E-06	4E-06	5E-05
Age 6-11	5E-08	1E-06	2E-06	3E-06	4E-05
Age 12-18	4E-08	9E-07	2E-06	3E-06	4E-05
Farm Child					
Age 1-5	1E-07	2E-06	4E-06	6E-06	4E-05
Age 6-11	8E-08	2E-06	3E-06	4E-06	2E-05
Age 12-18	6E-08	1E-06	2E-06	4E-06	2E-05

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Methyl Chloride Sludges

EPA conducted a deterministic analysis to estimate nongroundwater (air) pathway risks associated with management of methyl chloride sludges in an onsite landfill. All nongroundwater pathway carcinogenic risks were less than 1×10^{-8}, and all noncancer HQs were less than 0.0001.

For groundwater pathways, EPA performed a screening analysis that maximizes estimates of risk or hazard to human receptors. EPA calculated the carcinogenic risk for an adult who ingests (drinks) 1.4 liters of leachate from the landfill for 350 days per year for 58 years. EPA also calculated the noncancer hazard for a child who ingests 1.4 liters of leachate from the landfill for 350 days per year for 9 years. None of the noncancer HQs was greater than 1. Arsenic was the only carcinogen with risk in excess of 1×10^{-5}. Specifically, an adult's risk due to ingesting leachate from methyl chloride sludges for 58 years was 5×10^{-5} due to arsenic. EPA discusses our evaluation of this risk in Section III.E.4.b.

ii. What are the Population Risks?

EPA expects that the population risks resulting from management of chlorinated aliphatics wastewaters in tanks and EDC/VCM sludges in onsite land treatment units and landfills are not significant. With regard to groundwater pathway risks, EPA believes that the number of domestic drinking water wells (thus the population) potentially affected by groundwater contaminated with arsenic originating from the landfill and the land treatment unit would be very small. Furthermore, we estimate that the arsenic concentrations predicted in receptor (drinking water) wells will result in risks only slightly above 1×10^{-5} for that very small number of people.

For nongroundwater pathways, EPA performed a screening evaluation of population risk for the waste management scenario and pathway that resulted in the greatest individual risk estimate of any pathway evaluated in the chlorinated aliphatics risk assessment. Specifically, EPA evaluated risk associated with ingestion of beef and dairy products contaminated with dioxins derived from the onsite EDC/VCM land treatment unit. As presented previously, under the land treatment unit scenario the farmer's total individual excess lifetime cancer risk from ingestion of beef and dairy was 2×10^{-4} for high end exposures and 3×10^{-6} for central tendency exposures. Although the individual risk estimates for the farmer exposed to dioxins from EDC/VCM sludge managed in a land treatment unit are an order of magnitude greater than those for the farmer exposed to dioxins from chlorinated aliphatics wastewaters managed in tanks, is possible that population risks resulting from releases from chlorinated aliphatics wastewaters would exceed those resulting from releases from EDC/VCM sludges. This might occur because there is only one land treatment unit that is used to manage EDC/VCM sludge, and we expect that there may be many aerated biological wastewater treatment tanks used to manage chlorinated aliphatics wastewaters. Nevertheless, EPA believes that it is reasonable to assume that the population risks for the land treatment unit likely would be greater than those for the wastewater tanks because there would need to be at least 10 wastewater treatment tanks with surrounding cattle populations similar to that of the land treatment unit to produce a population risk estimate equivalent to that of the land treatment unit.

Results of the population risk analysis for the land treatment unit indicate that 2×10^{-4} excess cancer cases would be expected annually in a population of 1,410 individuals ingesting beef produced from cattle raised within 2 kilometers of the land treatment unit over a 40-year operational life for the land treatment unit (dairy cattle are not raised in the county where the land treatment unit is located, thus we did not evaluate ingestion of dairy products in the population risk analysis). The average individual risk to the population consuming beef from within the 2-kilometer radius is 2×10^{-7}. We calculated the population potentially affected by a release from the land treatment unit (1,410 individuals) from the total estimated quantity of contaminated beef and average beef ingestion rates (that is, we calculated how many people would be required to consume all of the contaminated beef assuming typical rates of beef ingestion). It is possible that the contaminated beef would be distributed more widely throughout the population, such that the total number of people ingesting the contaminated beef would be greater than 1,410. However, the population risk estimate would not change because population risk is a function of the number of people who are exposed (that is, consume contaminated beef) and each person's individual risk (which is a function of the amount of contaminated beef a person consumes). Consequently, as the number of people who are exposed increases, the individual risk must decrease proportionally because there is only a finite amount of contaminated beef, and the overall population risk remains the same. The Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination provides a description of the procedure used to estimate population risks.

EPA did not estimate population risks for the other receptors for whom we calculated individual risk estimates (residents, children, gardeners, and fishers). Because the high end risk for the land treatment unit scenario was driven by the ingestion of beef and dairy products, the population risks for non-farmer receptors are expected to be considerably lower than 2×10^{-4}.

Although the population risks attributable to the management of chlorinated aliphatics wastes are expected to be very small, EPA does not believe it is appropriate to allow contamination from waste management activities to cause substantial risk to nearby residents simply because there are few individuals in the immediate vicinity of the waste management units. 40 CFR 261.11 clearly states that wastes are to be listed if they are ''capable of posing a substantial present or potential hazard.'' It does not state that a large number of people must be affected. However, population risk may be a factor that the Agency could consider under 40 CFR 261.11(a)(3)(xi) (''other factors as may be appropriate'').

EPA's Guidance for Risk Characterization (EPA 1995) states that when small populations are exposed, population risk estimates may be very small, however, ''in such situations, individual risk estimates will usually be a more meaningful parameter for decision-makers.'' Consequently, EPA's decision to list wastes has been based primarily on the concern over risks to those individual's who are significantly exposed, even if there are relatively few such individuals. EPA, however, requests comment on whether it would be appropriate to give weight to population risk in deciding whether to list these chlorinated aliphatic wastes as hazardous. EPA further invites comment on the effect of this approach on the Agency's goals with respect to environmental justice in rural areas.

g. What Is the Toxicity of COCs Identified by EPA?

The two contaminants for which EPA calculated significant risks are dioxins (expressed as the 2,3,7,8-TCDD TEQ) and arsenic. The following sections discuss the ways that these contaminants affect human health.

i. Arsenic

Arsenic is a naturally occurring element in the earth's crust that usually exists as an inorganic or organic compound, rather than in a free state. Arsenic that exists in compounds with elements such as oxygen, chlorine, and sulfur is referred to as inorganic arsenic; arsenic combined with carbon is referred to as organic arsenic. Organic forms of arsenic are less toxic than inorganic forms.

There is clear evidence that chronic exposure to inorganic arsenic in humans increases the risk of cancer, and EPA classifies inorganic arsenic as a Group A—Known Human Carcinogen. Studies report that inhalation of arsenic results in an increased risk of lung cancer. In addition, ingestion of arsenic has been associated with an increased risk of nonmelanoma skin cancer and bladder, liver, kidney, and lung cancer. No information is available on the risk of cancer in humans from dermal exposure to arsenic (EPA 1998).

ii. Dioxins

2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) belongs to the class of compounds, chlorinated dibenzo-p-dioxins and chlorinated dibenzofurans, that are referred to as dioxins. EPA issued a draft *Health Assessment Document for 2,3,7,8-TCDD and Related Compounds* in 1994. This document is a three-volume series consisting of a complete reassessment of the toxic effects of 2,3,7,8-TCDD (EPA 1994a, b [23]). The document was reviewed by EPA's Science Advisory Board (SAB) but has not yet been issued in final form.

EPA has classified 2,3,7,8-TCDD as a Group B2—Probable Human Carcinogen (EPA 1997b). An increase in lung cancer risks was observed among Japanese males exposed to 2,3,7,8-TCDD as a result of an oil poisoning accident. Human studies have also found an association between 2,3,7,8-TCDD and soft-tissue sarcomas, lymphomas, and stomach carcinomas, although for malignant lymphomas, the increase in risk is not consistent. The increase in risk is of borderline significance for highly exposed groups and is less among groups exposed to lower levels of 2,3,7,8-TCDD (EPA 1994b). In animal tests, TCDD is one of the most potent carcinogens ever evaluated.

Although EPA has not developed an RfD or an RfC for 2,3,7,8-TCDD, noncarcinogenic health effects have been reported for 2,3,7,8-TCDD. The major noncarcinogenic effect from exposure to 2,3,7,8-TCDD is chloracne, a severe acne-like condition that develops within months of first exposure to high levels of 2,3,7,8-TCDD. For many individuals, the condition disappears after discontinuation of exposure, for others it may remain for years. There are limited human data to suggest the doses at which chloracne is likely to occur (EPA 1994a, b). Epidemiological studies report conflicting evidence on the immunotoxicity of 2,3,7,8-TCDD in humans. Some studies suggest evidence of immunotoxicity, such as alterations in lymphocyte populations, cell surface markers, or lymphocyte proliferative response (ATSDR 1997c [24]). However, studies have not reported changes in the immune system directly related to 2,3,7,8-TCDD exposure (EPA 1994a, b). An association has been reported between levels of male reproductive hormones and 2,3,7,8-TCDD exposure. Decreased testosterone levels were detected in several human studies, and animal data are available to support these findings. Other effects noted in human studies include an association between 2,3,7,8-TCDD exposure and the following:

- An increased risk of diabetes and an elevated prevalence of abnormal fasting serum glucose levels
- The induction of cytochrome P–450 1A1, an enzyme involved in biotransformation reactions
- Elevation of gamma glutamyl transferase, a liver enzyme
- A possible increased risk of endometriosis, a disease of the female reproductive system (EPA 1994a, b).

Animal studies report reproductive and developmental effects from exposure to 2,3,7,8-TCDD. These studies suggest that altered development may be among the most sensitive endpoints of 2,3,7,8-TCDD exposure. Developmental toxicity has been reported to occur in several animal species at lower levels than male and female reproductive toxicity effects. 2,3,7,8-TCDD appears to affect a large number of critical developmental effects at specific developmental stages. These changes can lead to increases in fetal mortality, disruption of organ system structure, and irreversible impairment of organ function. Developmental toxicity from 2,3,7,8-TCDD has been seen in fish, birds, and mammals (EPA 1994a, b).

EPA assigned 17 dioxin and furan congeners individual toxicity equivalency factors (TEFs). TEFs are estimates of the toxicity of dioxin-like compounds relative to the toxicity of TCDD, which is assigned a TEF of 1.0. We used the TEFs identified as the I-TEFs (International-TEFs) to conduct the chlorinated aliphatics risk assessment because, until very recently, this is the TEF scheme EPA scientists have recommended and used for the last 10 years (EPA 1989) [25] [26]. Documentation supporting the use of the TEFs has been placed in the rulemaking record.

The I-TEFs are presented in Table III–6. The I-TEFs are based on a limited data base of *in vivo* and *in vitro* toxicity testing (EPA 1989). The World Health Organization (WHO) recently reviewed the I-TEFs (Van den Berg et al. 1998) [27], and determined that three of the I-TEFs, those for 1,2,3,7,8-PeCDD (pentachlorodibenzo-p-dioxin), OCDD (octachlorodibenzo-p-dioxin), and OCDF (octachlorodibenzofuran), required modification (Table III–6). EPA is in the process of adopting these modifications, and consequently reviewed the impact that the revised (WHO-) TEFs would have on the results of the chlorinated aliphatics risk assessment. 1,2,3,7,8-PeCDD was not detected in dedicated chlorinated aliphatic wastewaters, dedicated EDC/VCM sludges, or methyl chloride sludges. Consequently, the difference in the I-TEF and the WHO-TEF for 1,2,3,7,8-PeCDD has no impact on the results of the risk analyses presented in this section. Because of the TEF differences for OCDD and OCDF, however, the decision to use either the I-TEFs or the WHO-TEFs potentially may result in large differences in the calculated TCDD TEQ concentrations for a given chlorinated aliphatics waste sample. Nevertheless, because OCDD and OCDF contribute very little to the actual risk attributable to dioxin compounds, the decision to use either

[23] EPA. 1994a. *Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds. Volume II.* (Draft). Office of Research and Development, Washington, D.C., www.epa.gov/ord/health.

EPA. 1994b. *Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds. Volume III. (Draft).* Office of Research and Development, Washington, D.C., www.epa.gov/ord/health.

[24] ATSDR (Agency for Toxic Substances and Disease Registry). 1997c. *Toxicological Profile for 2,3,7,8-Tetrachlorodibenzo-p-dioxin.* U.S. Public Health Service, U.S. Department of Health and Human Services, Atlanta, GA.

[25] EPA. 1989. Interim Procedures for Estimating Risks Associated with Exposure to Mixtures of Chlorinated Dibenzo-p-Dioxins and Furans (CDDs and CDFs) and 1989 Update. EPA/625/3–89/016. Risk Assessment Forum. March.

[26] Proposed Rule, ''Addition of Dioxin and Dioxin-Like Compounds; Modification of Polychlorinated Biphenyls (PCBs) Listing; Toxic Chemical Release Reporting; Community Right-to-Know,'' 62 FR 24887, (May 7, 1997).

[27] Van den Berg, et al. 1998. Toxic Equivalency Factors (TEFs) for PCBs, PCDDs, PCDFs for Humans and Wildlife. Environmental Health Perspectives, v.106, n.12, pp. 775–792. December.

the I-TEFs or the WHO-TEFs has negligible impact to the overall risk results. The *Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination* provides separate risk results for each of the dioxin congeners detected in the wastewaters and sludges evaluated.

TABLE III–6. TOXICITY EQUIVALENCY FACTORS (TEFS) FOR DIOXIN COMPOUNDS

Compound	I-TEF	WHO-TEF
2,3,7,8-TCDD	1	same
1,2,3,4,5,7,8,9-OCDD	0.001	0.0001
1,2,3,7,8,9-HxCDD	0.1	same
1,2,3,4,6,7,8-HpCDD	0.01	same
1,2,3,4,6,7,8,9-OCDF	0.001	0.0001
1,2,3,4,7,8-HxCDD,	0.1	same
1,2,3,7,8-PeCDD,	0.5	1
2,3,7,8-TCDF	0.1	same
1,2,3,4,7,8,9-HpCDF	0.01	same
2,3,4,7,8-PeCDF	0.5	same
1,2,3,7,8-PeCDF	0.05	same
1,2,3,6,7,8-HxCDF	0.1	same
1,2,3,6,7,8-HxCDD	0.1	same
2,3,4,6,7,8-HxCDF	0.1	same
1,2,3,4,6,7,8-HpCDF	0.01	same
1,2,3,4,7,8-HxCDF	0.1	same
1,2,3,7,8,9-HxCDF	0.1	same

h. What Is the Uncertainty in the Human Health Risk Results?

EPA typically classifies the major areas of uncertainty in risk assessments as parameter uncertainty, scenario uncertainty, and model uncertainty. This section identifies the primary sources of each of these types of uncertainty in the chlorinated aliphatics risk assessment, and qualitatively describes how each may influence the results of the risk assessment.

Many of the parameters that we used to quantify contaminant fate and transport and contaminant exposure and dose either were not measured or could not be measured precisely and/or accurately. Some of the most important and sensitive parameters in our analyses include those that describe waste composition; waste management practices; site characteristics (for example, hydrogeological, topographical, meteorological, and soils data); the physiologic and behavioral exposure characteristics of the receptors; the physical, chemical, and biochemical properties of the contaminants; and toxicological effects. We believe that the primary sources of parameter uncertainty include the following:

- The risk analyses were based on a limited set of waste sample data. It is possible that these data do not represent the true distribution of contaminant concentrations in the waste categories evaluated, resulting in either an overestimation or underestimation of the actual risk to receptors.
- EPA obtained little site-specific information regarding waste management units for the chlorinated aliphatics industry, necessitating that we make a number of assumptions regarding waste management in off-site landfills, the land treatment unit, and wastewater tanks. Many of the facilities reported using offsite nonhazardous landfills to dispose of EDC/VCM sludges. We assumed that these landfills are municipal landfills, and modeled typical municipal landfills based on available data. Our major assumptions about the municipal landfills that have the effect of decreasing our risk estimates are that the landfills have daily covers and run-on/run-off controls. Our major assumptions about the municipal landfills that have the effect of increasing our risk estimates are that the landfills are not lined and have no leachate collection systems. For the land treatment unit, we assumed that no run-on/run-off controls were present to mitigate risk. We assumed that the industry's wastewater treatment tanks are uncovered (which increases our risk estimates), are aerated (which increases our risk estimates), employ biological treatment techniques (which decreases our risk estimates), have structural integrity (which decreases our risk estimates), and have spill and overflow controls (which decreases our risk estimates).
- We typically used regional databases to obtain the parameter values necessary to model contaminant fate and transport. Because the data that we used are not specific to the facilities at which the actual wastes are managed, the data represent our best estimates of actual site conditions. Use of these databases in lieu of site-specific data may result in either overestimates or underestimates of risk.
- Sources of uncertainty in toxicological benchmarks include one or more of the following: extrapolation from laboratory animal data to humans, variability of response within the human population, extrapolation of responses at high experimental doses under controlled conditions to low doses under highly variable environmental conditions, and adequacy of the database (number of studies available, toxic endpoints evaluated, exposure routes evaluated, sample sizes, length of study, etc.). Toxicological benchmarks are designed to be conservative (that is, overestimate risk) because of the uncertainties and challenges associated with condensing toxicity data into a single quantitative expression. Therefore, use of the current toxicological benchmarks most likely overestimated risk for the pathways evaluated.
- EPA estimated the risk of developing cancer from the estimated lifetime average daily dose and the slope of the dose-response curve. A cancer slope factor is derived from either human or animal data and is taken as the upper bound on the slope of the dose-response curve in the low-dose region, generally assumed to be linear, expressed as a lifetime excess cancer risk per unit exposure. However, individuals exposed to carcinogens in the first few years of life may be at increased risk of developing cancer. For this reason, EPA recognizes that significant uncertainties and unknowns exist regarding the estimation of lifetime cancer risks in children. We also note that the analysis of cancer risks in children has not been externally peer reviewed.

We expect that the various sources of parameter uncertainty in our risk assessment counterbalance each other, such that parameter uncertainty will not result in a significant overall increase or decrease in risk.

Scenario uncertainty results from the assumptions we make regarding how receptors become exposed to contaminants. This uncertainty occurs because of the difficulty and general impracticality of making actual measurements of a receptor's exposure. Exposure modeling relies heavily on default assumptions regarding population activity patterns, mobility, dietary habits, body weights, and other factors. Because the risk estimates presented in today's notice are for hypothetical chronic exposures and are designed to provide a realistic range of potential receptor exposure scenarios, we develop predictions of long-term average exposures for each receptor. Although it is possible to study various populations to determine their exposure parameters (for example, age-specific soil ingestion rates or intake rates for food) or to assess past exposures (epidemiological studies) or current exposures, risk assessment is about prediction. Therefore, long-term exposure monitoring in this context is infeasible. The double-high end deterministic approach coupled with the probabilistic approach is designed to provide reasonable estimates of potential long-term exposures for various receptors. The *Exposure Factors Handbook* provides the current state-of-the-science regarding exposure modeling and assumptions and was used in the risk assessment. To the extent that actual exposure scenarios vary from the assumptions we used, risks could be underestimated or overestimated. Although there could be individuals living near a waste disposal site who have higher exposures than those presented, it is more likely that actual exposures for most of these individuals would fall within the predicted range, and, moreover, would be similar to those predicted for the central tendency or 50th percentile.

Models and their mathematical expressions are simplifications of reality that are used to approximate real-world conditions and processes, and their

relationships. Models do not include all parameters or equations necessary to express reality because of the inherent complexity of the natural environment, and the lack of sufficient data to describe the natural environment. Consequently, models are based on numerous assumptions and simplifications, and reflect an incomplete understanding of natural processes. We selected the models used in this risk assessment, described in Section III.D.1.d, based on science, policy, and professional judgment. We selected the wastewater emissions model, the air dispersion and deposition models, the indirect exposure equations, and the groundwater model because they provide the information needed for this analysis and because we generally consider them to be state-of-the-science. Even though the models used in the risk analysis are used widely and have been accepted for numerous applications, they each retain significant sources of uncertainty that as a whole could result in either an overestimation or underestimation of risk.

One of the sources of uncertainty is our assumption that vapor emissions of dioxins from chlorinated aliphatics wastewaters and wastewater treatment sludges do not appreciably sorb to particulate matter in the ambient air in approximately 1.2 minutes, the average the time required for emissions from the waste management units to reach a receptor located 300 meters away (our central tendency distance to receptor). Sorption of dioxins onto particles in air would remove dioxins from the vapor phase, thereby reducing the vapor-phase diffusion of dioxins into plants. As a result, our calculated dioxin concentrations in plants, and in animals consuming plants (particularly grasses), are higher than they would be if we assumed that some fraction of the vapor phase dioxin irreversibly partitions onto particles in the ambient air. However, given the uncertainties regarding rates of dioxin partitioning, magnitude of partitioning, and other factors potentially influencing dioxin sorption onto particles (such as temperature, humidity, and particle size, type and density), we believe our assumption that dioxins remain as vapors during their transport from the waste management unit source to the receptor location is appropriate. Because we understand that our assumption results in increased risk estimates, we are soliciting public comment on this issue. We also charged peer reviewers with providing comment on the issue during the peer review process, discussed in Section III.D.3., below.

2. What Are the Potential Risks to Ecological Receptors?

EPA conducted an ecological risk screening analysis for the tank scenario for chlorinated aliphatics wastewaters, the land treatment unit and landfill waste management scenarios for EDC/VCM sludges, and for the landfill waste management scenario for methyl chloride sludges. The purpose of this analysis was to identify whether there is potential for adverse ecological effects resulting from the management of chlorinated aliphatics wastewaters, EDC/VCM sludges, and methyl chloride sludges. The screening analysis compares the modeled media concentrations to protective media concentrations in the form of a hazard quotient. When the hazard quotient exceeds 1, there is potential for adverse effects. If the hazard quotient is less than 1, we do not expect adverse effects for a particular ecological receptor. The amount by which the hazard quotient exceeds 1 suggests the potential for adverse ecological effects; however, the screening results do not demonstrate actual ecological effects, nor do they indicate whether those effects will have significant implications for ecosystems and their components.

For the screening analysis, EPA applied a methodology designed to evaluate the potential for adverse ecological effects for selected receptors in generalized terrestrial and freshwater aquatic systems. The ecological risk screening analysis focused on a limited set of constituents of concern that were modeled for the human health risk analysis. For the selected ecological receptors, we developed protective contaminant concentrations in soil, sediment, and surface water that are based on conservative assumptions regarding exposure pathways and dietary preferences. The analysis included the following steps: (1) we developed chemical stressor concentration limits (CSCLs)[28]; (2) we compared the CSCLs to exposure point concentrations and calculated hazard quotients; and (3) we characterized key uncertainties and their impact on hazard quotients. We describe the results of this process in detail in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination.

Based on the results of the analysis, we do not anticipate significant risk for the ecological receptors evaluated under either the high end or central tendency chlorinated aliphatic wastewater tank, EDC/VCM landfill, or methyl chloride landfill scenarios. However, there is indication of potential significant risk to ecological receptors under both the high end and central tendency EDC/VCM land treatment unit scenarios. These results support our conclusions for the human health risk analyses for EDC/VCM and methyl chloride sludges, that is, that there are risks posed by the management of EDC/VCM sludges in land treatment units, but not by the management of EDC/VCM sludges or methyl chloride sludges in landfills. Although we did not explicitly consider risks to threatened or endangered species, the CSCLs are protective media concentrations based on Agency-wide standards (e.g., Ambient Water Quality Criteria) and no observed adverse effects levels. The protective nature of the CSCLs implies some degree of protection for species already considered to be under stress. The ecological risk screening results are described in detail in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination.

3. Did EPA Conduct a Peer Review of the Risk Assessment?

The Agency has submitted the risk assessment to three independent experts for peer review. Their comments have been received and are in the docket for today's proposed rule. Due to the time constraints for proposal of this rule, the Agency has not yet reviewed and addressed those comments. Both the peer review comments and the public comments will be addressed in the final rulemaking.

E. Waste-Specific Listing Determination Rationales

This section presents the rationale for today's proposed listing determinations for each of the identified categories of wastewaters and wastewater treatment sludges from the chlorinated aliphatic industry. EPA considered the listing criteria set out in 40 CFR 261.11, as incorporated into the risk assessments presented in Section III.D. above, as well as any other information relevant to the criteria, in making each of the listing determinations presented in this section. The criteria provided in 40 CFR 261.11 include eleven factors for determining ''substantial present or potential hazard to human health and the environment.'' As previously discussed at the beginning of Section III.D., nine of these factors relate to the risk assessments (constituent toxicity, concentration, waste quantity, migration potential, persistence, degradation

[28] Chemical stressor concentration limits are the containment concentrations in environmental media that are presumed to cause *de minimis* effects to ecological receptors.

potential, bioaccumulation potential, plausible mismanagement, and other regulatory actions). Damage incidents (261.11(a)(3)(ix)) are investigated, and those that can be attributed to the wastes being evaluated are identified and considered in our evaluation.

The following sections presents the rationale for each of the proposed listing determinations for wastes generated by the chlorinated aliphatics industry. Our rationale includes the results of our consideration of each of the factors listed above, the results of our risk assessment and other factors as may be appropriate.

1. Chlorinated Aliphatics Wastewaters

a. Wastewaters From the Production of Chlorinated Aliphatics

As explained previously in Section III.A.1., the Agency segregated wastewaters from the chlorinated aliphatics industry into two waste groupings. Based upon current waste management practices, we grouped all chlorinated aliphatic wastewaters, except for those wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process, into a single waste category for the listing determination investigation. We decided to study these wastewaters collectively because most chlorinated aliphatic manufacturers commingle wastewaters generated by individual processes prior to treating the wastewaters in a common wastewater treatment system.[29] In addition, many process wastewaters generated from the production of chlorinated aliphatic hydrocarbons contain similar constituents of concern.

EPA is proposing to list as hazardous process wastewaters generated from the production of chlorinated aliphatic hydrocarbons (other than those wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process, discussed later in Section III.E.1.b of this preamble). The wastewaters meet the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous and are capable of posing a substantial present or potential hazard to human health or the environment when mismanaged. As already described in the risk assessment results in Section III.D.1.f. of this preamble, we identified risks of concern associated with air releases of dioxins from wastewater treatment systems. The results of our risk analysis, which explicitly considers the factors listed in 40 CFR 261.11(a)(3)(i)–(x), shows potential risks of concern for the farmer and child of farmer receptors, where the contaminants of concern are dioxins. The risk assessment results were presented previously in Table III–1 of Section III. D.1.f.

i. What Information Led EPA To Propose To List as Hazardous Process Wastewaters From the Production of Chlorinated Aliphatic Hydrocarbons?

Responses to the 1996 RCRA Section 3007 chlorinated aliphatic industry survey indicated that approximately 11.5 million metric tons of chlorinated aliphatic wastewaters are generated annually. Survey responses and other publicly-available information also indicate that virtually all chlorinated aliphatic manufacturers treat these wastewaters in on-site, tank-based wastewater treatment systems prior to direct discharge of these wastewaters in accordance with facility-specific NPDES permits. Other wastewater management practices identified include discharge off-site to either publicly-or privately-owned treatment works (POTW, PrOTW), and storage and treatment in tanks prior to disposal in on-site underground injection wells. None of the facilities that responded to the questionnaire indicated that chlorinated aliphatic wastewaters currently are managed in surface impoundments.

The Agency evaluated air pathway (vapor emissions) risks associated with the management of chlorinated aliphatics in wastewater treatment tanks. Our analysis of air emissions from the treatment of wastewaters was limited to an evaluation of air emissions from tank-based systems because the results of the RCRA Section 3007 survey showed that the chlorinated aliphatics industry manages wastewaters exclusively in tanks. Surface impoundments currently are not being used by this industry for the treatment of wastewaters, and based upon a review of industry trends, we anticipate that this industry will not use surface impoundments in the future. First, all of our data indicate that surface impoundments are no longer used by the chlorinated aliphatics manufacturers. In the 1992 RCRA 3007 survey responses, 5 facilities indicated they were using surface impoundments in the treatment of wastewater. In the 1997 RCRA 3007 survey update, only two facilities indicated they were using surface impoundments. We contacted the five facilities to confirm whether or not surface impoundments were being used, and learned that all of the impoundments had closed. Second, we do not believe it is likely that established tank-based wastewater treatment systems would be abandoned for surface impoundments-based systems, given that chlorinated aliphatic manufacturers have made the decision to convert to tank-based systems outside of regulations and after having considered other variables (*e.g.*, liability concerns) and weighing all risks and benefits of tank-based systems. Further, impoundment-based systems are land intensive and land is valuable, particularly in industrial areas. Once a facility has reclaimed land previously used for surface impoundments, the facility is likely to then use that land for higher value operations. Therefore, we did not view surface impoundments as a plausible management for wastewaters within this industry.

Given that wastewaters are managed in aerated biological treatment tanks, the emissions pathway of most concern is air emissions. Although such tanks often are open and may facilitate air releases, wastewater treatment tanks do restrict or eliminate the possibility of releases to groundwater via leaching. Tanks used to store and treat wastewaters generally are equipped with overflow and spill controls and are managed in compliance with structural integrity requirements that restrict the physical migration of wastes from the unit into the surrounding soil. However, given that a majority of the tanks used to treat chlorinated aliphatic wastewaters are designed to allow for aeration of the wastewater, these units may not completely control releases due to vapor emissions. Therefore, EPA determined that contaminant transport via air releases from tank-based systems was the most logical source of potential risk from managing these wastewaters.

EPA collected 41 samples of chlorinated aliphatic wastewaters generated at 15 facilities. From the samples and analytical results we selected data for our risk analysis that represent wastewaters at the point where they are commingled prior to treatment. Since it is common for wastewaters to be combined prior to treatment in on-site wastewater treatment facilities, these commingled wastewaters are most representative of the wastewaters that actually are managed in tanks. Further, because the RCRA Section 3007 survey responses indicated that some facilities may commingle chlorinated aliphatic process wastewater with non-chlorinated aliphatic (e.g., petroleum refinery) process wastewater prior to treatment, we conducted our risk assessment using only waste characterization and volume data

[29] See Appendix D to Listing Background Document for the Chlorinated Aliphatic Listing Determination.

representing ''dedicated'' wastewaters. We used data from these facilities to ensure that the results of our risk assessment would reflect only risks associated with the management of chlorinated aliphatic wastewaters.

We also centered our analysis on an evaluation of chlorinated aliphatic wastewaters not currently defined as hazardous waste, and that are managed in aerated, uncovered biological treatment tanks. While not every facility currently uses biological treatment, this was the predominant practice observed during facility site visits and indicated in the RCRA Section 3007 survey. The risk analysis assumed that biological treatment occurs in aerated, uncovered tanks, because these conditions are typical for biological treatment in tanks and were confirmed to be occurring at some chlorinated aliphatic facilities treating non-hazardous, dedicated chlorinated aliphatic wastewaters. Also, because aeration increases air emissions, this scenario is expected to result in the highest risk estimates (compared with non-aerated and/or covered tanks). Based upon survey response information and follow up inquiries with facility personnel, biological treatment in uncovered, aerated tanks was considered to be a plausible management scenario for wastewaters in the chlorinated aliphatics industry.

The risks associated with vapor emissions of dioxin, as presented previously in Table III-1 in Section III.D.1.f., are significant for two receptors, the farmer and the farmer's child, and for one exposure route, the consumption of beef and dairy products. The high-end cancer risk for the farmer is 2E–05 and the central tendency risk is 4E–07. As explained previously, this risk is attributed to a local farmer's ingestion of dioxin due to his consumption of fruits, vegetables, beef and dairy products, all of which are grown or raised in an agricultural field located near a wastewater treatment unit used to treat chlorinated aliphatic wastewaters, as well as the farmer's incidental ingestion of soil from the agricultural field (see Section III.D.1.c). The high-end cancer risk for the farmer's child is 7E–06 and the central tendency risk is 3E–07. EPA also ran a Monte Carlo risk assessment on the air releases from these tanks. Probabilistic risk assessment results showed a risk of 1E–4 at the 95th percentile for the farmer, and for the child of farmer. This confirms the reasonableness of the deterministic analysis and the fact that regulation would be necessary to reduce the risk from the tank emissions to protect the farmers. At the 50th percentile, the probabilistic risk was 2E–7 for the farmer and the child of farmer.

As described in Section III.D.1.f. of this preamble, the high-end parameters used in the risk assessment for dioxin emissions from wastewater treatment tanks were waste concentration and exposure duration. These results are based upon a concentration of dioxin in wastewaters associated with the highest concentration of dioxin we found for the wastewater samples used in the analysis. Further discussion of the assumptions and parameters used in the risk assessment is provided in Section III.D. of this preamble and in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination that is in the docket for today's proposed rule.

Our analyses also showed marginal risks of concern for the farmer, child of farmer, home gardener, adult and child resident, and fisher, from direct inhalation of chloroform. The high-end cancer risk for the farmer from direct inhalation of chloroform is 3E–06. In addition, the high end cancer risk to the child of farmer, child resident, adult resident, home gardener, and the fisher from direct inhalation of chloroform is 2E–06. The central tendency risk from chloroform inhalation for the farmer, child of farmer, child resident, home gardener, fisher and adult resident is 8E–08.

EPA is confident that the constituents of most concern, dioxins and chloroform, were identified. In addition, we are confident that the assumptions and parameter values used in our risk modeling reflect ''high-end'' or ''reasonable worse case'' circumstances. Risks are unlikely to be significantly higher than shown by our modeling results. In Section III.D.1.h. of today's preamble, we describe in more detail sources of potential uncertainty in the risk results that may result in under- or over-estimations of risk.

Based on an analysis of the risks associated with current management practices, EPA is proposing to list wastewaters from the production of chlorinated aliphatic hydrocarbons as hazardous waste (EPA Hazardous Waste Number K173.) EPA's proposal to list this waste is consistent with the guidance the Agency has used for determining that a waste is hazardous (see 59 FR 66077), i.e., the risks associated with management of wastewaters in aerated biological treatment tanks due to vapor emissions of dioxins are above the 1E–5 listing benchmark. This guidance also provides that EPA can consider additional factors in cases where risk assessment results indicate a risk level of between 1E–4 and 1E–6, as is the case here. These additional factors include: certainty of waste characterization; certainty in risk assessment methodology; coverage by other regulatory programs; waste volume; evidence of co-occurrence of hazardous constituents; damage cases showing actual impact to human health or the environment; and presence of toxicants of unknown or unquantifiable risk.

With regard to certainty of waste characterization, as explained in Section III.D., the Agency collected and analyzed 41 samples of wastewaters generated from the production of chlorinated aliphatic chemicals, six of which were collected at the influent (''headworks'') of the wastewater treatment system. Given that we used these six ''dedicated'' samples in our risk assessment, we are certain that our analysis evaluated without question the risks attributable to the wastewaters of concern.

With respect to certainty in risk assessment methodology, we note that there is discussion of uncertainty in the risk assessment methodology in section III.D.1.h. of today's preamble. As mentioned in that section, we selected the models we used because we generally consider them to be state-of-the-science, and because they are used widely and have been accepted for numerous applications. However, as mentioned, they each retain significant sources of uncertainty that as a whole could result in either an overestimation or underestimation of risk. Should the Agency determine, based upon public comment or as a result of the peer review of the risk assessment methodology, that the wastewater risk assessment has overestimated the risks such that a decision to list this residual is not warranted, the Agency may ultimately decide against listing this waste.

We considered coverage by other regulatory programs in making our proposed listing determination for chlorinated aliphatic wastewaters. In fact, as discussed further below, our decision to propose to list these wastewaters and to propose technical standards to address air emissions from treatment tanks managing these wastewaters, is directly related to the fact that current regulatory programs do not appear to adequately address the type of air releases from these units that showed risk in our analysis.

Waste volume is part of our risk level calculations. As explained in section III.D., risk is projected based on the volume of waste managed under each modeled waste management scenario.

We note that there is a significant volume of chlorinated aliphatic wastewater generated annually (11.5 million metric tons). Our risk assessment methodology also accounts for the co-occurrence of hazardous constituents in any particular waste. Section III.D.1.b. discusses the number of potential constituents of potential concern identified in each wastestream. A more detailed discussion of the constituents of potential concern detected in each wastestream analyzed is provided in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination for this rule, which is available in the docket for today's rule.

With regard to the remaining factor in § 261.11(a)(3), no actual damage incidents have been observed (§ 261.11(a)(3)(ix)). However, the risk levels indicated, large waste volumes, certainty of waste characterization and risk assessment, coverage by other regulatory programs, and accounting for co-occurrence of constituents in the waste, outweigh the lack of observed damages. This is because the potential risks associated with this wastestream would be long term. Such risks are very difficult to directly attribute to any particular cause and can result even in the absence of observable releases. Our failure to observe damages incidents does not mean they have not occurred or that risks are not being imposed upon surrounding populations. RCRA is designed to be a prospectively-protective statute and the Agency need not wait for actual damages to be observed.

As discussed previously, the risk assessment addresses nine of the listing criteria in 40 CFR 261.11. EPA believes the risks resulting from our analysis represent plausible management of these wastes (§ 261.11(a)(3)(vii)) using reasonable assumptions for treatment of wastewaters in tanks. In addition, the risk analysis was developed using actual analytical data. However, the Agency still recognizes that sources of uncertainty could be contributing to an overestimation of risk. The Agency points out that risk modeling results show risks at significant levels only in cases where sensitive input parameters are assumed to represent high-end circumstances.

Finally, the Agency did not model wastewaters that are already defined as hazardous wastes (i.e., wastes mixed with or derived-from other existing listed wastes, or exhibiting a characteristic of hazardous waste), because we assume these wastes are already, and will continue to be, properly handled as hazardous. On-site injection of wastewaters to a permitted UIC well also was not modeled. Although information obtained from the RCRA Section 3007 questionnaire and other publicly available information indicate that some chlorinated aliphatic manufacturing facilities manage wastewaters via underground injection, the majority of these wastewaters currently are managed as hazardous wastes and injected into Class I permitted hazardous waste UIC wells in accordance with approved no-migration petitions. Only one facility manages chlorinated aliphatic wastewaters as non-hazardous waste and injects the wastewaters in a permitted UIC well.

Although we have proposed to list this wastestream, we recognize that our estimates of the risks associated with this wastestream are within the range in which the Agency has stated it may consider other factors in deciding whether to list a waste. EPA invites comment as to whether there are other factors EPA should consider that would further support a final decision to list this waste or that would support a conclusion that EPA should not list this waste. EPA has, for example, asked for comment earlier in section D.1.f.ii. regarding whether to consider population risk.

ii. What is the Scope of Today's Proposed Listing Determination for Chlorinated Aliphatic Wastewaters?

The scope of today's proposed listing includes all wastewaters generated by chlorinated aliphatic production processes, except for wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM–A process). These wastewaters were evaluated separately (see section III.E.1.b.). The listing description for chlorinated aliphatic wastewaters is as follows:

K173 Wastewaters from the production of chlorinated aliphatic hydrocarbons, except wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. This listing includes wastewaters from the production of chlorinated aliphatic hydrocarbons having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.

iii. What Is the Proposed Regulatory Status of Sludges Derived From the Treatment of Wastewaters Covered by the Proposed Listing Determination?

The Agency is proposing to amend the current RCRA regulations so that wastewater treatment sludges generated from the treatment of wastewaters proposed to be listed as hazardous waste K173 will not be classified as hazardous waste as a result of the ''derived-from'' rule (40 CFR 261.3(c)(2)(i)). The proposed amendment to the derived from rule will exempt sludges derived from the processing or management of proposed K173, as long as the wastes would not otherwise be defined as hazardous waste, absent the proposed K173 listing. As presented elsewhere in today's proposed rule, EPA has studied wastewater treatment sludges from the chlorinated aliphatics industry and made independent hazardous waste listing determinations for several categories of sludges. These independent evaluations of the potential risks associated with wastewater treatment sludges derived from today's proposed K173 wastewaters supercede any presumed risk imparted by application of the derived-from rule in this instance. These risk evaluations logically should take precedent over the application of the derived-from rule, which presumes risk absent any information on toxicity of the treatment residual. The Agency points out, however, that sludges and other residuals generated as a result of managing chlorinated aliphatic wastewaters that carry waste codes other than K173, and residuals that otherwise are listed hazardous wastes (or exhibit a characteristic of hazardous waste) remain hazardous wastes.

EPA is today proposing to add a new paragraph (E) to the derived-from regulations at 40 CFR 261.3(c)(2)(ii) to make clear that wastewater treatment sludges derived-from treating K173 wastewaters will not be hazardous waste via the derived-from rule.

iv. What Comments Is EPA Specifically Requesting on the Proposed Listing of Chlorinated Aliphatic Wastewaters?

The Agency requests comments on the proposed listing of wastewaters from the production of chlorinated aliphatic hydrocarbons, specifically, how would specific areas of potential uncertainty justify a decision to list or not list these wastewaters as hazardous.

v. How Does the Agency Propose To Address the Risks Associated With Chlorinated Aliphatic Wastewaters Affected by the Proposed Listing?

Owners and operators of wastewater treatment units, as defined in 40 CFR 260.10, are not required to obtain a RCRA permit or comply with the management standards of 40 CFR Parts 264 (permitted facilities) and 265 (interim status facilities) when managing hazardous wastes in such

units (40 CFR 264.1(g)(6) and 265.1(c)(10)). Section 260.10 defines a wastewater treatment unit as a device which (1) is a part of a wastewater treatment facility that is subject to regulation under § 402 or § 307(b) of the Clean Water Act; (2) receives and treats or stores an influent wastewater that is a hazardous waste, generates and accumulates a wastewater treatment sludge that is a hazardous waste, or treats or stores a wastewater treatment sludge that is a hazardous waste; and (3) meets the definition of a tank or tank system.

The results of the Agency's risk assessment for chlorinated aliphatic wastewaters shows significant risks due to air emissions of dioxins from uncovered and aerated biological treatment tanks. The Agency's proposed listing determination for these wastewaters alone will not address the risk pathway of concern, due to the regulatory exemption for wastewater treatment units. To address the risks associated with the management of proposed K173 chlorinated aliphatic wastewaters, the Agency is proposing to require that wastewater treatment units used to treat chlorinated aliphatic wastewaters comply with specific requirements in 40 CFR Parts 264 and 265, subpart CC (Air Emission Standards for Tanks, Surface Impoundments, and Containers). The Agency's objective is to require air emission controls for wastewater treatment tanks managing these wastewaters to prevent the release of dioxin vapor emissions to the environment. These proposed requirements would be enforceable requirements of RCRA subtitle C.

By this limited proposal to change the exemption for wastewater treatment tanks that are used to treat chlorinated aliphatic wastewaters, which is based only on a risk assessment of certain kinds of tanks used to treat these specific wastewaters, EPA is not reopening any other aspect of the wastewater treatment unit exemption.

What Type of Requirements is EPA Proposing To Prevent Air Releases From These Tanks?

EPA considered simply requiring that the tanks be ''covered'' to prevent air releases of dioxins from K173 wastewaters. However, it became apparent that such a simplified approach might not provide adequate guidance to the regulated community on how to ensure they are complying with this type of performance standard. The Agency determined that the existing requirements for controlling air emissions from hazardous waste tanks, in subpart CC of 40 CFR Parts 264 and 265, could be used with some modifications to meet the goal of controlling air emissions from tanks managing proposed K173 wastewaters.

Currently, the 40 CFR 264/265 subpart CC requirements address volatile organic (VO) emissions from hazardous waste managed in tanks, surface impoundments, and containers. Therefore, many of the provisions in subpart CC (*e.g.*, the VO concentration threshold of 500 parts per million by weight for determining applicability of the Subpart CC requirements) are not appropriate for dioxin emissions. However, other provisions (namely, the technical standards for covering tanks and controlling emissions in Sections 264.1084 and 265.1085) are appropriate for controlling air emissions from wastewater treatment tanks managing K173 wastewaters. Therefore, EPA is proposing to amend the subpart CC requirements (described in more detail below) so that specific technical standards already in subpart CC for tank emissions apply to tanks managing K173 wastewaters. (The Agency notes that the standards being proposed today, if finalized, will apply irrespective of the VOC content of the wastewater.) We also recognize that dioxin levels vary among generators, and thus are proposing a trigger level for dioxins below which compliance with subpart CC is not required. This is because our analytical data indicate that there is a range of dioxin levels in the chlorinated aliphatic wastewaters.[30] In particular, two samples contained TCDD TEQ levels that were four orders of magnitude lower than both the maximum and average TCDD TEQ concentrations.

How Did EPA Develop the 2,3,7,8-TCDD TEQ Limit for Wastewaters?

EPA's first step in establishing a concentration limit for dioxins was to determine whether we should set the limit as a 2,3,7,8-TCDD TEQ (TCDD TEQ) concentration, or as a set of individual limits for each of the specific dioxin congeners. We decided to set the limit as a 2,3,7,8 TCDD TEQ concentration. In making this decision, we considered the analytical results from the six dedicated chlorinated aliphatics headworks wastewater samples collected during the record sampling effort (see Section III.D.1.b.). We determined that wastewaters from the production of chlorinated aliphatic chemicals do not carry a distinct congener ''fingerprint,'' that is, certain congeners are not consistently more prevalent in samples of chlorinated aliphatics wastewaters than other congeners. Because the congener composition of chlorinated aliphatic wastewaters is not consistent or distinct, setting limits on a congener-specific basis likely would be overly-restrictive for some facilities. Specifically, the limit set for a given congener would need to be protective in cases where a number of different congeners contribute to the wastewater's dioxin toxicity or risk (thereby requiring that lower limits be set for each congener to ensure that the combined emissions of each congener would not generate unacceptable risk). Such limits might be overly restrictive for those wastewaters with a dioxin composition that is dominated by a much smaller number of congeners. Moreover, setting the dioxin limit as a TCDD TEQ is consistent with the approach we have taken with other regulations, such as the Water Quality Guidance for the Great Lakes System, 40 CFR Part 132, Appendix F.

After considering options for setting the TCDD TEQ limit, we chose to base the TCDD TEQ limit on the lowest TCDD TEQ concentration measured in a dedicated wastewater sample for which a high end deterministic risk estimate is 1×10^{-5}. This concentration is 0.6 ng/L, calculated using the TEFs developed by the World Health Organization, and corresponding to the TCDD TEQ concentration for EPA's sample no. PL–02. (The TCDD TEQ concentration based on the I–TEFs is 0.7 ng/L. See section III.D.1.g.ii. for an explanation of the TEFs). The high end deterministic risk estimate was based on the evaluation of a farmer scenario (see section III.D.1.f.) in which the exposure duration of the farmer was set at its high end value, 48.3 years. For the purpose of establishing the TCDD TEQ limit, we did not set any additional values at high end. We used the ''single high end'' approach to account for sources of uncertainty in the risk analysis and our understanding that not all of the underlying assumptions of the analysis may be relevant to any one chlorinated aliphatics facility. For example, not all facilities may operate the type of aerated biological treatment tank that was modeled, grazing of cattle may not occur in the vicinity of all facilities on the centerline of the contaminant plume (the farmer's risk primarily is due to the ingestion of contaminated beef and dairy products). For reference, the adult resident's ''single high end'' risk is 1×10^{-9} when the wastewater concentration

[30] See Appendix B of ''Listing Background Document for the Chlorinated Aliphatics Listing Determination.''

is 0.6 ng/L (based on meteorological location as a high end parameter).

The 1×10^{-5} risk result for the farmer is based on predicted long-term average exposures assuming a wastewater TCDD TEQ concentration of 0.6 ng/L, as well as certain other environmental and exposure factors. This means that over the long term, the receptor is protected at the 1×10^{-5} level when, on average, the TCDD TEQ concentration in the wastewater is 0.6 ng/L. That is, it is implicit in the analysis that even if there are excursions of the wastewater TCDD TEQ concentration above 0.6 ng/L, an individual is still protected at the 1×10^{-5} risk level if on average the wastewater TCDD TEQ concentration is 0.6 ng/L. Today EPA is proposing to set the TCDD TEQ limit for wastewaters at 1 ng/L. Setting the limit at 1 ng/L accounts for the fact that we believe facilities who comply with the requirement that the TCDD TEQ concentrations of their wastewaters not exceed 1 ng/L will on average maintain wastewater TCDD TEQ concentrations of approximately 0.6 ng/L or below. EPA is proposing that wastewater treatment tanks managing proposed K173 wastewaters, where the TCDD TEQ concentration in the wastewater is greater than or equal to 1 ng/L, comply with specific air emission control regulations, as described in more detail below.

It is important to note that the 1 ng/L trigger level described here for implementing the proposed tank cover requirement is not a concentration below which the wastewater does not meet the K173 listing. This proposed listing follows what can be described as the traditional approach EPA has taken for hazardous waste listings (i.e., if a particular facility's waste meets the listing description, it is listed regardless of the concentration of constituents or waste management practice employed). While we are proposing to list wastewaters following this traditional approach, today's rule does establish a concentration level for wastewaters that reflect the Agency's concern for dioxin managed in tanks within this industry. We seek comment on the alternative of using this level as criteria for the listing itself. The Agency could finalize a concentration based listing based on the 1 ng/L trigger level instead of the traditional listing proposed today. The Agency also seeks comment on whether this concentration-based listing approach should be implemented in the same manner as is described in this notice (i.e., where the 1 ng/L concentration is a trigger for requiring tank covers), or alternatively, whether it would be more appropriate to apply the implementation approaches described in the July 23, 1999 rulemaking for the dyes and pigments industry (placed in the docket for today's rulemaking for convenience).

How Will These Air Emission Controls Be Implemented?

As described below, we are proposing that generators of K173 who manage these wastes in tanks comply with certain air emission control requirements, including covering their tanks, unless the results of testing the wastewater influent to the tank indicate that the dioxin concentrations are below the 1 ng/L trigger level. Our proposed approach consists of the following elements:

- Each wastewater treatment tank managing K173 that is not compliant with 40 CFR sections 264.1084/265.1085 of subpart CC must be assessed to determine whether dioxin levels in the influent to the tank exceed the trigger level.
- For the purposes of this listing, the headworks of the wastewater treatment system is assumed to be at a location directly after steam stripping. If a facility does not utilize steam stripping, the wastewater treatment system headworks is assumed to be the first tank in which wastewaters are combined, accumulated or treated after leaving the chlorinated aliphatics production process.
- Tanks that are fully compliant with sections 264.1084/265.1085 of 40 CFR subpart CC would not be subject to waste analysis, record keeping and notification requirements proposed in today's rule to be added to 40 CFR 265.1080(f)(1)–(5), described below.
- Once the facility has established that TCDD TEQ levels do not exceed the trigger level for a specific tank, the facility can assume that the TCDD TEQ levels for all downstream tanks also are below the trigger level.
- The facility must develop a waste analysis plan prior to sampling and analysis to ensure that the measurements are sufficiently sensitive, accurate and precise to demonstrate compliance, as described further below. We suggest that the waste analysis plan be developed in accordance with Agency guidance.[31]
- The initial assessment must be conducted by the effective date of the rule. If the trigger level is exceeded, compliance with the applicable sections of 40 CFR 264/265 subpart CC must be accomplished within one year of the effective date. Alternatively, the facility may implement process changes to reduce the TCDD TEQ level below the trigger level, and repeat the initial assessment to demonstrate that levels are now below the trigger level, within the same one year time frame.
- If it is determined that the TCDD TEQ concentration measured during the initial assessment is below the trigger level, re-assessment would be required (1) as a result of any process changes that would impact dioxin wastewater levels, and (2) annually.
- If the trigger level is not exceeded, the facility must submit a one-time notification and certification.
- The facility must maintain records on site.

Sampling and Analysis

In designing the sampling program, the facility must consider any expected fluctuations in concentrations over time. The sample design should be described in the waste analysis plan, which must be retained in the facility's files. The sample design must be adequate to determine that the level of TCDD TEQ in the wastewater is above or below the 1 ng/L at a 95 percent upper confidence limit around the mean. This approach is being used in the comparable fuels final rule (June 19, 1998; 63 FR 33782). See also Guidance for Data Quality Assessment—Practical Methods for Data Analysis, EPA QA/G–9, January 1998, EPA/600/R–96/084. Under this approach, EPA is not specifying a specific number of samples, because the number of samples required to demonstrate that the wastewater dioxin concentration is below 1 ng/L at the 95 percent upper confidence limit depends on how close the actual concentration is to the regulatory limit and on the variability of the waste. EPA is proposing that the samples used to demonstrate compliance be grab samples collected within a time period that will accurately account for potential variability in the wastestream, including potential variabilities associated with batch and continuous processes. If properly stored, the holding time for unprocessed aqueous samples of dioxins/furans (which can be found in the Sample Collection, Handling and Preservation section of Method 8290) allows for multiple samples to be collected and be available should additional analysis be required to achieve the data quality objective of determining compliance with the 1 ng/L limit at a 95% upper confidence limit around the mean.

EPA also is proposing an alternative sample design criteria. The alternative approach is to set a maximum

[31] Chapter Nine of "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW–846) addresses the development and implementation of a scientifically credible sampling plan. Chapter One of SW–846 describes the basic elements to be included in a Quality Assurance Project Plan (QAPP), as well as information describing basic quality assurance (QA) and quality control (QC) procedures. Chapter Two of SW–846 aids the analyst in choosing the appropriate methods for samples, based upon sample matrix and the analytes to be determined. Other appropriate sources may also be used, including those issued by recognized national voluntary standards setting organizations, *e.g.*, ASTM, etc., http://www.epa.gov/ncepihom/Catalog/EPASW–846.3.4A.html

quantitation value as an alternative to the use of the 95% upper confidence limit around the mean. Under this approach, the Agency is proposing that the analytical quantitation limits should be sufficient to calculate a meaningful TCDD TEQ for comparison to the 1 ng/L trigger level. Our experience with this matrix is that quantitation at or below 0.05 ng/L should be routinely achievable, therefore we are proposing that the selected analytical method achieve a precision of at least 30 percent relative standard deviation at a calibration level of 0.05 ng/L and a recovery of greater than or equal to 70 percent[32] (we note that if isotope-dilution methods are used, recovery is not an issue, since this method is self-correcting for recovery.) Under this approach, EPA is specifying that a minimum of four grab samples be collected within a 24-hour time period. The Agency notes that although we are considering setting a lower calibration standard for the measurement method as an alternative to the 95 percent upper confidence limit around the mean standard, the regulatory language included with today's proposal reflects only the preferred option.

Generators may not use process knowledge to determine whether or not the 1 ng/L TCDD TEQ trigger level has been exceeded for the first tanks in the wastewater treatment system where constituent concentrations are likely to be highest. However, once the facility has established that the trigger level is not exceeded in the influent to a given tank, the facility may use process knowledge to determine that dioxin levels in wastewaters managed in subsequent downstream tanks also will not exceed the trigger level.

We are proposing that the generator maintain documentation of the: (1) detailed standard operating procedures (SOPs) for the sampling and analysis protocols that were employed; (2) sensitivity and bias of the measurement process; (3) precision of the analytical results for each batch of waste tested; and (4) analytical results.

It is the responsibility of the generator to ensure that the sampling and analysis is unbiased, precise, and representative of the tank influent. To show that a tank is not subject to the specific Subpart CC requirements applicable to K173 wastewaters, a generator must demonstrate that: (1) the maximum TCDD TEQ in the tank influent does not exceed the 1 ng/L trigger level; and (2) the analysis could have detected the presence of the CDD/CDF congeners at or below the trigger level.

We are not requiring the use of SW–846 methods to comply with these requirements. We are proposing to allow the use of alternative methods to those included in SW–846, so long as the selected methods meet the following performance based criteria.

The Agency will consider the analysis adequate to demonstrate that the trigger level of 1 ng/L is not exceeded if an analysis in which TCDD (as a surrogate for all of the CDD/CDF congeners) spiked at the trigger level indicates that the analyte is present at that level within analytical method performance limits (*e.g.*, sensitivity, bias and precision). To determine the performance limits for a method, EPA recommends following the quality control (QC) guidance provided in Chapters One and Two of SW–846, and the additional QC guidance provided in Method 8290.

vi. What Comments Is EPA Specifically Requesting on the Proposed Approach for Controlling Dioxin Air Emissions?

The Agency requests comment on the proposal to add air emission control requirements for tanks used to manage chlorinated aliphatic wastewaters. In addition, the Agency requests comment on whether the technical standards in 264.1084/265.1085 will address the risks associated with vapor emissions from these units. EPA requests comment on the proposed 1 ng/L TCDD TEQ concentration limit in wastewater that triggers application of the air emission control requirements, and on the testing and recordkeeping requirements for implementing this standard. Specifically, EPA is requesting comment on comparing the regulatory limit to a sample mean at the 95% upper confidence limit, versus a maximum sample value with the sensitivity (as demonstrated by the lower calibration standard), precision, and recovery (unless using the isotope-dilution method) described in today's proposal.

In addition, we request comment on whether or not there are other types of standards and/or other factors the Agency should consider in setting standards for wastewater treatment units used to manage chlorinated aliphatic wastewaters. The Agency is not reconsidering or requesting comment on the wastewater treatment unit exemption and does not intend to respond to any comments submitted regarding the exemption.

b. How Is EPA Proposing to Regulate VCM–A Wastewaters?

EPA is proposing not to list as hazardous wastewaters generated from the production of VCM using mercuric chloride catalyst in an acetylene-based process. This wastestream already is defined as hazardous waste due to the fact that it exhibits the toxicity characteristic.

i. What Information Led EPA To Propose Not to List as Hazardous Wastewaters From the VCM–A Process?

EPA knows of only one facility in the United States that operates an acetylene-based VCM production process, which uses mercuric chloride catalysts in the production of VCM. The management of spent mercuric chloride catalyst used in the VCM–A production process results in the generation of a wastewater containing mercuric chloride, as well as vinyl chloride. The wastewater treatment system is operated in a batch process fashion in tanks, and is designed to convert the mercuric chloride present in the process wastewaters to an much less soluble mercuric sulfide. The mercuric sulfide is precipitated during the treatment process, dewatered, and collected for off-site disposal. The remaining wastewaters are discharged directly under an NPDES permit. Due to the fact that this wastewater is managed in a single, dedicated wastewater treatment system associated with a unique production process, and the presence of mercury in relatively high concentrations (which is not found in other chlorinated aliphatic wastewaters), the Agency decided to consider this wastestream separately in our investigation of the wastes generated by the chlorinated aliphatic hydrocarbons manufacturing industry.

According to the RCRA Section 3007 survey response, the facility generates and discharges approximately 22,200 metric tons (5.86 million gallons) of wastewater from the VCM–A process each year. The identified constituents of concern in this wastestream include mercury and vinyl chloride. In addition, dioxins are present in these wastewaters. EPA analyzed one sample of this wastewater in 1996 in support of this listing determination. The analytical results showed the wastewaters contained 8.60 mg/L mercury, and 0.680 mg/L vinyl chloride. The analytical results for the split sample taken by the facility were 6.78 mg/L mercury, and 1.38 mg/L vinyl chloride. The results exceed the toxicity

[32] Recent recovery is from an EPA Memorandum from Barnes Johnson, Director of the Economics, Methods, and Risk Assessment Division, to James Berlow, Director of the Hazardous Waste Minimization and Management Division, regarding the Office of Solid Waste's (OSW) standing policy on the Appropriate Selection and Performance of Analytical Methods for Waste Matrices Considered to be ''Difficult-to-Analyze,'' January 31, 1996.

characteristic regulatory levels of 0.2 mg/L for mercury and 0.2 mg/L for vinyl chloride. Dioxins also were detected in the VCM–A wastewaters, however, the concentration was several orders of magnitude lower than levels found in other wastewaters generated from other chlorinated aliphatic manufacturing processes (i.e., 0.0022 ng/L TEQ/TCDD).

Based upon EPA's one record sample, this wastestream already is identified as a hazardous waste due to the fact that the waste exhibits the toxicity characteristic (TC). The constituents of significant concern in the VCM–A wastewaters (i.e., mercury and vinyl chloride) already are regulated under the TC, therefore, the TC adequately defines this wastestream as hazardous. Further, the facility's dedicated wastewater treatment system was designed and optimized expressly for the removal of mercury from mercuric chloride catalysts to comply with the Clean Water Act. In addition, given the fact that EPA's record sample was over 40 times above the TC limit for mercury, it is highly probable that these wasetwaters routinely contain levels of mercury which cause this wastestream to be defined as characteristically hazardous waste. As mentioned previously, the criteria in 40 CFR 261.11 (a)(3) for evaluating whether or not a solid waste is a hazardous waste provide that EPA should consider how the waste (and potential risk) is affected by other regulatory programs (i.e., 261.11(a)(3)(x)). In the case of the VCM–A wastewaters, EPA notes that our decision to propose not to list this wastewater as hazardous is based in large part on the fact that the waste already is defined as a hazardous waste because it exhibits the toxicity characteristic. We have, accordingly, determined that there is no regulatory benefit in listing this wastewater as hazardous, particularly when considering that the volume of wastewater generated by the single facility using the acetylene-based VCM production process is relatively small (22,200 metric tons annually) compared to the volumes of wastewaters generated in other chlorinated aliphatic wastewater treatment systems (11.5 million metric tons annually).

In addition, any risks associated with the management and disposal (i.e., direct discharge) of the wastewaters are addressed by other environmental regulations. With respect to the discharge of the wastewater, the facility treats and discharges the wastewater in compliance with the conditions of a NPDES permit. Regarding any air emissions of vinyl chloride from these wastewaters, vinyl chloride is a hazardous air pollutant, therefore the facility is subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements specific to vinyl chloride emissions (40 CFR Section 61.65), as well as the Hazardous Organic NESHAP for the synthetic and organic chemical manufacturing industry sector (40 CFR Part 63, subpart G) (59 FR 19468, April 22, 1994). For these reasons, the Agency is proposing not to list VCM–A wastewaters as hazardous waste.

Sludges generated by the wastewater treatment process are disposed of in an off-site hazardous waste (subtitle C) landfill. EPA conducted a separate investigation of these sludges. The results of this investigation and our listing determination for the VCM–A wastewater treatment sludges are summarized in section III.E.3. further below.

2. EDC/VCM Wastewater Treatment Sludges

a. How Is EPA Proposing To Regulate EDC/VCM Wastewater Treatment Sludges?

EPA is proposing to list as hazardous sludges generated from treating wastewaters associated with the manufacture of ethylene dichloride (EDC) and vinyl chloride monomer (VCM). This wastestream meets the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous and is capable of posing a substantial present or potential hazard to human health or the environment when managed in land treatment units. The Agency identified risks of concern associated with one management practice, on-site land treatment. In our risk assessment of these wastes, the exposed individuals of concern were the farmer, child of farmer, and the fisher receptors. The contaminants of concern are dioxin and arsenic.

As discussed in section III.D.1 above, our analyses identified health risks from the land treatment of the EDC/VCM wastewater treatment sludges due to airborne releases and subsequent deposition and food chain contamination from dioxin. Surface erosion due to runoff also contributes to risk from dioxin. Marginal risks from arsenic were identified for the land treatment unit groundwater ingestion exposure pathway. We also modeled a landfill management scenario; our risk assessment showed no significant risk from dioxin, and only marginal risk from arsenic associated with the groundwater pathway.

b. What Information Led EPA To Propose To List as Hazardous EDC/VCM Wastewater Treatment Sludges?

The results of the RCRA Section 3007 chlorinated aliphatic industry survey show that approximately 104,606 metric tons of wastewater treatment sludge is generated from the treatment of wastewaters at chlorinated aliphatic plants that manufacture VCM and/or EDC. One facility accounts for 74 percent of the total volume of wastewater treatment sludge generated.[33] Of the total volume of wastewater treatment sludges generated at plants manufacturing EDC/VCM and identified through the survey, 6,757 metric tons (6 percent) currently are already defined as hazardous waste.

EDC/VCM wastewater treatment sludges are generated at 12 facilities. The Agency notes that these sludges are not always generated from treating wastewaters produced exclusively from EDC and/or VCM manufacturing processes. Rather, sludges are sometimes generated in wastewater treatment systems that treat wastewaters from manufacturing processes producing a variety of chlorinated aliphatic and non-chlorinated aliphatic products. Wastewaters from multiple processes are combined prior to wastewater treatment. The Agency points out that the listing determination proposed today for EDC/VCM wastewater treatment sludges affects the total quantity of the sludges generated by a wastewater treatment system that accepts influent from any process manufacturing EDC and/or VCM. EPA has made this clear by including sludges from commingled EDC/VCM wastewater and other wastewater within the scope of the listing, although EPA believes this would have been the correct interpretation of the listing even absent the clarifying language.

The management scenarios selected for risk assessment were chosen based upon the waste management practices known to be practiced by the chlorinated aliphatic industry for non-hazardous sludges. Based on survey results, these practices are:

- On-site land treatment (one facility),
- On-site disposal in a non-hazardous landfill (two facilities),
- On-site co-disposal in a hazardous waste landfill (one facility), and
- Off-site disposal in a subtitle D landfill (7 facilities).

As explained earlier, EPA modeled risks from two management scenarios,

[33] Only one (1) percent of the wastewaters at this facility are generated from the manufacturing of EDC/VCM.

an off-site non-hazardous municipal landfill, and a land treatment unit. The management practices of most concern (landfills and land treatment) were assessed for this waste. Other non-hazardous waste management practices currently are not used by industry and would not serve as an appropriate basis for listing the waste as hazardous. In the case of the management practices employed by this industry, we are confident that the risk estimates from modeling an off-site non-hazardous waste landfill scenario also are representative of the potential risks associated with the management of EDC/VCM wastewater treatment sludges in on-site landfills. This is because information provided in facility responses to the RCRA Section 3007 questionnaire indicate that EDC/VCM wastewater treatment sludges are co-disposed with other industrial non-hazardous wastes in on-site landfills, therefore these units can be treated as off-site landfills (that receive a variety of wastestreams) rather than as monofills (that receive only one type of waste) with regard to the risk modeling approach employed.

Land treatment. The Agency's risk assessment of EDC/VCM wastewater treatment sludge showed risks of concern for the land treatment management scenario. The contaminant of greatest concern is dioxin. The exposure routes of concern are airborne releases and surface erosion from runoff which result in contamination of food products from nearby agricultural operations. The sludges present a hazard due to the fact that land treatment units are not covered and due to the potential absence of runoff controls. Land treatment results in a high-end cancer risk for the farmer of 2E–4 and a central tendency risk of 4E–6. EPA also performed a Monte Carlo analysis, and the results showed a risk for the farmer of 1E–4 at the 90th percentile, and 7E–6 at the 50th percentile. The high-end deterministic risk falls within the risk range for which there is a presumption for listing the waste as hazardous, consistent with guidance the Agency has used for determining that a waste is hazardous (see 59 FR at 66077), *i.e.*, the risks associated with management of EDC/VCM sludge in a land treatment unit are 1E–4 or higher, and well above the 1E–5 listing benchmark. The probabilistic results confirm that the high-end deterministic risk (2E–4) is above the 90th percentile result (1E–4). The 1992 guidance (memorandum from the then Deputy Administrator F. Henry Habicht ''Guidance on Risk Characterization for Risk Managers and Risk Assessors'') states that ''[t]he 'high end' of the risk distribution [generally the area of concern for risk managers] is conceptually above the 90th percentile of the actual (either measured or estimated) distribution. This conceptual range is not meant to precisely define the limits of this descriptor, but should be used by the assessor as a target range for characterizing 'high-end risk'.'' Therefore, a high-end estimate that falls within the range (above the 90th percentile but still realistically on the distribution) is a reasonable basis for a decision. Therefore, EDC/VCM sludges managed in a land treatment unit pose risks that support a proposed listing determination for these wastes.

As discussed previously, the risk assessment addresses nine of the listing criteria in 40 CFR 261.11. EPA believes the risks resulting from our analysis represent plausible management of EDC/VCM sludges (261.11(a)(3)(vii)) using reasonable assumptions for management in land treatment units. In addition, the risk analysis was developed using actual analytical data.

Of lesser concern, but still within our discretionary risk range, are the potential health effects associated with arsenic in EDC/VCM wastewater treatment sludges that are managed in land treatment units. We found that arsenic presents some risk from potential releases to groundwater from the land treatment unit. For the arsenic groundwater pathway, land treatment results in a high-end cancer risk of 1E–05 and a central tendency risk of 8E–07. However, the predicted time period for the peak arsenic concentration to reach a receptor well is 1,500 years. In addition, our modeled leachate concentrations for arsenic result in predicted receptor well concentrations of 0.5 ppb (high end) and 0.2 ppb (central tendency). By comparison, the average background concentration of arsenic in rain derived from terrestrial air masses is 0.46 ppb.[34] Therefore, EPA does not believe that the risk from arsenic in this waste is significant, as discussed below.

Even though the high-end cancer risk from arsenic is within the general action level risk range (*i.e.*, 1E–04 to 1E–06), the central tendency risk falls outside this range. Another factor that the Agency considered when evaluating the potential risks from arsenic in this wastestream is the significant period of time it is predicted to take for the concentration of arsenic in a receptor well to reach the peak concentration level (i.e., 1,500 years). Given these factors, the Agency concludes that the risk posed from potential releases of arsenic in this wastestream when managed in land treatment units is marginal, and in itself does not warrant listing the waste as hazardous. The Agency therefore is proposing to list EDC/VCM wastewater treatment sludges based solely on the presence of dioxin and the potential risk associated with dioxin when this waste is managed in land treatment units. As outlined in the preamble to the Agency's proposed listing determination for wastes generated by the Dyes and Pigments Industry, listing determinations for wastestreams for which risks are calculated to be 1E–04 or higher are considered to pose a substantial present or potential hazard to human health and the environment and are listed as hazardous.

Landfill. The Agency's risk assessment showed no significant risks associated with dioxin, and only marginal risk associated with potential groundwater releases of arsenic in the off-site landfill scenario. The risk assessment showed a high-end cancer risk from arsenic of 3E–05 and a central tendency risk of 9E–07. However, these risks levels are associated with a peak arsenic concentration in a receptor well that is predicted to occur only after a period of 8,800 years. Predicted high end arsenic concentration at a receptor well is 1.4 ppb and the central tendency arsenic concentration in a receptor well is 0.2 ppb. This level of arsenic contamination is very close to average background exposure levels for arsenic. As mentioned above, the current average background concentration of arsenic in rain derived from terrestrial air masses is 0.46 ppb. Average background exposure to inorganic arsenic is 14 ug/day from food, and 5 to 7 ug/L from water. EPA's modeling results indicate that the disposal of EDC/VCM sludge in an unlined landfill could (over a period of 8,800 years) increase the concentration of arsenic in groundwater in a downgradient well (102 meters from the landfill) by only 1.4 ug/L and would add approximately 2 ug/day of arsenic to the average daily exposure level (about 20 ug/day) for the highly exposed individual. Actual potential level of risk would be lower than those predicted by our modeling efforts, if the sludges are disposed in lined landfills.

Given that the Agency's risk assessment indicates potential risk within our discretionary range

[34] Andreae, M.O. 1980. *Arsenic in Rain and the Atmospheric Mass Balance of Arsenic.* Journal of Geophysical Research. v.85, pp. 4512–4518, as cited in Welch, A.H., M.S. Lico, and J.L. Hughes. 1988. Arsenic in Ground Water of the Western United States. Ground Water, v.26, n.3, pp. 333–347.

associated with a peak arsenic concentration in a receptor well that is predicted to occur only after a period of 8,800 years, and given the absence of significant risk from any other constituents of concern, EPA concludes that EDC/VCM wastewater treatment sludges do not pose a significant risk when managed in landfills.

Based upon the Agency's findings that EDC/VCM wastewater treatment sludges pose significant risks when managed in land treatment units but pose no significant risks when managed in landfills, the Agency is proposing a ''contingent management listing'' for this waste. EPA is proposing to list EDC/VCM wastewater treatment sludges as hazardous, unless the sludges are managed in landfills. Again, the Agency is proposing this listing determination based upon the fact that our risk assessment results for the land treatment unit scenario indicate a level of risk of 2E–04, well above the 1E–5 risk level the Agency uses as guidance in making listing determinations.

c. Why Is EPA Proposing a Contingent Management Approach as Most Appropriate for EDC/VCM Wastewater Treatment Sludges?

The Agency's analysis of the risks associated with EDC/VCM wastewater treatment sludges shows that one of the current waste management practices (land treatment) results in significant risk while the other primary management practice (disposal in subtitle D landfill) shows little risk. Therefore, the Agency is proposing to list EDC/VCM wastewater treatment sludges as EPA Hazardous Waste Number K174, unless the sludges are managed in a subtitle C or subtitle D landfill. The Agency believes that allowing the waste to continue to be managed under a low risk management scenario (i.e., subtitle D landfilling) outside of the subtitle C system achieves protection of human health and the environment, and that little additional benefit would be gained by requiring that all EDC/VCM wastewater treatment sludges be managed in accordance with RCRA subtitle C management standards. Given the Agency's finding that no significant risks are posed from managing EDC/VCM wastewater treatment sludges in a landfill, the Agency sees no reason to include sludges managed in this manner in the scope of the hazardous waste listing. Additionally (and after consideration of the predicted risk differential between land treatment and landfilling), because only one facility identified in the RCRA Section 3007 Survey employs land treatment for these wastes, this practice is somewhat anomalous compared with land disposal. It does not make sense to apply a traditional listing approach (i.e., list all wastes regardless of management practice) based upon a practice occurring at one facility, especially if a more tailored listing can prevent this risk.

A contingent management listing approach is within EPA's statutory authority. See *Military Toxics Project* v. *EPA*, 146 F.3d 948 (D.C. Cir. 1998). The Agency believes that making a listing determination that is tailored to specific waste management practices is particularly appropriate under these circumstances, where the management practices identified are clear and very easily distinguished (such as the difference between land treatment and land disposal), and the differences in risk presented by these practices are clearly defined. In the case of EDC/VCM wastewater treatment sludges, EPA believes that an opportunity exists to establish a conditional management listing for these sludges that will reduce the risks associated with unsafe waste management practices, while not imposing significant incremental costs upon generators managing the wastes in a manner that does not pose significant risk. While disposal of EDC/VCM wastewater treatment sludges in land treatment units is projected to pose significant risks, the disposal of these sludges in landfills does not result in significant risks. This arises because the constituent of most concern, dioxin/TCDD, is relatively immobile in groundwater. However, risks from this constituent can be significant if the waste is managed in a manner that does not control for airborne releases or surface erosion from runoff, both of which are better controlled at landfills. Therefore, EPA believes a contingent management listing for this waste is a preferable and permissible alternative to simply listing all EDC/VCM wastewater treatment sludges as hazardous wastes.

The Agency's proposed listing description for EDC/VCM wastewater treatment sludges that will define this waste as hazardous unless the waste is managed in a landfill is as follows:

K174 Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer, unless the sludges meet the following conditions: (i) they are disposed of in a subtitle C or D landfill licensed or permitted by the state or federal government; (ii) they are not otherwise placed on the land prior to final disposal; and (iii) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, etc.) that the terms of the exclusion were met.

d. How Will This Contingent Management Listing Be Implemented?

Under this proposed listing, EDC/VCM wastewater treatment sludges will be hazardous wastes if managed by any method except disposal in a landfill. EPA has a clear interest in ensuring that these sludges are in fact disposed in a landfill, or else they would be listed hazardous waste at the point of generation. The Agency also has an interest in making sure that accurate records are kept to facilitate enforcement.

The Agency notes that based on the RCRA Section 3007 questionnaire results (which surveyed the universe of chlorinated aliphatics production facilities in the United States), the predominant management practice used for these wastes is disposal in a landfill, while one facility currently uses a land treatment facility. It is difficult for EPA to foresee a change in this well-established management practice. Therefore the Agency believes it is unlikely that these sludges will be sent to any type of facility other than a landfill, particularly if the approach proposed in today's rule is promulgated. Generators who choose to manage these sludges at non-landfill facilities must define their sludges as listed hazardous waste at the point of generation and manage them accordingly.

The Agency also is restricting the placement of EDC/VCM wastewater treatment sludges on the ground prior to

their being disposed in a landfill (*e.g.*, storage in waste piles, spills). EPA wants to ensure that these wastes, which are clearly capable of presenting unacceptable risk if improperly managed, are managed only in the manner found to be protective of human health and the environment.

Generators, and other parties involved in the management of EDC/VCM wastewater treatment sludges, claiming that their wastes fall outside the scope of the hazardous waste listing must be able to demonstrate that sludges excluded from the listing description are being managed in accordance with all of the conditions for being excluded from the listing. This means that parties claiming the waste falls outside the scope of subtitle C must be able to demonstrate that (1) previously generated and managed waste (which is being claimed as not meeting the K174 listing) was disposed of in a landfill; and (2) waste currently being managed is not being stored, or otherwise managed, on the land (*e.g.*, landfarms, waste piles) as well as demonstrate that the waste will be disposed of in a landfill (*e.g.*, have a contract in place with a landfill owner/operator that specifies intent to manage EDC/VCM sludges at the landfill facility). To further clarify how today's proposed approach would be implemented, below we describe these two distinct situations where a listing determination will be made under this proposed approach.

i. EDC/VCM Sludges Sent Off-Site

Under the proposed contingent management listing for K174, EDC/VCM sludges that already have been shipped from the generator facility to a subtitle C or subtitle D landfill were never a listed hazardous waste. In this instance, should a question arise as to the status of sludges previous shipped off-site, the implementing agency would look to indications such as contracts between the generator and the landfill owner/operator, invoices showing waste was delivered to a specific landfill, and other documents that clearly show the waste was transferred to a subtitle C or subtitle D landfill.

ii. EDC/VCM Sludges at Generator Site

In this situation, determining whether or not an EDC/VCM sludge meets the proposed K174 listing would be done in a prospective manner, not unlike many of the existing regulatory exclusions from the definition of solid waste (where determinations of whether or not a material is a waste are often based upon how the waste will be managed, *i.e.*, recycled. See, for example, requirements at 40 CFR 261.2, Table 1, and 261.4(b)). Under the existing generator requirements in 40 CFR Part 262, generators of solid waste must determine whether the waste is a listed hazardous waste (40 CFR 262.11(b)). Determinations made by generators regarding whether their EDC/VCM sludges are listed (where these sludges have not yet been disposed of off site in an appropriate landfill) will be made by virtue of where the waste will be sent. In situations where the implementing agency is questioning any claims by the generator of the non-listed status of sludges being stored on site, the generator should be able to show that there is an agreement already in place with a transporter and/or landfill indicating that these sludges will be delivered to a landfill. It is the EPA's experience that wastes cannot usually be shipped to a commercial landfill without first establishing a relationship with that landfill, where factors such as the amount of waste, the frequency of shipments, the physical and chemical make up of the waste, etc., are agreed upon before the waste ever arrives at the landfill.

In the case of generators who manage EDC/VCM in on-site landfills, the Agency requests comment on the types of records or documentation that may be used to verify or document that the waste is managed in the on-site landfill and not managed in a land treatment unit.

The Agency notes that it is not our intent to condition the regulatory status of the waste upon a recordkeeping or paperwork requirement. The Agency believes that the ability to demonstrate the commitment to dispose of the waste in a landfill is necessary to ensure the waste falls outside the scope of the listing. We do not believe that any specific recordkeeping requirement (*e.g.*, the completion and retention of a specific form) is necessary to make this demonstration. We believe that documentation of previous landfilling of the waste and a demonstration of a commitment to dispose of currently generated waste in a landfill may be made by several means. EPA is requesting comment on the types of records and/or documentation normally kept by generators and/or disposal facility owner/operators that may be used to make such demonstrations (see section III.E.2.f. below).

EDC/VCM wastewater treatment sludges that are not listed hazardous waste due to contingent management will be considered nonhazardous from their point of generation. As a result, such sludges will not be subject to RCRA subtitle C management requirements for generation, transport, or disposal (including the land disposal restrictions), if the waste *is destined for* disposal in a landfill (and the generator can demonstrate such intention).

Of course, if the waste is not disposed of in such a unit, then the exemption would no longer apply and the waste would have to be managed in compliance with subtitle C management requirements, from the point of generation. In other words, if the Agency finds that the waste is disposed of in a unit other than a subtitle C or D landfill, the Agency may cite the generator of the waste as being out of compliance with all applicable subtitle C management requirements. The Agency also points out that should EDC/VCM wastewater treatment sludges meet the listing description for another hazardous waste listing, or if the wastewater treatment sludges exhibit one or more of the characteristics of hazardous waste, the sludges must be managed as hazardous wastes and are not exempt from regulation under today's listing determination, regardless of how the sludges are managed.

e. What Specific Comments Is EPA Requesting on Implementation of the Contingent Management Listing Approach?

The Agency requests comments on this proposed contingent management listing approach, and may make changes to the implementation approach based on comments received. EPA notes that this contingent management approach necessitates that the Agency have the ability to confirm whether or not wastes claimed to fall outside the scope of the listing description are disposed of in a landfill as required by the proposed listing determination. As a result, some type of documentation or demonstration that the waste actually is disposed of in a landfill (or will be disposed of this way) is appropriate.

EPA is proposing that generators be able to provide documentation that waste previously generated (for which the claim is made that the waste is not K174) was disposed in an on-site landfill or transported to and received by an off-site landfill. In addition, a generator must be able to demonstrate that waste currently present at the generator's facility will be disposed in an on-site or off-site landfill, and that the waste will not be stored, or otherwise managed, on the land prior to disposal in a landfill. Appropriate types of documentation that may fulfill these requirements may include: contracts between a generator and a landfill owner/operator, invoices documenting that the waste was transported to and received by a landfill facility, bills of

lading or other shipping papers that clearly indicate the type and quantity of waste shipped off-site, the date of shipment, the name and address of the landfill receiving the waste, and the date the waste was received by the landfill.

EPA requests comment on the type of records, documentation, and demonstrations that may be adequate for determining compliance with the contingent management listing. EPA requests comment on what type of internal records may be kept by solid waste generators that may demonstrate intended management of the waste and whether such records are adequate for demonstrating compliance with the contingent management conditions for exclusion from the hazardous waste listing. EPA also requests comment on its proposal that waste that does not meet the terms of the conditional listing is hazardous from the point of generation.

3. VCM–A Wastewater Treatment Sludges

a. Is EPA Proposing To Regulate VCM–A Wastewater Treatment Sludges?

Yes, EPA is proposing to list as hazardous wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM–A). The sludge is generated at one facility as a result of treating water running off an area where spent mercury catalysts are removed from the VCM–A production process. The Agency has concluded that the waste meets the listing criteria in 40 CFR 261.11(a)(3) and is capable of posing a substantial present or potential hazard to human health and the environment if mismanaged. For reasons explained in more detail below, EPA is proposing two alternative approaches for listing this waste as hazardous. The Agency is requesting comment on both proposed approaches.

b. What Information Led EPA To Propose To List as Hazardous VCM–A Wastewater Treatment Sludges?

i. Background

As previously described in today's proposed rule, the manufacture of vinyl chloride monomer in an acetylene-based process using mercuric chloride catalysts generates non-process wastewaters as a result of precipitation runoff in the production area, as well as from using water to remove spent catalyst from the reactors. Because of its high mercuric chloride content, this wastewater is collected and treated in a dedicated non-biological treatment system that uses sodium sulfide to convert the mercuric chloride to mercuric sulfide, which precipitates as a sludge and is dewatered to form a filter cake. This treatment system is operated in a batch-process fashion, and treated effluent is discharged under the facility's NPDES permit. EPA knows of only one facility in the United States that operates an acetylene-based VCM production process. According to the facility's response to the RCRA Section 3007 survey, this waste was sent to a permitted hazardous waste landfill for disposal in 1996. Other information provided by the facility in response to a separate RCRA Section 3007 request from EPA indicates this waste was sent to the same permitted hazardous waste landfill from 1990 to 1994 as well. The facility generates approximately 120 metric tons of VCM–A wastewater treatment sludge per year.

ii. Analytical Results

EPA analyzed one sample of this sludge in 1996 in support of this listing determination. The analytical results showed the sludge contained 9,200 mg/kg total mercury, and 0.26 mg/L in leachate using TCLP. The results for a split sample analyzed by the facility were 17,700 ppm total mercury, and the TCLP result was 0.654 mg/L. These results indicate a very high total mercury concentration (approximately one to two percent of the waste is mercury), and the TCLP results exceed the regulatory level for the mercury toxicity characteristic of 0.2 mg/L. Data generated by EPA in support of a treatability study on this particular waste showed a total mercury concentration (in aliquots of a single sample) ranging from approximately 3,000 to 9,000 mg/kg, and TCLP results were all below the regulatory limit.[35] Other data available to EPA from the facility indicate that approximately 20 percent of the tested samples exceed the regulatory level for mercury[36].

iii. Assessment of Potential Risk

EPA's quantitative analysis of the potential groundwater risks posed by this waste assumes waste disposal in an unlined landfill. The Agency is making use of previously conducted groundwater modeling and risk analyses for the proposed Hazardous Waste Identification Rule (60 *FR* 66344, December 21, 1995) that resulted in an estimated dilution and attenuation factor (DAF) for mercury of 40. Using this DAF and the mercury leachate concentration of the VCM–A sludge analyzed by EPA (0.26 mg/L), the expected concentration of mercury at a modeled receptor well (after a release to groundwater from an unlined landfill) exceeds the maximum contaminant level (MCL) for mercury (0.002 mg/L) by a factor of three. Using the mercury leachate concentration from the facility's split sample (0.654 mg/L), the mercury MCL would be exceeded at a modeled receptor well by a factor of eight.

EPA is unable to quantitatively assess the potential risk this waste poses when disposed in a subtitle C landfill without prior treatment. However, we qualitatively considered the risk associated with such a management scenario. There is considerable uncertainty about the performance of engineered landfills. In the near term, especially at regulated subtitle C landfills, there are quality assurance controls to reduce the likelihood of significant material, installation, or facility operation errors that could degrade performance of the engineered systems. In addition, such landfills have ground water monitoring and leachate management controls to further reduce the chances of significant ground water risk. However, in the long-term, there is considerable uncertainty as to how well engineered systems will operate and whether there will continue to be long-term care and maintenance after the regulatory post-closure period ends. EPA can only qualitatively consider the potential long-term risk of wastes in subtitle C landfills. However, we considered the above mentioned uncertainties, along with the quantitative estimates of potential risk in unlined landfills, when assessing the potential risks of managing untreated wastes in a subtitle C landfill, such as VCM–A sludges that contain persistent constituents such as mercury.

iv. Rationale for Proposed Hazardous Waste Listing Determination

EPA is proposing two rationales to ''list'' this waste as hazardous, both of which lead the Agency to conclude we should propose to list this wastestream as hazardous waste. First, EPA believes it is plausible that this waste may be mismanaged and disposed of in an unlined and uncovered landfill and that it is capable of posing a substantial

[35] Paul Bishop, Renee A. Rauche, Linda A. Rieser, Markram T. Suidan, and Jain Zhang; ''Stabilization and Testing of Mercury Containing Wastes,'' Draft, Department of Civil and Environmental Engineering, University of Cincinnati, March 31, 1999. Please note that this is a draft EPA document not yet peer reviewed. Also, data within the report is still undergoing QA/QC review, and the text, data, and conclusions in the report may change before the document is finalized.

[36] Summary of Mercury TCLP Data on VCM–A Sludge from Borden Chemicals and Plastics, EPA July 1999.

hazard if so managed. Second, based upon information EPA has, including information on liner performance and the mobility of mercury under certain pH conditions, EPA believes that even when disposed of in a landfill that is compliant with Subtitle C landfill standards, this waste is likely to leach significant quantities and concentrations of mercury that long-term degradation of the landfill's leachate control systems (especially after post-closure care has ended) would plausibly cause an unacceptable release of mercury into groundwater and has the potential to pose a substantial hazard when this waste is so managed without improved prior treatment. EPA requests comment on the basis for the rationales described above, both for the disposal scenario in an unlined landfill, and the disposal scenario in a landfill compliant with subtitle C landfill standards.

The Agency's analysis of potential risk indicates that disposal of the VCM–A sludge in an unlined landfill may result in risks due to the migration of mercury in groundwater to a receptor well in concentrations that exceed the MCL for this constituent. The Agency notes that the single facility generating this waste reports managing the waste by disposing of it in a subtitle C landfill for certain years. Therefore, a simple conclusion may be to dismiss the potential risk for the groundwater pathway (assuming it continues to go to a subtitle C landfill) due to the presence of a landfill liner and leachate collection. In addition, (as mentioned previously) the mercury in the waste is in the form of mercuric sulfide, which generally is found to be a relatively insoluble form of mercury (indicated by only a relatively small percentage of the total mercury content of the waste leaching under the TCLP). However, data recently collected by the Agency and preliminary results from the analysis of this waste indicate that this waste may not behave in the same manner (in terms of the mobility of mercury in sulfidic form) in all environments. As discussed briefly below (and further in the Land Disposal Restrictions, Section V.F.), available data indicate that although the mercury in the VCM–A sludge remains relatively immobile at pH levels of 6 or lower, higher pH conditions will result in mercury mobilizing to the aqueous phase.[37]

Using data from a collected sample of the VCM–A wastewater treatment sludge, constant pH leaching tests were conducted on the waste sample to determine the effect pH has on the stability of the waste. The preliminary results of the constant pH leaching tests showed that mercury leachate concentrations were lower in samples leached at a pH of 6.0 or lower (e.g., 0.00582 mg/L at pH=6 after 24 hours), compared with concentrations at higher pH conditions. The same sample leached at pH of 10 produced a significantly higher mercury leachate concentration of 1.63 mg/L after 24 hours.[38]

Information obtained by EPA on the pH levels of actual leachate collected from the landfill cell in which the VCM–A wastewater treatment sludge currently is disposed show that the pH is greater than 9.[39] If this pH value is indeed indicative of the disposal environment for this waste, then based upon the pH relationship identified in the preliminary results of constant pH leach tests described above, one would predict that the mercury would be significantly mobilized under the disposal environment actually being used for this waste.

In summary, although the waste is disposed in a subtitle C landfill, the fact that the mercury in the waste may mobilize at pH levels greater than 6 means that the leach test results may under predict concentrations in leachate. In case of significant leachate contamination, the landfill liner may be the only guard against the release of mercury to the environment (due to the fact that the waste is not stable in this landfill disposal scenario). Should the liner fail, mercury present in the leachate would be released to the environment.

EPA acknowledges that a liner/leachate collection system in a subtitle C unit serves to contain and remove waste leachate and provides important environmental protection. However, EPA recognizes that there is inherent uncertainty in such systems, and it believes that the purpose of the RCRA hazardous waste treatment requirements (as expressed by Congress) is to reduce the uncertainty inherent in engineered containment approaches. EPA believes that waste containment systems will tend to degrade with time. Eventually, synthetic liners will degrade and leachate collection systems will cease operation. As put forth in the proposed Liner and Leak Detection Rule (52 FR 20218, May 29, 1987), no liner can be expected to remain impervious forever. Properly installed double liner and leachate collection systems, together with final covers placed at closure, will substantially reduce releases during the operating life and post-closure care period. However, these technologies may not always reduce the longer-term risk for landfills to acceptable levels for persistent, mobile, and highly toxic compounds. This is because the containment system may not prevent leachate release from the landfill indefinitely, for example after the post-closure period, when active maintenance of the cap and leachate collection system may be reduced or may end. The Agency has found that treatment of the waste under the LDR standards of RCRA subtitle C will significantly reduce potential risks from the disposal of this waste over the long term. This is particularly important for a constituent such as mercury, that is persistent and does not degrade. Treatment in accordance with prescribed BDAT can reduce the possibility that leachable mercury is available for release to the environment. Again, a liner/leachate collection system in a subtitle C unit is expected to contain waste leachate and lessen the risk while such a system is intact. However, even assuming a low probability of failure, because the TCLP may be significantly under predicting leachability for this waste in this subtitle C disposal scenario, there may still be a release of mercury that results in an exceedance of the MCL. While there are uncertainties in this assessment, it still illustrates that the mercury concentrations in the receptor well may be close to, and could even be higher than the MCL. Given the well-documented toxicity and persistence of mercury, the potential for greater mobility of mercury from this particular waste in a subtitle C landfill (than predicted by the TCLP), and the uncertainties associated with engineered landfills over the long-term—as reflected in statutory language regarding treatment requirements—EPA believes that the disposal of this waste, untreated, in a subtitle C landfill may not be protective and therefore may warrant listing the waste as hazardous.

In EPA's view, it may violate Congressional intent to allow a waste that the Agency otherwise would list as hazardous (absent the fact that the waste is managed untreated in a Subtitle C landfill) to be disposed in a hazardous waste landfill under conditions that may result in the hazardous constituents

[37] H. Lawrence Clever, Susan A. Johnson, and M. elizabeth Derrick, The Solubility of Mercury and Some Sparingly Soluble Mercury Salts in Water and Aqueous Electrolyte Solutions, J. Phys. Chem. Ref. Data, Vol. 14, No. 3, 1985, page 652.

[38] Paul Bishop, *op. cit.*, p. 14.

[39] E-mail communication to John Austin, U.S. EPA, from Mitch Hahn, Waste Management Corporation, April 14, 1999.

in the waste leaching from the waste (due to the high pH of the landfill environment). Congress clearly expressed its intent that the Agency is not to place excessive reliance or confidence in landfill design and liners for problematic wastes. In the Hazardous and Solid Waste Amendments (HSWA) of 1984, Congress explicitly added as one of the ''findings'' to RCRA that ''land disposal facilities are not capable of assuring long-term containment of certain hazardous wastes'' and that ''reliance on land disposal should be minimized or eliminated.''[40] As a result of this finding, and others, Congress added the land disposal restriction program to RCRA, which significantly restricts land disposal of hazardous wastes and provided in section 3004(m) the mandate that EPA develop treatment standards for ''diminishing the toxicity of wastes or substantially reducing the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' In addition, the legislative history to RCRA section 3004(m) states that this section ''makes Congressional intent clear that land disposal without prior treatment of these wastes with significant concentrations of highly persistent, bioaccumulative constituents is not protective of human health and the environment.'' (130 Cong. Rec. S 9178; daily ed. July 25, 1984). Were we to propose a no list determination for this waste based solely upon the fact that this waste currently is disposed in a subtitle C landfill—ignoring the high levels of total mercury in the waste, its potential for leaching (at high pH), and the likely benefits of treatment—we would be bypassing Congressional intent that wastes be treated to reduce toxicity and/or migration of hazardous constituents before final disposal.

EPA views the statute and legislative history as sufficient justification to evaluate in a listing determination all risks of land disposal, including in appropriate cases problems that might be associated with voluntary disposal of untreated wastes in permitted subtitle C facilities. This is particularly true where risks presented by a waste will be high if releases occur, if the waste is highly persistent, and treatment of the waste under subtitle C would significantly reduce these risks. In the case of the VCM–A wastewater treatment sludges, the potential risks presented by the high content of mercury in the waste if a release should occur, warrants the imposition of treatment standards in accordance with Congress's intent. Although the generator currently sends VCM–A wastewater treatment sludges to a lined subtitle C landfill facility, we believe that substantial risks are plausible, given the possibility of eventual landfill degradation or failure. The estimated risks due to migration from an unlined landfill provide an indication of the potential risks that will occur if mercury is released from the lined landfill due to failure of the unit to contain the waste leachate over time.

Absent a hazardous waste listing, the Agency has no mechanism for requiring that the waste be treated prior to disposal to ensure that the mercury in the waste does not leach from the waste to the surrounding environment (and hence provide some protection of human health and the environment in the event of a liner failure). Furthermore, the Agency has little assurance that the waste will continue to be managed in a subtitle C landfill.

Listing a waste as hazardous provides a level of certainty with regard to the management and stewardship of a waste as well. Given the quantity of mercury contained in the VCM–A wastewater treatment sludge and the potential solubility of this large quantity of mercury, the Agency tentatively concludes that it is appropriate that the waste be managed in accordance with the ''cradle-to-grave'' management system established under RCRA Subtitle C. By listing this waste as hazardous, EPA and the general public are afforded a greater level of certainty with respect to the manner in which the waste must be managed. It will have to be accumulated and stored in closed containers, sent off-site for treatment and disposal within a relatively short time of the time it was generated, transported by a registered hazardous waste transporter and accompanied by a manifest, and treated and disposed at facilities permitted to handle hazardous wastes.

The Agency bases its listing determinations on an evaluation of risks from plausible management practices. For the reasons just described, EPA believes that disposal of untreated VCM–A sludge in a subtitle C landfill represents one plausible management scenario and that this scenario could lead to significant problems. Equally important, the Agency questions whether the current waste management practices are the only practices that will be employed by the facility in the future. That is, the Agency believes other management practices are plausible. First, information available to the Agency documents only that the facility has sent VCM–A wastewater treatment sludges to a subtitle C landfill for disposal for some periods after 1990. Specifically, information provided by the facility in response to a specific RCRA Section 3007 request from EPA indicates this waste was sent to a subtitle C landfill from 1990 to 1994; and according to the facility's response to the RCRA Section 3007 survey, this waste was sent to a permitted hazardous waste landfill for disposal in 1996. In addition, we have no information with regard to the disposal of the waste prior to 1990. The Agency does know that the facility had as many as 800 drums of the mercuric sulfide sludge stored on site in 1985; however the Agency has no information with regard to the ultimate management of the waste.[41] Given the fact that the Agency does not have a complete record of how the VCM–A sludge was managed in the past, the Agency believes that it is reasonable to assume that the VCM–A sludge may be managed in an non-subtitle C landfill in the future.

Therefore, for the purposes of assessing potential risk, the Agency believes a plausible mismanagement scenario can also include an unlined landfill, the scenario in which the Agency's risk analysis indicates a potential for the concentration of mercury at a modeled receptor well to be as much as eight times higher than the MCL for mercury (based upon the TCLP results and a DAF of 40).

Our assessment includes predicted exceedances of the MCL (based upon the record sample EPA collected) assuming disposal in an unlined landfill; and a qualitative consideration of the possible risks when disposed in a subtitle C landfill without better treatment. Although risk analyses provide one of the principal bases for a listing determination, estimates of risk levels do not represent the sole basis for a listing determination. Other factors generally are considered in making a listing decision. In fact, the Agency's listing decision policy uses a ''weight-of-evidence'' approach in which calculated risk information is a single key factor. Available risk values are assessed with all other data available to determine whether a waste is or is not a hazardous waste (see the discussion of EPA's hazardous waste listing determination policy in the proposed listing for wastes generated by the dye and pigment industries at 59 FR 66073, December 22, 1994). In our decision to propose to list this sludge as hazardous,

[40] RCRA section 1002(b)(7), 42 U.S.C. 6902(b)(7).

[41] ''Reclassification Petition'' submitted to Louisiana Department of Environmental Quality, Hazardous Waste Division, by Borden Chemical, September, 1987, p. III–2.

the Agency considered several factors, including the extensive documentation on the toxicity of mercury, as well as the other criteria listed in 261.11(a)(3) to arrive at a listing determination, as further summarized below.

Mercury has been identified by several different governmental agencies, including EPA, the Agency for Toxic Substances and Disease Registry (ATSDR), the Food and Drug Administration (FDA), and the Occupational Safety and Health Administration (OSHA), as a significant human toxicant. Each of these Agency's has developed regulations, guidelines, and/or standards to protect people from the serious potential health effects of exposure to mercury. In addition, it also is well documented that mercury is persistent in the environment, does not degrade, and bioaccumulates in wildlife, particularly fish. Agency studies, including the recently published *Mercury Study Report to Congress* [42] have documented the neurotoxicity of mercury and the potential adverse human health and environmental effects that may result from the release of mercury to the environment. In addition, ATSDR has published a toxicological profile for mercury which examines, summarizes and interprets toxicological information and epidemiological evaluations on mercury.[43] Research conducted by both EPA and ATSDR provides documentation of the highly toxic effects of human exposure to mercury. Human consumption of highly-contaminated food can produce overt mercury neurotoxicity. Neurotoxic effects from mercury contamination range from subtle decrements in motor skills and sensory ability at comparatively low doses to tremors, inability to walk, convulsions and death at extremely high exposures. Human consumption of fish or grain contaminated with high levels of mercury can result in permanent damage to the brain, kidneys and developing fetuses. Adverse effects of mercury on fish include death, reduced reproductive success, impaired growth and development and behavioral abnormalities. Exposure to mercury also can cause adverse effects in plants, birds and mammals. The extent and availability of toxicity assessments for mercury is relatively extensive (see EPA's ''Mercury Study Report to Congress'' and/or EPA's ''Action Plan for Mercury'') [44]. Certainty with regard to the potential risks to human health and the environment from exposure to mercury is well documented. Mercury presents significant human health threats when released to the environment.

Wastewater treatment sludges from the VCM–A process using mercuric chloride catalyst contain significant levels of total mercury. As mentioned previously, approximately 120 metric tons of the sludge, containing about one percent (or 1 MT) of mercury, is generated per year at a single facility. One metric ton of mercury is approximately 20 times as much mercury as is received typically by a single municipal solid waste landfill from all sources in one year. EPA also notes that in this particular case, we believe the mercury is likely to be significantly leachable at pH levels of a typical hazardous waste landfill. The Agency considers this quantity of potentially leachable mercury generated from a single facility and disposed of off-site to be significant. As outlined in the *Draft EPA Action Plan for Mercury* [45], and EPA's Waste Minimization National Plan [46], it is important to the protection of human health and the environment that all anthropogenic sources of mercury emissions to the environment be minimized. Given the inherent risks associated with mercury, EPA believes it is necessary to ensure, to the greatest extent possible, that wastes containing significant quantities of mercury are safely managed and to guard against potential mismanagement.

Upon consideration of the factors enumerated in 40 CFR 261.11(a)(3) and those summarized in the 1994 Dyes and Pigments Proposed Rule for making a hazardous waste listing determination, EPA made the following conclusions with respect to this waste. In terms of waste characterization, data available on this waste indicate with relative consistency that the waste contains a significant amount of total mercury, regardless of variation in pH and leachable mercury. Furthermore, in this particular case, we believe that the mercury is likely to be more leachable than the TCLP test indicates. It is well documented that mercury is a human toxicant. Mercury is persistent in the environment, does not degrade, and bioaccumulates in wildlife, particularly fish. These conclusions correspond to the listing factors at 40 CFR Sections 261.11(a)(3)(i), (iv), (v), and (vi), respectively.

After considering the listing factors in 261.11(a)(3), and in particular the factors at 261.11(a)(3)(i)–(vi) (which include potential risks to groundwater from unregulated disposal of this waste, the fact that mercury is a human toxicant, is persistent in the environment, does not degrade, bioaccumulates in wildlife, and is present in very high concentrations in this waste), as well as several of the ''additional factors'' listed in the 1994 Proposed Rule for Wastes Generated by the Dyes and Pigments Industry, and taking into account the Agency's overall goals to reduce releases of mercury to the environment, EPA is proposing to list this waste as hazardous. The proposed listing description is shown below.

K175 Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.

The proposed listing of VCM–A wastewater treatment sludges, which contain substantial amounts of total mercury is, in effect, an extension of the Agency's policy with regard to mercury emissions. The Agency believes that listing these wastewater treatment sludges as hazardous will provide incentive for the facility to find ways to reduce the overall quantity of mercury-containing VCM–A sludges generated. EPA believes there may be opportunities for this type of reduction through improved catalyst handling practices. Improved handling practices may result in a reduction in the amount mercuric chloride released in and around the VCM–A process area where it becomes available for introduction to the wastewater treatment system. In turn, this reduction would result in an overall decrease in the amount of mercury available for potential release to the environment.

Once a waste is listed as a hazardous waste, the waste is prohibited from land disposal unless it is treated in compliance with treatment standards established under the RCRA land disposal restrictions standards program. The mercuric sulfide sludge generated from the VCM–A production process is unique in that this waste contains a very high amount of total mercury, and the

[42] U.S. Environmental Protection Agency (1997), EPA–452–R–97–003–009.

[43] ''*Toxicological Profile for Mercury*,'' ATSDR, April, 1999; http://www.atsdr.cdc.gov/press/ma990419.html.

[44] ''Mercury Study Report to Congress,'' volumes I–VIII, EPA–452/R–97–003, December 1997; and EPA Action Plan for Mercury (Atttachment 1 to ''An Agency-Wide Multi-media Strategy for Priority PBT Pollutants''), http://www.epa.gov/ttnuatw1/112nmerc/mercury.html.

[45] Attachment to *A Multimedia Strategy for Priority Persistent, Bioaccumulative, and Toxic (PBT) Pollutants*, November 16, 1998, EPA 742/D98/001, http://www.epa.gov/opptintr/pbt/pbtstrat.htm.

[46] Waste Minimization National Plan, US EPA, 1994, EPA530–R–94–045, http://www.epa.gov/rgytgrnj/specinit/p2/volprog/wm.htm.

mercury is present in the waste in a relatively insoluble form as measured using the TCLP. However, the preliminary findings of the EPA/ORD study described above suggest that variability in the pH of the waste as generated, and higher pH conditions potentially encountered in the disposal unit where this waste is managed, can affect the stability of the VCM–A sludge when disposed in a subtitle C landfill. The Agency, therefore, is proposing specific LDR treatment standards for this waste to minimize the potential release of mercury to the environment from this waste. A discussion of the proposed BDAT treatment standards for newly listed VCM–A wastes is provided later in this notice.

c. What Alternative Is EPA Considering for a Proposed Listing Determination?

i. Summary of Alternative Listing Option

The alternative listing option EPA is proposing today is to list the VCM–A wastewater treatment sludges as hazardous waste, *unless* the waste is disposed in a subtitle C landfill. In addition, under this alternative option, VCM–A wastewater treatment sludges that exhibit the toxicity characteristic for mercury will be listed as hazardous. In other words, this waste will not meet the proposed K175 listing description, and therefore will not be listed hazardous waste from the point of generation, so long as it is disposed in a subtitle C landfill, and it does not exhibit the TC for mercury.

ii. Rationale for Alternative Listing Option

As described earlier, EPA believes that the VCM–A sludge meets the criteria for being listed as a hazardous waste, principally due to the high concentration of mercury, a highly toxic constituent, in this waste. Available information indicates that the direct disposal of untreated VCM–A sludge in a subtitle C landfill may result in a marked increase in the mobility of mercury, and that, should the liner system ultimately degrade, this mercury can be released to groundwater and potentially reach a receptor well in concentrations at the MCL. Also, the Agency believes that disposal of these wastes in an unlined landfill is a plausible mismanagement scenario, which would result in exceedances of the MCL by up to a factor of eight. The Agency is seeking comment on these tentative conclusions and this proposed listing determination. Should the Agency receive data or other information on the conclusions drawn by the Agency with regard to the management of the waste and the behavior of this waste in the environment, particularly with regard to the potential for the mercury in the waste to leach under conditions of high pH levels, the Agency will consider alternative approaches. For example, if direct disposal of untreated VCM–A sludge in a subtitle C landfill can be shown to be protective without further treatment of this waste, due to the relative insolubility of mercuric sulfide or expected long-term performance of subtitle C systems, EPA will consider a conditional listing of VCM–A. Such an conditional listing would specify that the wastewater treatment sludges are listed only if the waste is not disposed in a subtitle C landfill, or put another way, the sludges would *not* be listed hazardous waste from the point of generation if they *are* disposed in a subtitle C landfill.

As mentioned above, this alternative regulatory approach is based upon the presumption that disposal of untreated VCM–A sludge in a subtitle C landfill is protective. However, the Agency also is concerned that this waste can sometimes fail the TC for mercury (as discussed earlier, approximately 20 percent of the time based upon EPA and facility data). The existing treatment standards that otherwise would apply to this waste if it was characteristically hazardous for mercury include incineration (*i.e.*, D009 high mercury/organic subcategory requires either incineration or mercury recovery), which may not be the most environmentally-sound manner in which to treat the waste prior to disposal. This is discussed in more detail in the LDR portion of today's rule (Section V). Because of this concern, this alternative option is structured in a fashion that allows the treatment standards being proposed today for K175 to apply in lieu of the existing standards for D009 for those VCM–A wastes that exhibit the characteristic for mercury.

EPA requests comment on this proposed alternative listing approach. Also, EPA requests comment on whether it may be more appropriate to simply list the VCM–A wastewater treatment sludge unless it is sent to a subtitle C landfill, and propose alternative LDR treatment standards that would apply to VCM–A wastewater treatment sludges that exhibit the TC for mercury. We note that the Agency presently is revisiting the IMERC standard as part of a comprehensive re-evaluation of the LDR treatment standards for mercury-bearing wastes (see May 28, 1999 ANPRM; 64 *FR* 28958). To the extent time allows, the Agency will consider relevant issues raised in the ANPRM in developing this final listing determination. However, because of the different schedules of these two actions and the consent decree deadline for finalizing today's proposed rule, we will not necessarily be able to consider any comments submitted to the ANPRM in finalizing today's rule.

The Agency's proposed alternative listing description for VCM–A wastewater treatment sludges that will define this waste as hazardous only under certain conditions is as follows:

K175 Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process, *unless:* i) the sludges are disposed in a subtitle C landfill, and ii) the sludges do not fail the toxicity characteristic for mercury in 40 CFR 261.24, and iii) the generator maintains documentation demonstrating that the waste was disposed of in a subtitle C landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in a subtitle C landfill. Respondents in any action brought to enforce the requirements of subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (*e.g.*, contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, analytical results or other information showing the waste does not fail the toxicity characteristic for mercury, etc.) that the terms of the exclusion were met.

The Agency requests comment on this alternative listing approach for VCM–A sludge. As already mentioned, EPA might choose this alternative regulatory approach if it decides direct disposal of untreated VCM–A sludge is protective without further treatment of this waste, due to the relative insolubility of mercuric sulfide, and the groundwater protections a lined landfill does provide.

d. What Is the Status of Landfill Leachate From Previously Disposed Wastes?

Leachate derived from the treatment, storage, or disposal of listed hazardous wastes is classified as a hazardous waste by virtue of the ''derived-from'' rule in 40 CFR 261.3(c)(2). The Agency has been clear in the past that hazardous waste listings apply to wastes disposed

of prior to the effective date of a listing, even if the landfill ceases disposal of the waste when the waste becomes hazardous. See 53 *FR* 31147, August 17, 1988. We also have a well-established interpretation that listings likewise apply to leachate derived from the disposal of listed hazardous wastes, including leachate derived from wastes disposed before a listing effective date which meet the listing description. We are not reopening any of these issues with this proposed rulemaking.

Of course, as set out in detail in the August 1988 notice, this does not mean that landfills holding wastes that are listed now as hazardous become subject to subtitle C regulation. However, previously disposed wastes now meeting a listing description, including residues such as leachate that are derived from such wastes, and that are managed actively do become subject to subtitle C regulation. See 53 *FR* 31149, August 17, 1988. In many, indeed most circumstances, active management of leachate would be exempt from subtitle C regulation because the usual pattern of management is discharge either to POTWs via the sewer system, where leachate mixes with domestic sewage and is excluded from RCRA jurisdiction (see RCRA Section 1004(27) and 40 CFR 261.4(a)(1)), or to navigable waters, also excluded from RCRA jurisdiction (see RCRA Section 1004(27) and 40 CFR 261.4(a)(2)). In addition, management of leachate in wastewater treatment tanks prior to discharge under the CWA is exempt from RCRA regulation (40 CFR 264.1(g)(6)).

If actively managed, landfill leachate and gas condensate derived from the newly-listed VCM–A waste proposed for listing in today's notice could be classified as K175. In such circumstances, we would be concerned about the potential disruption in current leachate management that could occur, and the possibility of redundant regulation. Recently, this issue was raised to the Agency in the context of the petroleum refinery waste listings. See 63 *FR* 42173, August 6, 1998. A commenter expressed concern that, because some of the commenter's non-hazardous waste landfills received newly-listing petroleum wastes prior to the effective date of the listing decision, the leachate that is collected and managed from these landfills would be classified as hazardous. The commenter argued that this could lead to vastly increased treatment and disposal costs without necessarily any environmental benefit. After examining and seeking comment on this issue, we published a final rule that temporarily defers regulation of landfill leachate and gas condensate derived from certain listed petroleum refining wastes (K169–K172) that were disposed before, but not after, the new listings became effective, provided certain conditions are met. See 64 *FR* 6806, February 11, 1999.

At the time this issue was brought to the Agency's attention in the context of the petroleum refinery waste listings, EPA's Office of Water had recently proposed national effluent limitations guidelines and pretreatment standards for wastewater discharges—most notably, leachate—from certain types of landfills. See 63 *FR* 6426, February 6, 1998. In support of this proposal, EPA conducted a study of the volume and chemical composition of wastewaters generated by both subtitle C (hazardous waste) and subtitle D (non-hazardous waste) landfills, including treatment technologies and management practices currently in use. EPA proposed effluent limitations (for nine pollutants in the Non-Hazardous Subcategory) for direct dischargers. See 63 *FR* 6463. Most pertinent to finalizing the temporary deferral for the petroleum refining wastes, EPA did not propose pretreatment standards for subtitle D landfill wastewaters sent to POTWs because the Agency's information indicated that such standards were not required.

The conditions included in the temporary deferral published on February 11, 1999 are that the leachate is subject to regulation under the Clean Water Act, and the leachate cannot be stored in surface impoundments after February 13, 2001. See 40 CFR 261.4(b)(15). We believed that it was appropriate to temporarily defer the application of the new waste codes to such leachate in order to avoid disruption of ongoing leachate management activities while the Agency decides how to integrate the RCRA and CWA regulations consistent with RCRA Section 1006(b)(1). We believe that the same fact pattern fully discussed in the February 11, 1999 rulemaking applies in this situation as well. As such, we would be concerned about forcing pretreatment of leachate even though pretreatment is neither required by the CWA, nor needed. Therefore, we are proposing to temporarily defer the regulation of landfill leachate and gas condensate derived from the VCM–A wastes, with the same conditions as described in 40 CFR 261.4(b)(15) for petroleum wastes. We believe the issue of whether disruptions can be minimized through integration of CWA and RCRA rules will be more amenable to resolution once the CWA rulemaking is completed.

e. What Specific Comments Is EPA Requesting on the Agency's Proposed Listing of VCM–A Wastewater Treatment Sludges?

The Agency requests comments on the proposed listing of all VCM–A wastewater treatment sludges as well as the proposed conditional listing for this waste. In addition, the Agency requests comment on alternative management practices that may either be in use or may be appropriate for this wastestream, other than the disposal of these sludges in subtitle C landfills.

We also request any available information on whether or not the VCM–A wastes were previously disposed in non-hazardous landfills. Even if we do not receive any information that previously disposed VCM–A wastes will result in generation of hazardous landfill leachate and gas condensate, we may still choose to promulgate the temporary deferral for landfill leachate and gas condensate from this waste. This is because someone may discover this problem later (after the effective date of the listing), so, by having a temporary deferral in place, it would be possible to avoid disruption of ongoing leachate management activities while we further examine this issue and await the CWA final rule.

4. Methyl Chloride Wastewater Treatment Sludges

a. How Is EPA Proposing To Regulate Methyl Chloride Wastewater Treatment Sludges?

EPA is proposing not to list as hazardous sludges from the treatment of wastewaters generated from methyl chloride production processes. This wastestream does not meet the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous. It does not pose a substantial present or potential hazard to human health or the environment. The Agency identified limited risks to consumers of groundwater.

b. What Information Led EPA To Propose Not To List as Hazardous Methyl Chloride Wastewater Treatment Sludges?

EPA identified only one facility that generates sludges from the treatment of wastewaters generated from the production of methyl chloride and does not currently manage the waste as hazardous. The results of the RCRA Section 3007 survey for the chlorinated aliphatics industry show that this facility generates less than 800 metric tons of this sludge each year and disposes of the sludge in an on-site landfill along with other wastes from

the facility. The landfill is lined and has a leachate collection system.

In conducting the risk assessment for this sludge, EPA considered one management scenario, disposal in an on-site landfill. The Agency analyzed potential risks from methyl chloride wastewater treatment sludge by modeling a non-groundwater pathway. The Agency's analysis of potential risks due to volatile emissions from the landfill resulted in negligible risks to individuals in the surrounding area. The Agency also conducted a bounding (i.e., worst case) risk analysis to estimate potential risks to groundwater consumers. This analysis used the leachate concentration measured from a sample of the facility's methyl chloride wastewater treatment sludge, and assumed the direct ingestion of this leachate by an adult for a period of 58 years. This bounding analysis resulted in a risk of 5E–5 for one constituent, arsenic.

The Agency views the arsenic risk results from the bounding analysis as marginal. Assuming a landfill DAF of only 5 (a reasonable assumption for an *un*lined landfill), the predicted risk becomes 1E–5, which is the typical level identified by EPA as posing sufficient risk to require the waste to be listed as hazardous(see 59 FR 66072, 66077). However, for this particular facility, EPA believes that the actual risk from this waste will be much lower than the risk level predicted by the bounding analysis given that the landfill currently used by the single facility generating this waste is lined with a 24-inch clay liner and has a leachate collection system.

The Agency believes that the management practice of most concern (on-site landfill) was assessed, given that it is the only management practice used by the single facility generating the waste. Given that the landfill is located on site and has significant remaining capacity, the Agency sees no reason to assume that the facility will not continue to manage its wastewater treatment sludges from the production of methyl chloride in this manner.

Based on an analysis of potential risks associated with current management practices, EPA is proposing not to list as hazardous wastewater treatment sludges from the production of methyl chloride. The Agency found no significant risks arising from the on-site landfill management scenario. The only possible concern arises from the marginal risk associated with arsenic, which falls at the risk level generally identified by EPA for listing a waste as hazardous, when assuming a DAF of 5. The Agency believes this assumption is reasonable for an unlined landfill, and likely results in an overestimate of risk for the management practice identified by EPA (i.e., an on-site landfill that operates with a clay liner and leachate collection at a single facility).

The Agency requests comments on the approach taken to determine a no-list proposal for hazardous wastewater treatment sludges from methyl chloride manufacturing.

5. Allyl Chloride Wastewater Treatment Sludges

a. How Is EPA Proposing To Regulate Allyl Chloride Wastewater Treatment Sludges?

EPA is proposing not to list as hazardous sludges generated from treating wastewaters associated with the manufacture of allyl chloride. This wastestream does not meet the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous. It does not pose a substantial present or potential threat to human health or the environment. The Agency has identified no risks of concern associated with the current management of the waste.

b. What Information Led EPA To Propose To Not List as Hazardous Allyl Chloride Wastewater Treatment Sludges?

Wastewater treatment sludges from allyl chloride production are generated at a single facility. The sludges are generated from the facility's centralized wastewater treatment system. This wastewater treatment system is a non-dedicated system in that wastewaters from the facility's multiple production processes are discharged to the single system for combined treatment. Wastewaters from the production of allyl chloride contribute less than two percent to the system's total sludge loading. According to the RCRA Section 3007 survey response, the sludge generated from the facility's wastewater treatment system is incinerated on site in a non-hazardous waste incinerator.

During the investigations undertaken in support of the listing determinations, EPA collected one sample of this sludge. Two duplicate TCLP analyses were performed using the sample collected. The sample also was analyzed for total concentrations of dioxins and furans. The TCLP analyses indicated the presence of no TCLP constituents above regulatory levels. The total arsenic concentration in the waste was 11.7 mg/kg, while the total dioxin (TEQ/TCDD) concentration was 11.79 ng/kg.

The Agency does not anticipate any significant risk from the incineration of allyl chloride wastewater treatment sludge in a non-hazardous waste incinerator, since both the total arsenic level [47] and the total dioxin level [48] detected in the sludge are well within the range of background levels of those constituents in soils.

The Agency did not conduct an analysis of risk associated with other management practices, based upon the fact the waste is generated by a single facility and currently is not managed in a manner other than non-hazardous waste incineration.

Given that wastewater treatment sludges from allyl chloride production are generated by a single facility, that the sludge generated is the product of a facility-wide non-dedicated (*i.e.*, not process-specific) wastewater treatment system, and that no significant risks are posed by the waste attributable to the allyl chloride production process, the Agency is proposing not to list this waste as hazardous.

The Agency requests comments on the approach taken to determine to propose not to list as hazardous wastewater treatment sludges from allyl chloride manufacturing.

F. Constituents Proposed for Addition to Appendix VIII to 40 CFR Part 261

Two of the constituents of concern that are present in the chlorinated aliphatic wastewaters (K173) and the EDC/VCM wastewater treatment sludges (K174) proposed to be listed as hazardous waste do not currently appear on the list of hazardous constituents at 40 CFR part 261, appendix VIII. Therefore, EPA is proposing to add these two constituents, octachlorodibenzo-p-dioxin (OCDD) and octachlorodibenzofuran (OCDF), to appendix VIII. OCDD and OCDF are members of the large family of polychlorinated dioxins and furans. Certain of these compounds, most notably, 2,3,7,8 TCDD, have been shown to be extremely toxic.

As discussed in section III.D of today's proposed rule, the Agency's risk assessment found significant risks associated with the presence of dioxins

[47] Alkhatib, Eid, and O'Connor, Timothy, *''Background Levels of Priority Pollutant Metals in Soil, American Environmental Laboratory,* Vol. 10, No. 3, April, 1998.

Hunter, Philip M., ''Air-Force Wide Background Concentrations of Inorganics Occurring in Ground Water and Soil,'' *Proceedings from the Fourteenth Annual Waste Testing and Quality Assurance Symposium*, Pp. 73–77, 1998.

Welch, Alan H., Lico, Michael S., and Hughes, Jennifer L., *''Arsenic in Ground Water of the Western United States,'' Ground Water,* Vol. 26, No. 3, May/June, 1988.

[48] See Table 4–4 of ''Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination,'' EPA, June 25, 1999.

in both chlorinated aliphatic wastewaters and EDC/VCM wastewater treatment sludges. In the case of our analysis of risk for both categories of waste, the dioxin/furan concentrations were measured on a TCDD TEQ basis. As previously discussed in today's proposed rule, TCDD TEQ concentrations are calculated by multiplying each 2,3,7,8 congener by the appropriate TEF, and then summing the resultant concentrations to come up with a TCDD TEQ value. OCDD and OCDF are part of this calculation.

Available data indicate that 2,3,7,8-substituted congeners of chlorinated dibenzo-p-dioxin and dibenzofurans have toxic effects similar to 2,3,7,8,-TCDD. Data available from in vivo and in vitro studies reveal a strong structure-activity relationship, in which the 2,3,7,8-substituted congeners are much more biologically active than other congeners. Both OCDD and OCDF are 2,3,7,8-substituted congeners. Available data also show that the relative responses of different PCDDs and PCDFs are generally consistent across a variety of toxicity end points.[49] In regard to OCDD specifically, test animals exhibited initial signs of ''dioxin toxicity'' in a subchronic study of mice exposed to OCDD at low levels.[50]

EPA also points out that the oral slope factors for OCDD and OCDF (calculated by multiplying the cancer slope factor for 2,3,7,8 TCDD by the TEFs for OCDD and OCDF, which are both 0.0001[51]) are relatively high (15/(mg/kg)/day) compared to the oral slope factor of other hazardous constituents currently listed in appendix VIII to 40 CFR 261 (*e.g.*, arsenic has an oral slope factor of 1.5/(mg/kg)/day).

Therefore, we have concluded that, based upon sufficient evidence to show that OCDD and OCDF are hazardous constituents and based upon the fact that OCDD and OCDF are the only congeners that make up TCDD TEQ that are not currently listed in appendix VIII, OCDD and OCDF should be added to appendix VIII of 40 CFR part 261. The Agency requests comment on its proposal to add OCDD and OCDF to the list of hazardous constituents in appendix VIII to 40 CFR 261.

IV. Economic Analysis

A. What Is the Purpose of the Economic Analysis?

The primary purpose of the economic analysis presented in the *''Economic Background Document,''* is to estimate potential industry compliance costs associated with this listing proposal. Secondary purposes are to provide descriptive information about the economic (industry) sectors affected, and about the economic activities involving chlorinated aliphatic hydrocarbon chemicals (CAHCs). The Economics, Methods, and Risk Assessment Division (EMRAD) of EPA's Office of Solid Waste (OSW) conducted the economic analysis. The *''Economic Background Document''* is available to the public from the RCRA docket (refer to the introduction to this preamble for instructions on how to obtain a copy). The findings of the economic study are summarized in this section of the preamble. References to statements below pertaining to facts, data, assumptions and other types of information, are identified in the document.

B. How May the Public Participate in the Economic Analysis?

The USEPA encourages the public to provide comments and suggestions about the design, accuracy, representativeness and completeness of the *''Economic Background Document.''*

In preparing the *Economic Background Document*, the EPA preferred to the maximum extent possible, to use publicly-available rather than confidential business information (CBI) as information and data sources, to facilitate transparency for public review and comment. However, some information was designated by survey companies as CBI when collected in the 1992 and 1997 Section 3007 surveys administered by EPA (described elsewhere in this preamble). Consequently, the background data and information available to the EPA during development of this listing proposal also consisted of CBI information. In order to minimize reliance on CBI data, and to exhaust available public information sources, EPA consulted many other databases as supplements and substitutes to the RCRA Section 3007 survey, in conducting the economic study.

EPA particularly requests written comments from the public on the information elements listed below pertaining to the economic analysis presented in the ''Economic Background Document:''

1. *Study Design:* Suggestions for modifications and improvements to the scope, methodology, and organization of the *Economic Background Document* (e.g., 30-year cost annualization ''period-of-analysis'' applied).
2. *Facility Universe:* Correct number and locations of CAHC manufacturing and any other types of facilities and entities potentially affected by the RCRA listing proposal.
3. *Affected Wastes:* Correct average annual quantities, types and industrial source (origin) of potentially affected CAHC manufacturing wastes.
4. *Industry Profile:* Characterization of the role, functions and industrial organization associated with the production and use of CAHCs in the US economy.
5. *Baseline Waste Management:* Characterization of baseline (current) waste management practices associated with CAHC manufacturing wastes (both onsite and offsite management practices), including the types and relative waste quantities managed, types of waste management units, costs of waste management ($/ton basis), waste commingling and segregation, etc. In particular, there is uncertainty in the Section 3007 survey data, about the exact number and sizes of wastewater management tanks used by CAHC manufacturing facilities.
6. *Compliance Waste Management:* Adaptation of CAHC manufacturing facilities to the RCRA listing proposal if finalized, such as changes in CAHC manufacturing plant & equipment, facility layout, production processes and methods, business arrangements, CAHC product mixes, etc. What are possible operating consequences to waste management facilities for meeting K175 waste pH and sulfide landfill restrictions?
7. *Facility Process Modifications:* Identification and dollar value of lump-sum capital investment costs required (per industrial operating unit or facility).
8. *Unit Costs:* Overall representativeness of unit costs applied to the universe of CAHC manufacturing facilities for industrial waste management, involving both non-hazardous and hazardous waste handling.
9. *Impact Benchmarks:* The appropriateness of the alternative company financial benchmarks (*e.g.*, annual sales revenues, annual profits, capital expenditures, short-term credit) presented in this study, and of other benchmarks not presented, for purpose of providing measurement references relative to assessing the dollar magnitude of the estimated industry compliance costs.
10. *Supporting Data:* The data applied in the economic study are from sources published over a number of years, and for some key data elements, are more than five years old (*e.g.*, during preparation of this study, the US Bureau of Census' 1997 Survey of Manufacturers data reports were not yet available).
11. *Other Considerations:* Any other comments pertaining to other aspects of the economic study, or to topics which have been omitted or are outside the scope of the

[49] U.S. Environmental Protection Agency. 1989 Update to the Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs and CDFs). Washington, D.C.: Risk Assessment Forum, March, 1989. EPA/625/3–89/016.

[50] Couture, L.A., M.R. Elwell, and L.S. Birnbaum. ''Dioxin-like Effects Observed in Male Rats Following Exposure to Octachlorodibenzo-p-dioxin (OCDD) during a 13-week Study.'' Toxicology and Applied Pharmacology, Vol. 93, Pp 31–46, 1988.

[51] Using the toxicity equivalency factor (TEF) developed by the World Health Organization, see section III.D.1.g.ii of today's proposed rule for discussion of TEFs.

study, if relevant to assessing the economic impact of the listing proposal.

C. How Are Chlorinated Aliphatic Chemicals Used in the Economy?

Chlorinated aliphatic hydrocarbon chemicals (CAHCs) entered into commerce in the US in the early 1920s, and as of 1994, approximately 38 billion pounds of 50 different commercially significant CAHCs were manufactured by 23 chemical plants (facilities) in the United States. The US production of CAHCs has grown an average annual rate of 4.4 percent over the last 30 years.

CAHCs are a group of organic chemicals—most of which are colorless liquids at room temperature—primarily used as intermediate feedstocks for the production of polyvinyl chloride (PVC) plastics; CAHCs are also used directly in liquid form as various types of solvents, as intermediates for the production of other types of chemicals, and in assorted other commercial use categories. As of 1996, three CAHCs—ethylene dichloride, vinyl chloride, methyl chloride—were on the list of top-50 chemicals produced in the United States.

D. Where Are CAHCs Manufactured in the United States?

In conjunction with contacts of industry representatives, EPA identified an initial subset of industrial facilities relevant to the scope of the listing proposal, according to both the (a) types of chemical products manufactured, as well as the (b) types of industrial wastestreams generated from the chemical manufacturing processes. EPA identified a total of 28 facilities in the 1992 Section 3007 industry survey, and a total of 26 facilities in the 1997 follow-up survey, as a result of two facility closures in the interim period. Three of the 26 facilities were discovered to be either ''de minimus'' producers of CAHCs, or double-counted in the survey, which resulted in a final subset of 23 relevant CAHC manufacturing facilities.

The relevant subset of 23 CAHC manufacturing facilities surveyed in USEPA-OSW's 1997 survey are located in eight states (Kansas, Kentucky, Louisiana, Maryland, Michigan, New York, Tennessee, and Texas), and employ an average of over 700 employees per facility. Total employment for all 23 facilities is about 19,000 employees, and the total employment associated with the 16 parent companies which own these 23 facilities is much larger, estimated at 526,700 employees.

E. Have CAHCs Been Produced Historically in Other Locations in the United States?

In addition to current databases, there are assorted documents which contain historical information about the CAHC production industry in the United States. Historically, CAHCs have been manufactured and/or used as feedstocks and intermediates in chemical production plants in at least 15 states in the US. The historical data on the number and location of CAHC production facilities serves to illustrate the dynamic business activity in this industry sector. As late as 1975, CAHCs were produced in the US by 32 companies in 58 plant locations.

F. What Are the Estimated Potential Industry Costs of This Listing?

There are two associated categories of potential compliance costs for CAHC manufacturers under this listing proposal: (a) process wastewater listing costs, and (b) wastewater treatment sludge listing costs. These costs are incremental to current waste management costs in this industry, in the sense that all CAHC manufacturing facilities are currently regulated under RCRA (*i.e.*, as chlorinated aliphatic manufacturers via the existing RCRA F025 and F026 wastecodes, among others), and some facilities currently manage most or all of their CAHC manufacturing wastes as hazardous. Consequently, this listing proposal will not have a full incremental impact on these facilities, and the marginal impact on their existing operations in relation to current RCRA compliance and hazardous waste handling practices may be less than it otherwise would be if these companies and facilities did not have experience with baseline RCRA waste management practices.

As summarized in Table IV–1 below, EPA estimates the total industry compliance cost—excluding paperwork burden as separately estimated in the Information Collection Request—associated with the two wastestream components of the listing proposal (*i.e.*, sludges and wastewaters), at $2.355 million in average annual cost, for annual waste management in conformance with the terms of the listing proposal. This total cost consists of an estimated $1.320 million in initial capital expenditures (30-year annualized equivalent of $0.046 million), and an estimated $2.309 million in recurring annual costs.

TABLE IV–1.—SUMMARY OF ESTIMATED INDUSTRY COMPLIANCE COSTS FOR THE RCRA LISTING PROPOSAL; WASTEWATER TREATMENT SLUDGES AND WASTEWATERS. AVERAGE ANNUAL EQUIVALENT TOTAL INDUSTRY COST

Item	Type of CAHC facility potentially affected by the proposed RCRA listing options	Initial capital costs ($ lump-sum)	Recurring annual O&M costs ($/year)
A.	SLUDGE LISTING ESTIMATED COSTS:		
A1	Non-landfilled EDC/VCM sludge	$0	$1,333,000
A2	VCM–A process w/mercury catalyst	0	209,000
	Subtotal sludge costs	0	1,542,000
B.	WASTEWATER LISTING ESTIMATED COSTS:		
B1	Tank fixed roof + valve	1,084,600	81,600
B2	Tank roof vent + carbon control	150,900	591,200
B3	Tank ''Subpart CC'' ancillary costs*	0	23,700
B4	Initial waste testing for dioxins	84,500	0
B5	Annual waste retesting for dioxins	0	70,400
	Subtotal wastewater costs	1,320,000	766,900
C.	SLUDGE + WASTEWATER COSTS (column totals)	1,320,000	2,309,000

TABLE IV–1.—SUMMARY OF ESTIMATED INDUSTRY COMPLIANCE COSTS FOR THE RCRA LISTING PROPOSAL; WASTEWATER TREATMENT SLUDGES AND WASTEWATERS. AVERAGE ANNUAL EQUIVALENT TOTAL INDUSTRY COST—Continued

Item	Type of CAHC facility potentially affected by the proposed RCRA listing options	Initial capital costs ($ lump-sum)	Recurring annual O&M costs ($/year)
	Total annualized equivalent cost		2,355,000

V. Proposed Treatment Standards Under RCRA's Land Disposal Restrictions

A. What Are EPA's Land Disposal Restrictions (LDRs)?

The RCRA statute requires EPA to establish treatment standards for all wastes destined for the land disposal. These are the so called ''land disposal restrictions'' or LDRs. For any hazardous waste identified or listed after November 8, 1984, EPA must promulgate these LDR treatment standards within six months of the date of identification or final listing (RCRA Section 3004(g)(4), 42 U.S.C. 6924(g)(4)). RCRA also requires EPA to set as these treatment standards ''* * * levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' (RCRA Section 3004(m)(1), 42 U.S.C. 6924(m)(1)).

Wastes that meet treatment standards established by EPA may be land disposed. Wastes that do not meet these standards are prohibited from land disposal (except in so-called no-migration units). Each waste proposed for listing as hazardous in this rule will be subject to all the land disposal restrictions on the same day their respective listing becomes effective.

B. How Does EPA Develop LDR Treatment Standards?

To establish LDR treatment standards, EPA first identifies the best demonstrated available technology (BDAT) for the hazardous constituents present in the hazardous waste, and then determines what constituent concentrations can be achieved by the technology or technologies identified as BDAT.

EPA typically has established treatment standards based on performance data from the treatment of the waste at issue, if such data are available, and also from the treatment of wastes with similar chemical and physical characteristics or similar concentrations of hazardous constituents. Treatment standards typically cover both wastewater and nonwastewater waste forms on a constituent-specific basis. The constituents selected for regulation under the LDR program are not necessarily limited to those present in a proposed listing, but also may include those constituents or parameters that will ensure that treatment technologies are operated properly. For listed waste EPA identifies these as ''regulated constituents'' and they appear individually in the Table at 40 CFR 268.40, along with their respective treatment standards.

EPA may develop and promulgate either technology-specific treatment standards or numerical treatment standards. Should EPA elect to use technology-specific standards, all wastes that meet the listing designations would have to be treated by the technology or technologies specified before disposal. These technologies are also identified in the Table at § 268.40 and are further described in § 268.42. Should EPA elect to use numerical treatment standards, the Agency allows the use of any technology (other than impermissible dilution) to comply with the treatment standards.

After developing the LDR treatment standards, we must also determine if significant treatment capacity is available to treat the expected volumes of wastes. If so, the LDR treatment standards become effective essentially at the same time a listing does. If not, EPA may grant up to a two-year national capacity variance (NCV) during which time the LDR treatment standards are not effective.

For a more detailed overview of the Agency's approach for developing treatment standards for hazardous wastes, see the final rule on solvents and dioxins (51 FR 40572, November 7, 1986) and section III.A.1 of the preamble to the final rule that set land disposal restrictions for the ''Third Third'' wastes (55 FR 22535, June 1, 1990). EPA also has explained its BDAT procedures in ''Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology (EPA/OSW, October 23, 1991)'' . This document is available in the docket supporting this rulemaking.

C. What Kind of Treatment Standards Are Proposed?

EPA has gathered data on waste characteristics and current management practices for wastes proposed in this action as part of the administrative record for this rule, and has evaluated these data to develop specific treatment standards. An examination of the constituents that are the basis of the proposed listings shows that the Agency has previously developed numerical treatment standards for most of the constituents of concern. After reviewing the available characterization data and the available information on waste management practices for these wastes proposed for listing, EPA has determined that it is technically feasible and justified to apply existing universal treatment standards (UTS) to the regulated hazardous constituents of concern in the wastes proposed to be listed as K173 and K174. For K175, EPA is proposing a metals recovery requirement as the treatment standard, namely roasting and retorting. Although the mercury in K175 would be recovered, other treatment residuals will exist. For these residuals, we are proposing that existing UTS will be applicable.

Available information also shows that these wastes and the treatment residuals can be managed in existing treatment and reclamation units that routinely manage similar or as-difficult-to-treat hazardous wastes that currently are prohibited from land disposal. The BDAT background document provides further information on EPA's rationale for applying UTS to these wastes and the treatment standard of metals recovery to K175. Also see LDR Phase II final rule, 59 FR 47982, September 19, 1994, for a further discussion of UTS.

For proposed K173 and K174, EPA is proposing to regulate specific constituents from each of these hazardous wastes. A list of the proposed regulated hazardous constituents and

the proposed treatment limits can be found in the following preamble section and in the proposed regulatory Table 268.40—Treatment Standards for Hazardous Wastes. If EPA makes a final decision to list the identified wastes, these constituents and standards would apply.

EPA has provided in the BDAT background document a review of thermal and nonthermal technologies that can be used to meet the proposed numerical concentration limits for proposed K173 and K174, assuming the design and operation of these technologies are optimized. Since EPA is proposing numerical concentration limits, the use of other technologies capable of achieving the proposed treatment standards is allowed, except for those treatment or reclamation practices constituting land disposal or impermissible dilution (see 40 CFR 268.3). As noted above, EPA is proposing a specified technology-specific treatment standard for K175. K175 waste would therefore have to be treated by the required technology and the residues thereof or subsequent residues would have to meet numerical UTS concentration limits. [52]

D. Other LDR-Related Provisions

We propose that the provisions in 40 CFR 268.45 would also be applicable for the treatment and disposal of hazardous debris contaminated with proposed K173, K174, and K175. Hazardous debris treated in accordance with the provisions of 40 CFR 268.45 may be allowed for land disposal in a hazardous waste disposal facility. As a result, debris contaminated with proposed K173, K174, and K175 would be required to be treated prior to land disposal, using specific technologies from one or more of the following families of debris treatment technologies: extraction, destruction, or immobilization. Residuals generated from the treatment of debris contaminated with proposed K173, K174, or K175 will have to meet the applicable UTS limits proposed today. See 57 FR 37277, August 18, 1992, for additional information on the applicability, scope, and content of the hazardous debris provisions.

We note that, when the listings proposed today become final, the alternative soil treatment standards in 40 CFR 268.49 would be available for any soils contaminated with the newly listed wastes. Soils that must meet LDRs before land disposal may be treated to the levels in the alternative soil treatment standards as long as the soils will not be used in a manner constituting disposal. Even though EPA is proposing a method of treatment for K175, the waste contains an analyzable hazardous constituent. Consequently, the alternative treatment standards may apply and specify that the analyzable constituent must be at specified levels for soil contaminated with the waste to be disposed. See 268.49(c)(3)(B), promulgated at 63 FR 28751. Such soils can only be land disposed (here, recycled by being placed on the land) if they first meet UTS. See 63 FR 28609–28610 (May 26, 1988).

A facility is not required to use these alternative soil treatment standards and may elect to comply with the traditional LDR treatment standards for process waste. The choice of whether to do so potentially impacts how many constituents must meet LDR treatment standards. If a site chooses to meet the alternative soil treatment standards and their soils are contaminated with a listed waste, then they are required to treat both the regulated hazardous constituents specified in 268.40 and also any underlying hazardous constituents. Potential underlying hazardous constituents are listed in the UTS Table at 268.48. However, if the traditional treatment standards are applied to a soil contaminated with a listed waste, then only the regulated constituents specified in 268.40 must meet the treatment standards. For further discussion of the alternative soil treatment standards, please refer to the final Phase IV LDR rule (63 FR 28556, 28609, May 26, 1998) and the subsequent clarification notice (64 FR 25410–25411, May 11, 1999).

Lastly, because land disposal also includes placement in injection wells (40 CFR 268.2(c)) application of the land disposal restrictions to proposed K173, K174, and K175 requires the modification of injection well requirements found in 40 CFR 148. We propose that K167 and K168 be prohibited from underground injection. See 40 CFR 148. Therefore, wastes proposed to be listed as K173, K174, and K175 may not be underground injected unless they have been treated in compliance with the LDR treatment standards or a no migration petition for these wastes has been approved.

E. What Standards Is EPA Proposing for K173?

EPA is proposing to apply existing Universal Treatment Standards to proposed K173 wastes. We have examined the constituents that comprise the basis of the proposed listing and identified the presence of those other constituents near on in excess of current numerical universal treatment standards. Wastes that exceed these levels require treatment of the constituents to diminish the toxicity of the waste and to reduce the likelihood of migration of the hazardous constituents. Based on this examination, we propose treatment standards for bis(2-chloroethyl)ether, chloroform, pentachlorophenol, phenol, 2,4,6-trichlorophenol, chromium(total), and nickel in addition to tetrachlorodibenzodioxins, pentachlorodibenzodioxins, hexachlorodibenzodioxins, heptachlorodibenzodioxins, tetrachlorodibenzofurans, pentachlorodibenzofurans, hexachlorodibenzofurans, heptachlorodibenzofurans, OCDD, and OCDF in proposed K173.

Existing LDR standards for the wastes that contain chlorinated dibenzo-*para*-dioxins and dibenzofurans are expressed in terms of all tetrachlorodibenzo-*p*-dioxins, pentachlorodibenzo-*p*-dioxins, hexachlorodibenzo-*p*-dioxins, tetrachlorodibenzofurans, pentadibenzofurans, hexachlorodibenzofurans, OCDD, and OCDF. Today's notice proposes treatment standards for five additional dioxin/furan congeners, namely 1,2,3,4,6,7,8-heptachlorodibenzo-*p*-dioxin, 1,2,3,4,6,7,8-heptachlorodibenzofuran, 1,2,3,5,7,8,9-heptachlorodibenzofuran, OCDD, and OCDF. We are doing so because these constituents are present at concentrations that present significant risks should proposed hazardous waste K173 be mismanaged.

For proposed K173 nonwastewaters, we propose that the LDRs for the three new congeners (1,2,3,4,6,7,8-heptachlorodibenzo-*p*-dioxin, 1,2,3,4,6,7,8-heptachlorodibenzofuran, 1,2,3,5,7,8,9-heptachlorodibenzofuran, OCDD, and OCDF) be set at the quantitation limits of method 8280A. These quantitation limits are achievable routinely, and being 3 to 4 times the detection limit of residues from combustion, they are a reasonable approximation of 2.8 times the method detection limit normally used to develop treatment standards from detection limit data to account for

[52] There are two exceptions. Where the treatment technology is not appropriate to the waste, regulations provide a petition process whereby the generator or treatment facility may petition the Administrator for a variance. See 40 CFR 268.44. In addition, persons can petition the Administrator for an alternate treatment method by showing that the alternate method can achieve a measure of performance equivalent to the method specified by rule.

potential treatment variability.[53] Since method 8280A was first developed, the more sensitive high-resolution mass spectrometry method 8290 has been developed. Method 8290 may achieve detection limits orders of magnitude more sensitive than Method 8280A. However, we lack actual treatment performance data for these wastes using method 8290. Further, because of the trace levels of dioxins/furans that method 8290 is capable of detecting, we can not presume that combustion would achieve the much lower non-detectable levels of method 8290. Therefore, we are proposing to base treatment standards for the five congeners cited above on the more widely available method 8280A. We specifically invite data to be submitted on the levels that can be achieved using method 8290.

From past trial burns, we have confidence that incineration has been fully demonstrated for treating dioxin-containing wastes. As explained in 1989 solvents and dioxin rule, Method 8280A failed to detect chlorinated dibenzo-*p*-dioxins and dibenzofurans in residues from trial burns. This has led the Agency to conclude that the residual levels of chlorinated dibenzo-*p*-dioxins and dibenzofurans that remain after treatment would be well below the levels proposed. See 51 FR 1734, January 14, 1986. Therefore, for the three new congeners, we are proposing standards based on these data showing that high temperature thermal treatment achieved destruction of these constituents to levels below the stated quantitation limits of method 8280A.

For proposed K173 wastewaters, we propose that the UTS treatment level of 0.000035 mg/L for pentachlorodibenzofuran be transferred to 1,2,3,4,6,7,8-heptachlorodibenzo-*p*-dioxin, 1,2,3,4,6,7,8-heptachlorodibenzofuran, and 1,2,3,5,7,8,9-heptachlorodibenzofuran. Pentachlorodibenzofuran is a structural homologue of these constituents with similar physical properties, which allows us to assume similar treatment efficiencies. Similarly, we propose that the UTS treatment level of 0.000063 mg/L for tetrachlorodibenzofuran be transferred to OCDD and OCDF. For all other dioxin/furan congeners, we propose to transfer the current, corresponding universal treatment standards.

For the specific numerical standards proposed to be applicable to proposed K173, see the proposed amendments to 40 CFR 268.40 at the end of this preamble. We request comment on the proposed treatment standards for proposed K173.

F. What Standards Is EPA Proposing for K174?

EPA is proposing to apply existing Universal Treatment Standards (UTS) to these wastes. We have examined the constituents that comprise the basis of the proposed listing and identified the presence of those other constituents near on in excess of current numerical universal treatment standards. Waste that exceed these levels require treatment of the constituents to diminish the toxicity of the waste and to reduce the likelihood of migration of the hazardous constituents. Based on this examination, we propose that wastes proposed to be listed as K174 be treated for arsenic, tetrachlorodibenzo-*p*-dioxins, pentachlorodibenzo-*p*-dioxins, hexachlorodibenzo-*p*-dioxins, heptachlorodibenzo-*p*-dioxins, tetrachlorodibenzofurans, pentachlorodibenzofurans, hexachlorodibenzofurans, heptachlorodibenzofurans, OCDD, and OCDF. We are proposing to apply the new numerical standards for the five new congeners (one heptachlorodibenzo-*p*-dioxin, two heptachlorodibenzofurans, OCDD, and OCDF), discussed in the previous section, to proposed hazardous waste K174 because these constituents are also present in proposed K174 wastes at significant concentrations that would present risks should the wastes be mismanaged.

We request comment on the proposed treatment standards for wastes proposed to be listed as K174.

G. What Standards Is EPA Proposing for K175?

Proposed hazardous waste K175 is generated from the treatment of catalyst change-out wastewaters from the chlorination of acetylene on a mercuric chloride catalyst. As with the above wastes, we have examined the constituents that comprise the basis of the proposed listing and identified the presence of mercury as the only constituent that would require treatment to diminish the toxicity of the waste and to reduce the likelihood of migration. Proposed K175 contains in excess of 260 mg/kg mercury and is greater than one percent in organic constituents. This type of waste profile is similar to wastes that are currently deemed to be characteristically hazardous under the D009 waste code. Therefore, in assessing what type of LDR treatment standards are warranted for proposed K175, we look first to the D009 treatment standards.

Current regulations for similar D009 wastes require either retorting or roasting (RMERC) or incineration in units operated in accordance with the technical operation requirements of 40 CFR Part 264, Subpart O and Part 265, Subpart O (IMERC). However, current regulations do not require combustion units to capture and recover mercury from the combustion gases produced. If all the mercury contained in these wastes were combusted without capture and removal, the result would be over one metric ton per year of mercury emissions. Under the upcoming revisions to the hazardous waste combustion regulations, it is not clear that facilities are going to choose to employ air pollution control devices (capture and removal devices) to comply with mercury emission limits. They might instead simply choose to reduce their feed rate, which will not reduce the total amount of mercury emitted over the long term. Given this uncertainty about future compliance strategies by the hazardous waste combustion industry, we are proposing that mercury recovery by retorting or roasting (RMERC) be the required treatment technology for this waste. RMERC requires processing in devices subject to mercury emission controls resulting in mercury capture and removal, and also subject to emission standards such as the National Emissions Standard for Hazardous Air Pollutants (NESHAP) for mercury. See 40 CFR 268.42. For residues of the RMERC process, we propose to adopt the current standard of 0.20 mg/L TCLP mercury.

The Agency has contacted a treatment vendor of RMERC technology who indicated that treatment of the subject wastes may be difficult, but is possible.[54] We therefore request treatment performance data regarding the use of retorting for these waste.

Absent definitive treatment data, we have considered whether an alternative treatment standard to retorting might be feasible to propose for comment. One alternative is to establish a numerical concentration limit. Under current regulations, mercury wastes that are stabilized are subject to a standard of 0.025 mg/L TCLP mercury. This differs from the initial option of retorting in two key respects. First, use of specific treatment technology would not be required and, second, the treated waste or waste residuals would be subject to a numerical standard about one order of

[53] See Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology, EPA, October 23,1991.

[54] Personal communication with John Boyle, Bethlehem Apparatus Co., Inc.

magnitude more stringent—0.2 mg/L for retorting residuals under the first option vs. 0.025 mg/L for all treatment residuals under this second option.

Without the assurance of treatment that a requirement for retorting would provide, the tighter standard of 0.025 mg/L TCLP is appropriate to propose as a potential treatment standard. This standard would apply to all treatment residuals included in the listing description for proposed hazardous waste K175, regardless of the type of treatment used. In practice, this standard would involve the immobilization of the mercury in the waste before land disposal. If regulations were to be promulgated in this form, the waste could be land disposed if a standard of 0.025 mg/L TCLP mercury was achieved using any technology other than impermissible dilution.

Calculated solubilities of mercury sulfide (metacinnabar) as a function of pH have revealed that above pH 6.0 the presence of sulfide complexes results in significantly increased solubility.[55] Preliminary results from constant pH leaching measurements of the subject waste, as part of an on-going study, have shown similar results.[56] At pH 6.0 the waste tested leached 0.0058 mg/L. However, at pH 10, 1.63 mg/L mercury was solubilized. Current landfill disposal site conditions for this waste are reported to be pH 9.48–9.57.[57] Under these conditions, mercury in the waste would be expected to be mobilized especially if excess sulfides were present. Therefore, controlled treatment and disposal conditions are warranted to avoid mobilization of the mercury in the waste, which could pose a significant threat to human health and the environment. To insure operational stability of the treatment process and proper long-term disposal, EPA proposes two conditions as part of the LDR treatment standards. First, the waste residue generated, if in mercuric sulfide form, must itself be pH 6.0 or below. We therefore propose that mercuric sulfide residues of this waste be treated to attain a pH of less than or equal to 6.0. Second, if proposed K175 wastes are to be co-disposed in a landfill with other wastes, co-disposal will be restricted to wastes with similar pH (i.e., not greater than 6.0). To comply with these requirements disposal facilities would be required to certify and maintain operating records available for inspection of codisposed wastes to demonstrate compliance.

Currently, the wastes proposed to be listed as K175 are landfilled after treatment has converted mercuric chloride in wastewaters to mercuric sulfide. We believe significant opportunities exist for source reduction and waste minimization to reduce or eliminate the generation of this waste. For example, the need to hydroblast spent mercuric chloride catalyst from reactors could be eliminated by internal segmentation of the reactor bed that would allow the segments to be sent intact for mercury recovery. Thus, generation of the waste could be eliminated or significantly reduced. Beyond modifications to the physical plant, the treatment of the wash waters could be modified to incorporate addition of caustic and organic phase separation. This would result in a mercuric oxide sludge more amenable to recovery by retorting prior to sulfide treatment of the resulting brine. As a result of such changes, a smaller volume of mercuric sulfide sludge with reduced organic content would be generated, as would a larger volume of a more easily recoverable mercuric oxide sludge.

We request treatment performance data on the treatment standards proposed and on other alternative treatment technologies that would meet the statutory criteria for all LDR standards ''minimizing threats to human health and the environment by reductions in the toxicity or mobility of the wastes through the treatment process. We also request comment on the feasibility of source reduction and waste minimization alternatives described above.

H. What Other Land Disposal Restrictions Aspects Are There to the Proposal?

EPA is proposing to add the numerical standards derived for the 1,2,3,4,6,7,8-heptachlorodibenzo-*p*-dioxin, 1,2,3,4,6,7,8-heptachlorodibenzofuran, 1,2,3,4,7,8,9-heptachlorodibenzofuran, 1,2,3,4,6,7,8,9-octachlorodibenzo-*p*-dioxin (OCDD) and 1,2,3,4,6,7,8,9-octachlorodibenzofuran (OCDF) to the Table of Universal Treatment Standards (UTS) at 40 CFR 268.48. These constituents have been shown to represent significant risks to human health or the environment in the risk assessment accompanying this proposal, and their presence in other wastes should be mitigated to avoid similar risks. If promulgated, all characteristic wastes which have these constituents as underlying hazardous constituents above the UTS thus will require treatment of those constituents before land disposal.

Furthermore, we are proposing that the constituents 1,2,3,4,6,7,8-heptachlorodibenzo-*p*-dioxin; 1,2,3,4,6,7,8-heptachlorodibenzofuran, 1,2,3,4,7,8,9-heptachlorodibenzofuran; OCDD; and OCDF be added to the list of regulated constituents in hazardous waste F039 multisource leachate. F039 applies to multiple listed hazardous waste landfill leachates in leu of the original waste codes, and F039 wastes are subject to all numerical treatment standards applicable to all listed wastes. To maintain regulatory consistency with this regulatory architecture and the implementation benefits of having one waste code for multisource leachate, the treatment standards for F039 are updated each time a new LDR standard is developed for listed wastes. As a result, if today's proposal is ultimately promulgated, all leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted hazardous waste will have to meet UTS for all hazardous constituents above the UTS.

I. Is There Treatment Capacity for the Proposed Wastes?

1. What Is a Capacity Determination?

EPA must determine whether adequate alternative treatment capacity exists nationally to manage the wastes subject to LDR treatment standards. RCRA section 3004 (h)(2). Thus, LDRs are effective when the new listings are effective as well (typically 6 months after the new listings are published in the **Federal Register**), unless EPA grants a national capacity variance from the otherwise-applicable date and establishes a different date (not to exceed two years beyond the statutory deadline) based on ''* * * the earliest date on which adequate alternative treatment, recovery, or disposal capacity which protects human health and the environment will be available'' (RCRA section 3004(h)(2), 42 U.S.C. 6924(h)(2)).

Our capacity analysis methodology focuses on the amount of waste currently disposed on the land, which will require alternative or additional treatment as a result of the LDRs. The quantity of wastes that is not disposed

[55] H. Lawrence Clever, Susan A. Johnson, and M. Elizabeth Derrick, The Solubility of Mercury and Some Sparingly Soluble Mercury Salts in Water and Aqueous Electrolyte Solutions, J. Phys. Chem. Ref. Data, Vol. 14, No. 3, 1985, page 652.

[56] Paul Bishop, Renee A. Rauche, Linda A. Rieser, Markram T. Suidan, and Jain Zhang; ''Stabilization and Testing of Mercury Containing Wastes,'' Draft, Department of Civil and Environmental Engineering, University of Cincinnati, March 31, 1999. Please note that this is a draft EPA document not yet peer reviewed. Also, data within the report is still undergoing QA/QC review, and the text, data, and conclusions in the report may change before the document is finalized.

[57] May 14, 1999, landfill parameters, e-mail from Mitch Hahn, Waste Management.

on the land, such as discharges regulated under NPDES, discharges to a POTW, or treatment in a RCRA-exempt tank, is not included in the quantities requiring additional treatment as a result of the LDRs. Also, land-disposed wastes that do not require alternative or additional treatment are excluded from the required capacity estimates (i.e., those that currently are treated to meet the LDR treatment standards). Land-disposed wastes requiring alternative or additional treatment or recovery capacity that is available on site or within the same company also are excluded from the required commercial capacity estimates. The resulting estimates of required commercial capacity then are compared to estimates of available commercial capacity. If adequate commercial capacity exists, the waste is restricted from further land disposal. If protective alternative capacity does not exist, EPA has the authority to grant a national capacity variance.

In making the estimates described above, the volume of waste requiring treatment depends on the current waste management practices employed by the waste generators before this proposed regulation is promulgated and becomes effective. Data on waste management practices for these wastes were collected during the development of this proposed rule. However, we realize that as the regulatory process proceeds, generators of these wastes may decide to minimize or recycle their wastes or otherwise alter their management practices. Thus, we will monitor changes and update data on current management practices as these changes will affect the volume of wastes ultimately requiring commercial treatment or recovery capacity.

The commercial hazardous waste treatment industry can change rapidly. For example, national commercial treatment capacity changes as new facilities come on line or old facilities go off line, and as new units and new technologies are added at existing facilities. The available capacity at commercial facilities also changes as facilities change their commercial status (e.g., changing from a fully commercial to a limited commercial or ''captive''—company owned—facility). Thus, EPA also continues to update and monitor changes in available commercial treatment capacity.

We request data on the annual generation volumes and characteristics of wastes affected by this proposed rule, including proposed hazardous wastes K173, K174, and K175 in wastewater and nonwastewater forms, soil or debris contaminated with these wastes, residuals generated from the treatment or recycling of these wastes, and the current and planned management practices for the wastes, waste mixtures, and treatment residuals.

We also request data on the current treatment or recovery capacity capable of treating these wastes, facility and unit permit status related to treatment of the proposed wastes and any plans that facilities may have to expand or reduce existing capacity, or construct new capacity. Of particular interest to us are waste characteristics, such as pH, total organic carbon content, constituent concentrations, and physical forms that may limit the availability of certain treatment technologies. Also of interest are any analytical difficulties associated with identifying and monitoring the regulated constituents in these wastes.

2. What are the Capacity Analysis Results?

This preamble only provides a brief summary of the capacity analysis performed to support this proposed regulation. For additional and more detailed information, please refer to the ''Background Document for Capacity Analysis for Land Disposal Restrictions: Newly Identified Chlorinated Aliphatics Process Wastes (Proposed Rule), July 1999.''

For this capacity analysis, we examined data on waste characteristics and management practices gathered for the purpose of the chlorinated aliphatics hazardous waste listing determination. The source for these data is primarily the 1992 RCRA Section 3007 survey and the follow-up survey specific to these wastes conducted in 1997 (see the docket for this proposed regulation for more information on these survey instruments).

The available data sources indicate that proposed K173 wastes are predominantly wastewaters, but may exhibit total suspended solids content greater than 1 percent, such that they would be classified as nonwastewaters with respect to the LDR requirements (40 CFR 268.2). EPA has found that most facilities generating proposed K173 manage these wastes in tank-based systems prior to a permitted discharge to a surface water or POTW. The non-CBI portions of the Section 3007 survey responses, as well as other publicly available information, indicate that certain facilities manage proposed K173 using underground injection with existing approved no-migration determinations. Proposed K173 managed by land disposal units may require alternative treatment if onsite management to meet the LDR standards or alternative onsite management is not available. EPA expects that sufficient offsite treatment capacity is available to manage proposed K173 generated by these facilities. Specifically, EPA estimates that approximately 37 million tons per year of offsite wastewater treatment capacity are available, which is well above the quantity of proposed K173 generated by these facilities. Therefore, sufficient commercial capacity exists to manage proposed K173 from these facilities should the need for treatment of proposed K173 wastes arise.

As discussed in this section earlier, the LDR treatment standards become effective essentially at the same time a listing does unless EPA grants a national capacity variance because of a lack of available treatment capacity (see RCRA section 3004(h)(2)). Also, RCRA allows generators to apply for an extension to the LDR effective date on a case-by-case basis for specific wastes generated at a specific facility for which there is not adequate capacity (RCRA section 3004(h)(3)). For those facilities managing proposed K173 wastes, they may choose to meet treatment standards by onsite or offsite treatment, submit a modified no-migration petition to include newly listed wastes if necessary, or transport their wastes to a commercial Class I hazardous disposal well facility.

Based on EPA's information, the facilities managing proposed K173 wastes by underground injection have existing approved no-migration determinations. If an injection well has received a no-migration determination, it can inject a newly prohibited waste if the waste is similar to wastes included in the initial no-migration petition (63 FR 28626, May 26, 1998). EPA has information showing that the facilities already manage these newly-proposed K173 wastes in their underground injection wells. Further, EPA's sampling and analysis results for wastewater from one of the facilities shows that none of the constituents being proposed for inclusion in 40 CFR 268.40 for proposed K173 (i.e., numerical treatment standards) were present at concentrations greater than the proposed numerical treatment standards. This suggests that for this facility, the newly-proposed treatment standards for proposed K173 might already be met.

Based on the available data presented above, EPA is not proposing a national capacity variance for surface-disposed or underground-injected proposed K173 wastes. However, EPA recognizes that there are uncertainties in the available data such that a facility may require extra time (beyond the effective date) to

comply with the new listing and land disposal restrictions requirements, if finalized. For example, EPA realizes that proposed K173 can be variable in composition and not always exhibit concentrations below the proposed numerical treatment standards. Also, any facility with an approved no-migration determination without the waste already incorporated in the determination may need to submit a modified petition (40 CFR Part 148.20 (f)). Potentially, the modification process for the existing no-migration petition, as well as the permit modification itself, may be time-consuming. There are potential logistical difficulties associated with accessing available treatment capacity for wastewater, as well. For example, if a facility generates high volumes of proposed K173 and cannot manage the waste onsite in a manner compliant with the LDR standards, they may need to make considerable logistical adjustments such as repiping, retooling, and development of transportation networks at the plant in order to ship the wastewater offsite for treatment or disposal. Additionally, although commercial treatment or disposal capacity is available, the logistics of transporting high volumes of wastewater may be problematic, particularly if existing piping, onsite storage, or loading are not in place. Should these difficulties arise such that both onsite and offsite treatment and disposal are not available for facilities currently using underground injection, EPA will consider all available data and information provided during the public comment period and revise its capacity analysis accordingly in making the final capacity determination.

For K174 wastes, the available data sources indicate that there is no quantity of the wastewater form of K174 that will require alternative commercial treatment. There is adequate wastewater treatment capacity available should the need for treatment of the wastewater form of K174 arise. From the available data sources, required alternative treatment capacity for K174 nonwastewater may be as low as 1,900 tons per year if most generators meet the proposed requirements for contingent management listing. If the generators do not manage K174 nonwastewater according to contingent management for the listing designation, the waste generated must meet LDR standards before land disposal, and the total quantity requiring treatment may be up to 106,000 tons per year. As described in the BDAT section above, we are proposing that numerical treatment standards be applied to K174 nonwastewaters. These standards were derived by estimating the concentration level following use of combustion technologies. We estimate that the commercially available sludge and solid combustion capacity is at least 300,000 tons per year and therefore sufficient to treat the proposed K174 hazardous waste that would require treatment. Therefore, EPA is proposing not to grant a capacity variance for K174 nonwastewaters or wastewaters.

For wastes proposed to be listed as K175, the available data sources indicate that there is no quantity of the wastewater form of proposed K175 that will require alternative commercial treatment. There is adequate wastewater treatment capacity available should the need for treatment of the wastewater form of K175 arise. For nonwastewater form of proposed K175, EPA estimates that up to 130 tons per year may require alternative commercial treatment. As described in the BDAT section above, two options are proposed as the treatment standard. In one option, the treatment standard was proposed as a technology standard (RMERC), with residues meeting a concentration level. We have identified at least one facility that operates commercially and that potentially can be used for the treatment of wastes proposed to be listed as K175; there are other treaters which conduct RMERC and the details are discussed in the Capacity Analysis Background Document. We recognize that treatment residuals from these wastes may require additional treatment capacity (e.g., stabilization of the ash following combustion of the wastes) to achieve the UTS for any metal constituents that may be present in the residuals. We estimate that there is several million tons per year of commercial stabilization capacity available. In the second option for nonwastewater form of proposed K175 described in the BDAT section above, the treatment standard would be a numerical standard followed by certain landfill restrictions. EPA expects that commercial treaters can customize their treatment process to immobilize the waste, attain a pH of less than 6.0, and meet the treatment standard. Therefore, sufficient commercial treatment capacity exists for this proposed K175 hazardous waste. EPA is proposing to not grant a national capacity variance from LDR treatment standards for nonwastewater or wastewater forms of proposed K175.

Also, the ultimate volumes of wastes estimated to require alternative or additional commercial treatment may change if the final listing determinations change; should this occur, we will revise the capacity analysis accordingly.

For soil and debris contaminated with these wastes, EPA believes that the vast majority of contaminated soil and debris contaminated with these wastes will be managed on site and therefore will not require substantial commercial treatment capacity. Therefore, we are not proposing to grant a national capacity variance for hazardous soil and debris contaminated with the newly listed wastes covered under this proposal. Based on the 1992 RCRA 3007 Survey questionnaire responses and 1997 updated responses, there are no data showing mixed radioactive wastes associated with the proposed listings. We are not proposing to grant a national capacity variance for mixed radioactive wastes (i.e., radioactive wastes mixed with proposed K173, K174, or K175) or soil and debris contaminated with these mixed radioactive wastes. As discussed in this section earlier, EPA also is not proposing to grant a national capacity variance for proposed K173, K174, or K175 wastes being surface-disposed or underground injected.

EPA requests comments on current and future management practices and the volumes managed for these wastes. Also, we request comments on other commercially-available thermal and non-thermal treatment or recovery capacity that would achieve proposed LDR treatment standards for these wastes and on chemical and physical constraints of treatment technologies for the wastes. Specifically, EPA requests comments on its proposal to not grant a capacity variance for proposed K173 waste. EPA solicits comments on physical and chemical characteristics of proposed K173 wastes, any treatment problems before disposing of proposed K173, the time and necessary procedures required for permit modifications for proposed K173 generators or commercial treatment or disposal facilities, required changes for operating practices, and any specific difficulties in making treatment capacity unavailable that would warrant a variance. For nonwastewater form of proposed K175, we solicit any information regarding the availability of RMERC for treating the wastes, and regarding chemical and physical constraints to meet numerical standards and pH restriction for this waste.

IV. Compliance Dates

A. Notification

Under RCRA Section 3010 any person generating, transporting, or managing a hazardous waste must notify EPA (or an authorized State) of its activities.

Section 3010(a) allows EPA to waive, under certain circumstances, the notification requirements under Section 3010 of RCRA. EPA is proposing to waive the notification requirement as unnecessary for persons already identified within the hazardous waste management universe (i.e., persons who have an EPA identification number under 40 CFR 262.12). EPA is not proposing to waive the notification requirement for waste handlers who have neither notified the Agency that they may manage hazardous wastes nor received an EPA identification number. Such individuals will have to provide notification under Section 3010. Any person who generates, transports, treats, stores, or disposes of these wastes and has not previously received an EPA identification number, must do so within 90 days of the effective date of the final rule.

B. Interim Status and Permitted Facilities

Today's proposed rule is being proposed under the authorities granted to EPA under HSWA. Because HSWA requirements are applicable in authorized States at the same time as in unauthorized States, EPA will regulate the newly identified wastes listed under HSWA until States are authorized to regulate these wastes. Thus, once this regulation becomes effective as a final rule, EPA will apply Federal regulations to these wastes and to their management in both authorized and unauthorized States.

VII. State Authority

A. Applicability of Rule in Authorized States

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under Sections 3007, 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility.

Before the Hazardous and Solid Waste Amendments of 1984 (HSWA) amended RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities located in the State with permitting authorization. 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 an authorized State until the State adopted the requirements as State law.

By contrast, under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA (including the hazardous waste listings proposed in this notice) take effect in authorized States at the same time that they take effect in non-authorized States. EPA is directed to implement those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the Federal HSWA requirements apply in authorized States until the States revise their program and receive authorization for the revisions.

B. Effect on State Authorizations

Because this proposal (with the exception of the actions proposed under CERCLA authority) will be promulgated pursuant to the HSWA, a State submitting a program modification is able to apply to receive either interim or final authorization under Section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's requirements. The procedures and schedule for State program modifications under Section 3006(b) are described in 40 CFR 271.21. It should be noted that all HSWA interim authorizations are currently scheduled to expire on January 1, 2003 (see 57 *FR* 60129, February 18, 1992).

Section 271.21(e)(2) of EPA's State authorization regulations (40 CFR Part 271) requires that states with final authorization modify their programs to reflect Federal program changes and submit the modifications to EPA for approval. Once EPA approves the modification, the State requirements become RCRA subtitle C requirements. Because this rule would be promulgated pursuant to HSWA, if the proposal is adopted as a final rule, Table 1 at 40 CFR 271.1 will be amended accordingly. If finalized, EPA will implement this rule in all States, including authorized States, until the States modify their authorized programs to reflect this rule.

VIII. Designation of Chlorinated Aliphatic Wastes (Proposed K173, K174 and K175) Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)

A. What Is the Relationship Between RCRA and CERCLA?

CERCLA defines the term ''hazardous substance'' to include RCRA hazardous wastes. When EPA adds a hazardous waste under RCRA, the Agency also will add the waste to its list of CERCLA hazardous substances. EPA establishes a reportable quantity or RQ for each CERCLA hazardous substance. EPA provides a list of the CERCLA hazardous substances along with their RQs in Table 302.4 at 40 CFR 302.4. If you are the person in charge of a vessel or facility that releases a CERCLA hazardous substance in an amount that equals or exceeds its RQ, then you must report that release to the National Response Center (NRC). You also may have to notify State and local authorities.

B. Is EPA Proposing To Add Chlorinated Aliphatic Wastes to CERCLA?

Yes. Today, EPA is proposing to add chlorinated aliphatic wastes (Proposed K173, K174 and K175) to the list of CERCLA hazardous substances. As discussed below, EPA also proposes to adjust the RQs for these wastes.

C. How Does EPA Determine Reportable Quantities?

Under CERCLA, all new hazardous substances automatically have a statutory one-pound RQ. EPA adjusts the RQ of a newly added hazardous substance based on an evaluation of its intrinsic physical, chemical, and toxic properties. These intrinsic properties—called ''primary criteria''—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity. EPA evaluates the data for a hazardous substance for each primary criterion. To adjust the RQs, EPA ranks each criterion on a scale that corresponds to an RQ value of 1, 10, 100, 1,000, or 5,000 pounds. For each criterion, EPA establishes a tentative RQ. A hazardous substance may receive several tentative RQ values based on its particular intrinsic properties. The lowest of the tentative RQs becomes the ''primary criteria RQ'' for that substance.

After the primary criteria RQs are assigned, EPA further evaluates substances for their susceptibility to certain degradative processes. These are secondary adjustment criteria. The

natural degradative processes are biodegradation, hydrolysis, and photolysis (BHP). If a hazardous substance, when released into the environment, degrades rapidly to a less hazardous form by one or more of the BHP processes, EPA generally raises its RQ (as determined by the primary RQ adjustment criteria) by one level. Conversely, if a hazardous substance degrades to a more hazardous product after its release, EPA assigns an RQ to the original substance equal to the RQ for the more hazardous substance.

The standard methodology used to adjust the RQs for RCRA hazardous waste streams differs from the methodology applied to individual hazardous substances. The procedure for assigning RQs to RCRA waste streams is based on the results of an analysis of the hazardous constituents of the waste streams. The constituents of each RCRA hazardous waste stream are identified in 40 CFR Part 261, Appendix VII. EPA first determines an RQ for each hazardous constituent within the waste stream using the methodology described above. The lowest RQ value of these constituents becomes the adjusted RQ for the waste stream. When there are hazardous constituents of a RCRA waste stream that are not CERCLA hazardous substances, the Agency develops an RQ, called a ''reference RQ,'' for these constituents in order to assign an appropriate RQ to the waste stream (see 48 FR 23565, May 25, 1983). In other words, the Agency derives the RQ for waste streams based on the lowest RQ of all of the hazardous constituents, regardless of whether they are CERCLA hazardous substances.

D. When Do I Need To Report a Release of Proposed K173, K174 or K175 Under CERCLA?

Today, EPA is proposing to adjust statutory RQs for the proposed K173, K174 or K175 waste streams to one pound based on their hazardous constituents. EPA is proposing to adjust the RQ at one pound for the proposed K173 and K174 waste streams based on their hazardous constituents, chlorinated dibenzo-p-dioxins (CDDs) and chlorinated dibenzofurans (CDFs). EPA is proposing to adjust the RQ at one pound for the proposed K175 waste stream based on its hazardous constituent, mercury. However, in determining when to report a release of proposed K173, K174 or K175, EPA is proposing to allow you to apply the mixture rule, codified in 40 CFR 302.6, using the maximum observed concentrations of the hazardous constituents within the respective waste streams.

The mixture rule provides that ''discharges of mixtures and solutions are subject to RQ regulations only where a component hazardous substance of the mixture or solution is discharged in a quantity equal to or greater than its RQ'' (44 FR 50767, August 29, 1979). Therefore, if the concentration of a hazardous constituent is known, the amount of release needed to reach its RQ can be calculated. By using the maximum observed concentration that EPA is proposing today, you may apply the mixture rule, even if you don't know the concentration of constituents released. That is, if you are the person in charge, you must immediately report the release as soon as you know that you have released proposed K173, K174 or K175 in an amount that will reach the RQ for the waste stream. This approach is reasonable and conservative because the sampling data presented in the Listing Background Document accurately identify the maximum observed concentrations of the hazardous constituents in the chlorinated aliphatics waste streams. Table VIII–1 below identifies the hazardous constituents for each waste stream, their maximum observed concentrations in parts per million (ppm), and their constituents' RQs or reference RQs.

TABLE VIII–1.—MAXIMUM OBSERVED CONCENTRATION AND CORRESPONDING RQ FOR HAZARDOUS CONSTITUENTS THAT ARE BASIS FOR LISTING PROPOSED K173, K174, AND K175

Waste	Constituent	Max. Concentration (ppm (mg/kg))	RQ (lb)
K173	2,3,7,8–TCDD	0.000000017	1
	1,2,3,7,8–PeCDD	0.00000015	1
	1,2,3,4,7,8–HxCDD	0.00000012	1
	1,2,3,6,7,8–HxCDD	0.00000091	1
	1,2,3,7,8,9–HxCDD	0.00000092	1
	1,2,3,4,6,7,8–HpCDD	0.000044	1
	OCDD	0.00022	1
	2,3,7,8–TCDF	0.00000045	1
	1,2,3,7,8–PeCDF	0.0000012	1
	2,3,4,7,8–PeCDF	0.0000015	1
	1,2,3,4,7,8–HxCDF	0.000042	1
	1,2,3,6,7,8–HxCDF	0.000045	1
	1,2,3,7,8,9–HxCDF	0.000014	1
	2,3,4,6,7,8–HxCDF	0.000027	1
	1,2,3,4,6,7,8–HpCDF	0.0013	1
	1,2,3,4,7,8,9–HpCDF	0.00017	1
	OCDF	0.006	1
	Chloroform	7.1	10
K174	2,3,7,8–TCDD	0.000039	1
	1,2,3,7,8–PeCDD	0.0000108	1
	1,2,3,4,7,8–HxCDD	0.000024	1
	11,2,3,6,7,8–HxCDD	0.000083	1
	1,2,3,7,8,9–HxCDD	0.000062	1
	1,2,3,4,6,7,8–HpCDD	0.00123	1
	OCDD	0.0129	1
	2,3,7,8–TCDF	0.000145	1
	1,2,3,7,8–PeCDF	0.0000777	1
	2,3,4,7,8–PeCDF	0.000127	1
	1,2,3,4,7,8–HxCDF	0.001425	1
	1,2,3,6,7,8–HxCDF	0.000281	1

TABLE VIII–1.—MAXIMUM OBSERVED CONCENTRATION AND CORRESPONDING RQ FOR HAZARDOUS CONSTITUENTS THAT ARE BASIS FOR LISTING PROPOSED K173, K174, AND K175—Continued

Waste	Constituent	Max. Concentration (ppm (mg/kg))	RQ (lb)
	1,2,3,7,8,9–HxCDF	0.00014	1
	2,3,4,6,7,8–HxCDF	0.000648	1
	1,2,3,4,6,7,8–HpCDF	0.0207	1
	1,2,3,4,7,8,9–HpCDF	0.0135	1
	OCDF	0.212	1
K175	Mercury	9200	1

For example, if proposed K173 is released from your facility and you do not know the actual concentrations of its constituents, you may assume that the concentrations are those identified in Table VIII–1. Thus, applying the mixture rule to the assumed maximum concentrations indicated in the table, you would have to release 1,408,450 pounds to reach the RQ for this waste (based on the maximum observed concentration of chloroform). If proposed K174 waste is released from your facility and you do not know the actual concentrations of its constituents, you may apply the mixture rule to the assumed maximum concentrations indicated in the table. You would have to release 4,716,981 pounds of proposed K174 to reach the RQ for this waste (based on the maximum observed concentration of OCDF). If proposed K175 is released from your facility and you do not know the actual concentration of mercury, you may assume that the concentration is 9200 ppm. Applying the mixture rule, you would have to release 108.7 pounds of this waste to reach the RQ.

E. What if I Know the Concentration of the Constituents in My Waste?

If you know the concentration levels of all the hazardous constituents in a particular chlorinated aliphatic waste, you may apply the mixture rule (see 40 CFR 302.6(b)) to the actual concentrations. You would need to report a release of either waste when an RQ or more of any of their respective hazardous constituents is released.

F. How Did EPA Determine the RQs for Proposed K173, K174 and K175 and Their Hazardous Constituents?

The hazardous constituents identified as the basis for listing the proposed K173 and K174 waste streams include chlorinated dibenzo-p-dioxins (CDDs) and chlorinated dibenzofurans (CDFs). Previously, EPA had established an adjusted RQ of one pound for 2,3,7,8–TCDD (see 54 FR 33426). EPA has not established adjusted RQs for the other CDD and CDF congeners. However, EPA recognizes that a number of these congeners exhibit dioxin-like toxicity and has established ''reference RQs'' of one pound for these congeners to support the development of the adjusted RQs for the proposed K173 and K174 waste streams.

The adjusted RQ for 2,3,7,8–TCDD was established as one pound based on potential carcinogenicity, considering the weight of evidence that this substance is carcinogenic, and considering its estimated carcinogenic potency. To establish reference RQs for the other CDD and CDF congeners in the waste stream, EPA applied the toxicity equivalency factors (TEFs) established for dioxin-like compounds to the potency factor used as the basis for the adjusted RQ for 2,3,7,8–TCDD. Of the 210 CDD and CDF congeners, only those with chlorine substitutions in, at least, the 2, 3, 7, and 8 positions (a total of 17 CDD and CDF congeners) are considered to have dioxin-like toxicity. Applying the TEFs established for these 17 congeners to the potency factor established for 2,3,7,8–TCDD indicates that all of the congeners fit into RQ Potency Group 1 with a corresponding reference RQ of one pound.[58] Therefore, because each of the hazardous constituents has an RQ or reference RQ of one pound, EPA is proposing to establish an adjusted RQ of one pound for the proposed K173 and K174 waste streams.

The hazardous constituent identified as the basis for proposing to list the K175 waste stream is mercury. Previously, EPA had established an adjusted RQ of one pound for mercury (see 50 FR 13456, April 4, 1985). Because the hazardous constituent used as the basis for listing the K175 waste stream has an RQ of one pound, EPA is proposing to establish an adjusted RQ of one pound for this waste.

G. How Do I Report a Release?

To report a release of proposed K173, K174 or K175 (or any other CERCLA hazardous substance) that equals or exceeds its RQ, you must immediately notify the National Response Center (NRC) as soon as you have knowledge of that release. The toll-free telephone number of the NRC is 1–800–424–8802; in the Washington, DC, metropolitan area, the number is (202) 267–2675.

You also may have to notify State and local authorities. The Emergency Planning and Community Right-to-Know Act (EPCRA) requires that owners and operators of certain facilities report releases of CERCLA hazardous substances and EPCRA extremely hazardous substances (see list in 40 CFR Part 355, Appendix A) to State and local authorities. After the release of an RQ or more of any of those substances, you must report immediately to the community emergency coordinator of the local emergency planning committee for any area likely to be affected by the release, and to the State emergency response commission of any State likely to be affected by the release.

H. What Is the Statutory Authority for This Program?

Section 101(14) of CERCLA defines the term hazardous substance by referring to substances listed under several other environmental statutes, as well as those substances that EPA designates as hazardous under CERCLA Section 102(a). In particular, CERCLA Section 101(14)(C) defines the term hazardous substance to include ''any hazardous waste having the characteristics identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act.'' CERCLA Section 102(a) gives EPA authority to establish RQs for CERCLA hazardous substances. CERCLA Section 103(a) requires any person in charge of a vessel or facility that releases a CERCLA hazardous substance in an amount equal to or

[58] For an explanation of how potency factors are calculated and potency groups and RQs are established, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3, July 27, 1989. This document can be viewed by calling the EPA Superfund Docket Center, 703–603–8917, and requesting document number 102 RQ 273C.

greater than its RQ to report the release immediately to the federal government. EPCRA Section 304 requires owners or operators of certain facilities to report releases of CERCLA hazardous substances and EPCRA extremely hazardous substances to State and local authorities.

I. How Can I Influence EPA's Thinking on Regulating Proposed K173, K174 and K175 Under CERCLA?

In developing this proposal, EPA tried to address the concerns of all our stakeholders. Your comments will help us to improve this proposal. We invite you to provide your views on this proposal and how it may affect you. We also are interested in receiving any comments that you have on the information provided in Table VIII–1, including the hazardous constituents identified for proposed K173, K174 and K175 and the maximum observed concentrations for each constituent.

IX. Administrative Assessments

A. Executive Order 12866

Under Executive Order 12866 (September 30, 1993), 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 defined by Executive Order 12866 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 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 Executive Order 12866.

Pursuant to the terms of Executive Order 12866, EPA has determined that this rule is a ''significant regulatory action'' because of point four (4) above: The rule raises two novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Today's proposed rule, which includes proposed alternative listing approaches for two wastestreams deviates from the Agency's standard or historic listing approach in the following two ways:

- *Targeted wastestream listing:* Historically, the Agency's listing program captured entire quantities of targeted wastestream posing unacceptable risks to human health and the environment. Today's proposed listing approach for two wastestreams (i.e., EDC/VCM wastewater treatment sludges and one alternative option for VCM–A wastewater treatment sludges) proposes listing as hazardous only those quantities of the waste that are managed in a manner that reflects unacceptable risks.
- *Wastewater treatment units:* In addition, today's action proposes to change a long-standing Agency policy of exempting from RCRA regulation the management of hazardous wastes in wastewater treatment units regulated under § 402 or § 307(b) of the Clean Water Act. To address the risks associated with the wastewaters proposed to be listed as hazardous under today's action, the Agency believes that it is necessary to regulate these management units when used to manage chlorinate aliphatic wastewaters, to ensure against hazardous air emissions from this wastestream. (In section III.E.1.a.vi. of today's preamble, EPA is requesting comment on this approach.)

Due to the Agency's decision to propose a deviation from our historical hazardous waste listing approach and to change our long-standing policy regarding the regulation of wastewater treatment units, the Agency is deeming today's action to be ''significant'' and is submitting these proposed policy changes to OMB for review. Changes made to the Agency's proposed actions in response to OMB suggestions or recommendations are documented in the public record.

Although today's proposed rule is not ''economically significant,'' the Agency prepared an ''Economic Background Document'' in support of today's rule. The Agency's economic assessment addresses, among other factors, industry compliance costs, industry financial impacts, and potential for small entity impacts. A summary of findings from our economic assessment is presented in Section IV. The complete Economic Background Document is available for public review from the RCRA docket, according to instructions provided in the introduction to this preamble.

B. Regulatory Flexibility Act

Pursuant to the 1980 Regulatory Flexibility Act (RFA) (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 notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, regulatory flexibility analysis is not required if the head of an agency certifies that 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. The following discussion explains EPA's determination.

EPA has examined this rule's potential effects on small entities as required by the RFA/SBREFA, and has determined that this action will not have a significant economic impact on a substantial number of small entities. This is evidenced by the fact that only one of the potentially affected, parent companies determined to be producers of chlorinated aliphatic products in the U.S., may be classified as a ''small business,'' according to the U.S. Small Business Administration's employee size standards (i.e., less than or equal to 1,000 employees) and according to that company's primary Standard Industrial Classification (SIC) code (SIC 2869).

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.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document was prepared by EPA (ICR No. 1924.01) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, S.W.; Washington, D.C. 20460, by E-mail at *farmer.sandy@epamail.epa.gov*, or by calling (202) 260–2740. A copy also may be downloaded off the Internet at http://www.epa.gov/icr.

This proposed rule includes new information collection requirements subject to OMB review under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* In addition to complying with the existing subtitle C recordkeeping and reporting requirements for the newly listed waste streams, EPA is proposing that facilities generating chlorinated aliphatic wastewaters comply with testing requirements. In conjunction with testing requirements, we are proposing that generators maintain documentation of detailed standard operating procedures for the sampling and

analysis protocols that were employed, sensitivity and bias of the measurement process, precision of the results, and the analytical results from testing events. These requirements are being proposed to ensure generators are complying with the proposed technical standards for controlling air emissions of dioxins from wastewater treatment tanks.

EPA also is proposing that generators be able to document their compliance with the conditions provided for exclusion from the scope of the two conditional hazardous waste listings proposed in today's notice. This requirement is necessary to ensure that both EDC/VCM wastewater treatment sludges and VCM–A wastewater treatment sludges are managed in a manner that is safe for human health and the environment. In addition, EPA is requiring′ disposal facilities that manage VCM–A wastewater treatment sludges to maintain records documenting that these sludges are co-disposed only with other wastes that have a pH level of 6.0 or lower. This requirement is necessary to ensure that the mercury contained in the waste does not leach from the waste after disposal.

The Agency estimated the burden associated with complying with the requirements in this proposed rule. Included in the ICR are the burden estimates for the following requirements for industry respondents: reading the regulations; performing testing and waste analyses; keeping records of testing results; completing and submitting certifications; incorporating testing and waste analysis requirements into permits; keeping records documenting compliance with conditions for exclusion from hazardous waste listings; and keeping records documenting compliance with landfill waste disposal requirements for the disposal of VCM–A wastewater treatment sludges. Included also are the burden estimates for State respondents for applying for State authorization. The Agency determined that all of this information is necessary to ensure compliance with today's proposed rule.

To the extent that this rule imposes any information collection requirements under existing RCRA regulations promulgated in previous rulemakings, those requirements have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control numbers 2050–0009 (ICR No. 1573, Part B Permit Application, Permit Modifications, and Special Permits); 2050–0120 (ICR No. 1571, General Facility Hazardous Waste Standards); 2050–0028 (ICR No. 261, Notification of Hazardous Waste Activity); 2050–0034 (ICR No. 262, RCRA Hazardous Waste Permit Application and Modification, Part A); 2050–0039 (ICR No. 801, Requirements for Generators, Transporters, and Waste Management Facilities under the Hazardous Waste Manifest System); 2050–0035 (ICR No. 820, Hazardous Waste Generator Standards); and 2050–0024 (ICR No. 976, 1997 Hazardous Waste Report).

EPA estimates that the projected annual hour burden for industry respondents will be 1,088 hours, and cost of $184,186. Total estimates over three years are 3,264 hours and $552,558.

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 use 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 listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, S.W.; Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W.; Washington, D.C. 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after August 25, 1999, a comment to OMB is best assured of having its full effect if OMB receives it by September 24, 1999. The final rule will respond to any OMB and public comments on the information collection requirements contained in this proposal.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by 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.

The Agency's analysis for compliance with the UMRA found that the proposed action imposes less than the $100 million expenditure threshold on the private sector; thus, today's rule is not subject to the requirements of Sections 202 and 205 of UMRA.

E. Executive Order 12875: Enhancing the 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, 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.''

F. 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. There is no impact to tribal governments as the result of the proposed action. In addition, this proposed rule is required by statute (HSWA). Accordingly, the requirements of Section 3(b) of Executive Order 13084 do not apply to this rule.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under 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 the Executive Order 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.

The topic of environmental threats to children's health is growing in regulatory importance as scientists, policy makers, and village leaders continue to recognize the extent to which children are particularly vulnerable to environmental hazards. Recent EPA actions have been in the forefront of addressing environmental threats to the health and safety of children. Today's proposed rule further reflects our commitment to mitigating environmental threats to children.

A few significant physiological characteristics are largely responsible for children's increased susceptibility to environmental hazards. First, children eat proportionately more food, drink proportionately more fluids, and breathe more air per pound of body weight than do adults. As a result, children potentially experience greater levels of exposure to environmental threats than do adults. Second, because children's bodies are still in the process of development, their immune systems, neurological systems, and other immature organs can be more easily and considerably affected by environmental hazards.

Today's proposed rule will reduce risks posed by the hazardous constituents found in the listed waste streams by requiring more appropriate and safer management practices. EPA considered risks to children in its risk assessment. The more appropriate and safer management practices proposed in this rule are projected to reduce risks to children potentially exposed to the constituents of concern. The public is invited to submit or identify peer-reviewed studies and data, of which the agency may not be aware, that assess results of early life exposure to the proposed hazardous constituents from wastewaters and wastewater treatment sludges from the production of chlorinated aliphatic chemicals.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. No. 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards 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 proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Executive Order 12898: Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

Today's proposed rule is intended to reduce risks of hazardous wastes as proposed, and to benefit all populations. As such, this rule is not expected to cause any disproportionately high and adverse impacts to minority or low-

income communities versus non-minority or affluent communities.

In making hazardous waste listing determinations, we base our evaluations of potential risk from the generation and management of solid wastes on an analysis of potential individual risk. In conducting risk evaluations, our goal is to estimate potential risk to any population of potentially exposed individuals (e.g., home gardeners, adult farmers, children of farmers, anglers) located in the vicinity of any generator or facility handling a waste. Therefore, we are not putting poor, rural, or minority populations at any disadvantage with regard to our evaluation of risk or with regard to how the Agency makes its proposed hazardous waste listing determinations.

In proposing today to list three wastes as hazardous (i.e., chlorinated aliphatic wastewaters, EDC/VCM wastewater treatment sludges managed in land treatment units, and VCM–A wastewater treatment sludges), all populations potentially exposed to these wastes or potentially exposed to releases of the hazardous constituents in the wastes will benefit from the proposed listing determination. In addition, listing determinations are effected at the national level. The wastes proposed to be listed as hazardous will be hazardous regardless of where they are generated and regardless of where they may be managed. Although the Agency understands that the proposed listing determinations, if finalized, may affect where these wastes are managed in the future (in that hazardous wastes must be managed at subtitle C facilities), the Agency's decision to list these wastes as hazardous is independent of any decisions regarding the location of waste generators and the siting of waste management facilities.

Similarly, in cases where the Agency is proposing not list a solid waste as hazardous because the waste does not meet the criteria for being identified as a hazardous waste, these decisions are based upon an evaluation of potential individual risks located in proximity to any facility handling the waste. In the case of wastewater treatment sludges from the production of allyl chloride and methyl chloride and the case of EDC/VCM wastewater treatment sludges managed in landfills, we believe the potential risk levels associated with the wastes are safe for all populations potentially exposed to the wastes and their constituents.

The Agency is soliciting comment and input from all stakeholders, including members of the environmental justice community and members of the regulated community. We encourage all interested parties to provide comments or further information related to potential environmental justice concerns or impacts, including information and data on facilities that have evaluated potential ecological and human health impacts (taking into account subsistence patterns and sensitive populations) to minority or low-income communities.

List of Subjects

40 CFR Part 148

Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR Part 261

Environmental protection, Hazardous materials, Recycling, Waste treatment and disposal.

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 268

Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Waste management.

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: July 30, 1999.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Sec. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. Section 148.18 is amended by adding paragraphs (l) and (m) to read as follows:

§ 148.18 Waste-specific prohibitions—newly listed and identified wastes.

* * * * *

(l) Effective [date six months after publication of final rule], the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste Numbers K173, K174, and K175 are prohibited from underground injection.

(m) The requirements of paragraphs (a) through (l) of this section do not apply:

(1) If the wastes meet or are treated to meet the applicable standards specified in subpart D of part 268 of this chapter; or

(2) If an exemption from a prohibition has been granted in response to a petition under subpart C of this part; or

(3) During the period of extension of the applicable effective date, if an extension has been granted under § 148.4.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

4. Section 261.3 is amended by adding a paragraph (c)(2)(ii)(F) to read as follows:

§ 261.3 Definition of hazardous waste.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(F) Wastewater treatment sludges derived from the treatment of chlorinated aliphatic wastewaters listed in § 261.32 as EPA Hazardous Waste No. K173. However, this paragraph does not exempt from the definition of hazardous waste any wastewater treatment sludges that are explicity listed (e.g., K174, K175) or that meet any other listing in

subpart D of this part, as a result of the derived-from rule.

* * * * *

5. Section 261.4 is amended by revising paragraph (b)(15) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed, provided that:

(i) The solid wastes disposed would meet one or more of the listing descriptions for Hazardous Waste Codes K169, K170, K171, K172, K174, and K175 if these wastes had been generated after the effective date of the listing;

(ii) The solid wastes described in paragraph (b)(15)(i) of this section were disposed prior to the effective date of the listing:

(iii) The leachate or gas condensate do not exhibit any characteristic of hazardous waste nor are derived from any other listed hazardous waste;

(iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under Sections 307(b) or 402 of the Clean Water Act.

(v) After February 13, 2001, leachate or gas condensate derived from K169–K172 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. After [date 24 months after publication date of the final rule], leachate or gas condensate derived from K175 will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this paragraph (b)(15)(v) after the emergency ends.

* * * * *

6. In § 261.32, the table is amended by adding in alphanumeric order (by the first column) the following waste streams to the subgroup ''Organic Chemicals'' to read as follows:

§ 261.32 Hazardous waste from specific sources.

* * * * *

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
*	*	*
Organic Chemicals:		
*	*	*
K173	Wastewaters from the production of chlorinated aliphatic hydrocarbons, except wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. This listing includes wastewaters from the production of chlorinated aliphatic hydrocarbons having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.	(T)
K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions: they are disposed of in a subtitle C or D landfill licensed or permitted by the state or federal government; they are not otherwise placed on the land prior to final disposal; and the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, etc.) that the terms of the exclusion were met.	(T)
K175	*Option 1:* Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.	(T)
	Option 2: Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process, *unless* the sludges are disposed in a subtitle C landfill; and the sludges do not fail the toxicity characteristic for mercury in 40 CFR 261.24; and the generator maintains documentation demonstrating that the waste was disposed of in a subtitle C landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in a subtitle C landfill. Respondents in any action brought to enforce the requirements of subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (e.g., contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, analytical results or other information showing the waste does not fail the toxicity characteristic for mercury, etc.) that the terms of the exclusion were met.	(T)
*	*	*

7. Appendix VII to Part 261 is amended by adding the following wastestreams in alphanumeric order (by the first column) to read as follows:

Appendix VII to Part 261—Basis for Listing Hazardous Waste

EPA hazardous waste No.	Hazardous constituents for which listed
*	* * * * * *
K173	1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD), 1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8,-HpCDF), 1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,6,7,8,9-HpCDF), HxCDDs (All Hexachlorodibenzo-*p*-dioxins), HxCDFs (All Hexachlorodibenzofurans), PeCDDs (All Pentachlorodibenzo-*p*-dioxins), OCDD (1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin, OCDF (1,2,3,4,6,7,8,9-Octachlorodibenzofuran), PeCDFs (All Pentachlorodibenzofurans), TCDDs (All tetrachlorodi-benzo-*p*-dioxins), TCDFs (All tetrachlorodibenzofurans).
K174	1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD), 1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8,-HpCDF), 1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,6,7,8,9-HpCDF), HxCDDs (All Hexachlorodibenzo-*p*-dioxins), HxCDFs (All Hexachlorodibenzofurans), PeCDDs (All Pentachlorodibenzo-*p*-dioxins), OCDD (1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin, OCDF (1,2,3,4,6,7,8,9-Octachlorodibenzofuran) PeCDFs (All Pentachlorodibenzofurans), TCDDs (All tetrachlorodi-benzo-*p*-dioxins), TCDFs (All tetrachlorodibenzofurans).
K175	Mercury

8. Appendix VIII to part 261 is amended by adding in alphabetical sequence of common name the following entries:

Appendix VIII to Part 261—Hazardous Constituents

Common name	Chemical abstracts name	Chemical abstracts No.	Hazardous waste No.
* * *	* * *	*	*
Octachlorodibenzo-*p*-dioxin (OCDD)	1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin	3268–87–9	
Octachlorodibenzofuran (OCDF)	1,2,3,4,6,7,8,9-Octachlorodibenzofuran	39001–02–0	
* * *	* * *	*	*

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

9. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

Subpart A—General

10. Section 264.1 is amended by adding a sentence to the end of paragraph (g)(6) to read as follows:

§ 264.1 Purpose, scope and applicability.

* * * * *

(g) * * *

(6) * * * However, if the owner or operator is managing EPA Hazardous Waste No. K173 (chlorinated aliphatic wastewater) in a tank, the owner/operator must comply with § 264.1080(h).

* * * * *

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

11. Section 264.1080 is amended by adding paragraph (h) to read as follows:

§ 264.1080 Applicability.

* * * * *

(h) Notwithstanding the applicability requirements in paragraph (a) of this section, any tank (including wastewater treatment units as defined in § 260.10 of this chapter) managing EPA Hazardous Waste No. K173, where the dioxin concentration in the influent wastewater to the tank is greater than or equal to 1 ng/L TCDD TEQ at a 95% upper confidence limit around the mean, must comply with the requirements of this paragraph, and with § 264.1084 as appropriate. In order to determine whether the influent concentration of EPA Hazardous Waste No. K173 is greater than or equal to 1 ng/L TCDD TEQ at a 95% upper confidence limit around the mean, the generator or owner/operator must comply with the requirements in 40 CFR 265.1080(h)(1) through (5).

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

12. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6906, 6912, 6922, 6923, 6924, 6925, 6935, 6936, and 6937, unless otherwise noted.

Subpart A—General

13. Section 265.1 is amended by adding a sentence to the end of paragraph (c)(10) to read as follows:

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(10) * * * However, if the owner or operator is managing EPA Hazardous Waste No. K173 (chlorinated aliphatic wastewater) in a tank, the owner/operator must comply with § 265.1080(h).

* * * * *

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

14. Section 265.1080 is amended by adding paragraph (h) to read as follows:

§ 265.1080 Applicability

* * * * *

(h) Notwithstanding the applicability requirements in paragraph (a) of this section, any tank (including wastewater treatment units as defined in § 260.10 of this chapter) managing EPA Hazardous Waste No. K173, where the dioxin concentration in the influent wastewater to the tank is equal to or greater than 1 ng/L TCDD TEQ at a 95% upper confidence limit around the mean, must

comply with the requirements of this paragraph, and with § 265.1085 as appropriate. In order to determine whether the influent concentration of EPA Hazardous Waste No. K173 is greater than or equal to 1 ng/L TCDD TEQ at a 95% upper confidence limit around the mean, the generator or owner/operator must comply with the following:

(1) *Waste sampling and analysis plans.* (i) *General.* The generator of K173 shall develop and follow a written waste sampling and analysis plan which describes the procedures for sampling and analysis of the hazardous waste at the influent to each wastewater treatment tank to be excluded from the requirements of this part. The waste sampling and analysis plan shall be developed in accordance with the applicable sections of the ''Test Methods for Evaluating Solid Waste, Physical/Chemical Methods'' (SW–846) or other appropriate guidance. The plan shall be followed and retained at the facility claiming an exemption for one or more wastewater treatment tanks.

(ii) At a minimum, the plan must include:

(A) A detailed description of the test method(s) used to test for 2,3,7,8-substituted chlorinated dibenzo-p-dioxin (CDD) and 2,3,7,8-substituted chlorinated dibenzo-p-furan (CDF) congeners;

(B) The sampling method used to obtain representative samples of each wastewater tank influent; and

(C) How the design of the sampling program accounts for any expected fluctuations in concentrations over time, while ensuring that the samples collected are grab samples and that all samples are collected within a timeframe that will allow for the analyses to account for potential variabilities in the wastestream.

(2) *Sampling and analysis.* (i) *General.* For each wastewater treatment tank for which an exemption is claimed, the generator of K173 must:

(A) Test for all 2,3,7,8-substituted CDDs/CDFs; or

(B) Use process knowledge for tanks downstream of a tank that is exempt as a result of testing specified in paragraph (h)(2)(i)(A) of this section.

(ii) The K173 generator may use any reliable analytical method to demonstrate that the TCDD TEQ does not exceed the trigger level. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the waste.

(iii) The generator must ensure that the measurements are sufficiently sensitive, accurate and precise to demonstrate that the maximum TCDD TEQ in any sample analyzed does not exceed the specified trigger level.

(iv) For the tank to be eligible for exemption, a generator must demonstrate that:

(A) The maximum TCDD TEQ in the influent to the tank does not exceed 1 ng/L at the 95% upper confidence limit around the mean;

(B) The TCDD TEQ for each sample shall be determined by multiplying the concentration of any 2,3,7,8-substituted CDD or CDF detected and the appropriate toxicity equivalency factor (TEF), as described below, and summing these products for each sample;

(C) The following toxicity equivalence factors shall be used:

Compound	WHO–TEF
2,3,7,8–TetraCDD	1
1,2,3,7,8–PentaCDD	1
1,2,3,4,7,8–HexaCDD	0.1
1,2,3,7,8,9–HexaCDD	0.1
1,2,3,6,7,8–HexaCDD	0.1
1,2,3,4,6,7,8–HeptaCDD	0.01
1,2,3,4,5,7,8,9–OctaCDD	0.0001
2,3,7,8–TetraCDF	0.1
2,3,4,7,8–PentaCDF	0.5
1,2,3,7,8–PentaCDF	0.05
1,2,3,4,7,8–HexaCDF	0.1
1,2,3,7,8,9–HexaCDF	0.1
1,2,3,6,7,8–HexaCDF	0.1
2,3,4,6,7,8–HexaCDF	0.1
1,2,3,4,7,8,9–HeptaCDF	0.01
1,2,3,4,6,7,8–HeptaCDF	0.01
1,2,3,4,6,7,8,9–OctaCDF	0.0001

(D) The analysis could have detected the presence of the CDD/CDF congeners at or below the trigger level of 1 ng/L at the 95% upper confidence limit around the mean.

(v) In an enforcement action, the burden of proof to establish conformance with the exemption specification shall be on the generator claiming the exclusion.

(vi) The generator must conduct sampling and analysis in accordance with their waste sampling and analysis plan developed under paragraph (h)(1) of this section.

(vii) The influent to exempt wastewater treatment tanks must be re-tested, at a minimum, annually and must be retested after a process change that could change the TCDD TEQ level in the waste.

(3) *Records.* The generator must maintain records of the following information on-site:

(i) All information required to be submitted to the implementing authority as part of the notification of the claim:

(A) The owner/operator name, address, and RCRA facility ID number of the person claiming the exemption; and

(B) The certification signed by the person claiming the exclusion or his authorized representative.

(ii) A brief description of the tanks covered by the claimed exemption, including dimensions and service in the wastewater treatment system;

(iii) A description and process flow diagram of the wastewater treatment system, clearly identifying the exempt tanks and sampling points;

(iv) The results of all analyses and all detection limits achieved as required under paragraph (h)(2) of this section;

(v) The waste sampling and analysis plan;

(vi) The results of the sampling and analysis, including the following:

(A) The dates and times waste samples were obtained, and the dates the samples were analyzed;

(B) The names and qualifications of the person(s) who obtained the samples;

(C) A description of the temporal and spatial locations of the samples;

(D) The name and address of the laboratory facility at which analyses of the samples were performed;

(E) A detailed description of the analytical methods used, including any clean-up and sample preparation methods;

(F) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;

(G) All laboratory analytical results demonstrating that the trigger exemption level has not been exceeded at the tank influent, for each exempt tank; and

(H) All laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in paragraph (h)(4) of this section and also provides for the availability of the documentation to the claimant upon request; and

(4) *Records retention.* Records must be maintained for the period of three years. A generator must maintain a current waste sampling and analysis plan during that three year period.

(5) *Notification and certification.* The waste generator must submit a one-time notification and certification to the EPA Region or an authorized State (by mail or delivery service which provides return receipt) within 60 days following the effective date of the final rule or initial use of a wastewater treatment

tank used to manage K173. The notification must include the waste generator's name and address, a representative's name and telephone number, and a description of the wastewater treatment system and the assessed tanks. The certification must be signed by an authorized representative and must state as follows:

I certify under penalty of law that the influent(s) to the tanks identified in this certification do not exceed 1 ng/L TCDD TEQ. I am aware that there are significant penalties for submitting a false, inaccurate, or incomplete certification, including the possibility of fine and imprisonment.

PART 268—LAND DISPOSAL RESTRICTIONS

15. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart A—General

16. Section 268.7 is amended by adding paragraph (f) to read as follows:

§ 268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities.

* * * * *

(f) The owner or operator of a facility codisposing wastes with wastes identified as hazardous waste K175 must maintain records available for inspection of the pH of the wastes so codisposed.

Subpart C—Prohibitions on Land Disposal

17. Section 268.33 is revised to read as follows:

§ 268.33 Waste specific prohibitions—chlorinated aliphatic wastes.

(a) Effective [*date 90 days from date of publication of final rule*], the wastes specified in 40 CFR Part 261 as EPA Hazardous Wastes Numbers K173, K174, and K175, and soil and debris contaminated with these wastes are prohibited from land disposal.

(b) Effective [date two years from date of publication of final rule], the following wastes are prohibited from land disposal: soil and debris contaminated with radioactive wastes mixed with EPA Hazardous wastes K173, K174, and K175.

(c) Between [date of publication of final rule] and [Insert date two years from date of publication of final rule], radioactive waste mixed with K173, K174, and K175 wastes and/or soil and debris may be disposed in a landfill or surface impoundment only if such unit is in compliance with the requirements specified in § 268.5(h)(2).

(d) The requirements of paragraphs (a), (b) and (c) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable treatment standards established pursuant to a petition granted under § 268.44;

(4) Hazardous debris has met the treatment standards in § 268.40 or the alternative treatment standards in § 268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to § 268.5, with respect to these wastes covered by the extension.

(e) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in § 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable Universal Treatment Standard levels of § 268.48, the waste is prohibited from land disposal, and all requirements of this part are applicable, except as otherwise specified.

(f) Disposal of K175 wastes containing mercuric sulfide is restricted to units to which disposal of wastes in excess of pH 6.0 is prohibited.

18. In § 268.40, the Table is amended in the entry for F039 to add constituents in alphabetical order and by adding in alphanumeric order new entries for K173, K174, and K175 to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

TREATMENT STANDARDS FOR HAZARDOUS WASTES

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/L,[3] or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/L TCLP", or technology code
*	*	*	*	*	*
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Waste retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028) * * *.	1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD).	35822–39–4	0.000035	0.0025
	.....	1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF).	67562–39–4	0.000035	0.0025
	.....	1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF).	55673–89–7	0.000035	0.0025

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/L,[3] or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/L TCLP", or technology code
*	*	*	*	*	*
		1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin (OCDD).	3268–87–9	0.000063	0.0025
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF).	39001–02–0	0.000063	0.005
*	*	*	*	*	*
K173	Wastewaters from the production of chlorinated aliphatic hydrocarbons, except wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process. This listing includes wastewaters from the production of chlorinated aliphatic hydrocarbons having carbon chain lengths ranging from one to and including five, with varying amounts and positions of chlorine substitution.	Bis(2-chloroethyl)ether	111–44–4	0.033	6.0
		Chloroform	67–66–3	0.046	6.0
		Pentachlorophenol	87–86–5	0.089	7.4
		Phenol	108–95–4	0.039	6.2
		2,4,6-Trichlorophenol	88–06–2	0.035	7.4
		1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD).	35822–39–4	0.000035	0.0025
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF).	67562–39–4	0.000035	0.0025
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF).	55673–89–7	0.000035	0.0025
		HxCDDs (All Hexachlorodibenzo-*p*-dioxins)	34465–46–8	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	55684–94–1	0.000063	0.001
		1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin (OCDD).	3268–87–9	0.000063	0.005
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF).	39001–02–0	0.000063	0.005
		PeCDDs (All Pentachlorodibenzo-*p*-dioxins)	36088–22–9	0.000063	0.001
		PeCDFs (All Pentachlorodibenzofurans)	30402–15–4	0.000035	0.001
		TCDDs (All tetrachlorodi-benzo-*p*-dioxins)	0.000063	0.001	
		TCDFs (All tetrachlorodibenzofurans)	55722–27–5	0.000063	0.001
		Chromium (Total)	7440–47–3	2.77	0.60 mg/L TCLP
		Nickel	7440–02–0	3.98	11 mg/L TCLP
K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer.	1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD).	35822–39–4	0.000035	0.0025
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF).	67562–39–4	0.000035	0.0025
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF).	55673–89–7	0.000035	0.0025
		HxCDDs (All Hexachlorodibenzo-*p*-dioxins)	34465–46–8	0.000063	0.001
		HxCDFs (All Hexachlorodibenzofurans)	55684–94–1	0.000063	0.001
		1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin (OCDD).	3268–87–9	0.000063	0.005
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF).	39001–02–0	0.000063	0.005

TREATMENT STANDARDS FOR HAZARDOUS WASTES—Continued

Waste code	Waste description and treatment/regulatory subcategory [1]	Regulated hazardous constituent		Wastewaters	Nonwastewaters
		Common name	CAS [2] No.	Concentration in mg/L,[3] or technology code [4]	Concentration in mg/kg [5] unless noted as "mg/L TCLP", or technology code
		PeCDDs (All Pentachloro-dibenzo-*p*-dioxins)	36088–22–9	0.000063	0.001
		PeCDFs (All Pentachloro-dibenzofurans)	30402–15–4	0.000035	0.001
		TCDDs (All tetrachlorodi-benzo-*p*-dioxins).	41903–57–5	0.000063	0.001
		TCDFs (All tetrachlorodibenzofurans)	55722–27–5	0.000063	0.001
		Arsenic	7440–36–0	1.4	5.0 mg/L TCLP
K175	K175 (wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process) nonwastewaters that contain greater than or equal to 260 mg/kg total mercury.	Mercury	7438–97–6	NA	RMERC
	K175 nonwastewaters that contain less than 260 mg/kg total mercury that are residues from RMERC.	Mercury	7438–97–6	NA	0.20 mg/L TCLP
	Other K175 nonwastewaters that contain less than 260 mg/kg total mercury and are not residues from RMERC.	Mercury	7438–97–6	NA	0.025 mg/L TCLP
		pH		NA	pH <6.0
	All K175 wastewaters	Mercury	7438–97–6	0.15	NA
*	*	*	*	*	*	*

*Note: NA means not applicable.

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR Part 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/L and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1-Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264 Subpart O or Part 265 Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

19. In § 268.48(a) the Table is amended by adding in alphabetical order the following entries under the heading organic constituents: (The footnotes are republished without change.)

§ 268.48 Universal treatment standards.

(a) * * *

UNIVERSAL TREATMENT STANDARDS

Regulated constituent common name	CAS [1] number	Wastewater standard concentration in mg/L [2]	Nonwastewater standard concentration in mg/Kg [3] unless noted as "mg/L TCLP"
* * * * *	*	*
1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD)	35822–39–4	0.000035	0.0025
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562–39–4	0.000035	0.0025
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,6,7,8,9-HpCDF)	55673–89–7	0.000035	0.0025
* * * * *	*	*
1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin (OCDD)	3268–87–9	0.000063	0.005
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001–02–0	0.000063	0.005
* * * * *	*	*

* Note: NA means not applicable.
[1] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.
[2] Concentration standards for wastewaters are expressed in mg/L and are based on analysis of composite samples.
[3] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264, Subpart O, or Part 265, Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

20. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

21. Section 271.1(j) is amended by adding the following entries to Table 1 and Table 2 in chronological order by date to read as follows.

§ 271.1 Purpose and scope. (j) * * *

* * * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
* * *	* * *	* * *	* * *
[insert date of signature of final rule]	Listing of Hazardous Wastes K173, K174, and K175	[insert Federal Register page numbers]	[insert effective date of final rule]
* * *	* * *	* * *	* * *

TABLE 2.—SELF IMPLEMENTING PROVISIONS OF THE SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
* * *	* * *	* * *	* * *
[effective date of final rule].	Prohibition on land disposal of K173, K174, and K175 wastes, and prohibition on land disposal of radioactive waste mixed with K173, K174, and K175 wastes, including soil and debris.	3004(g)(4)(C) and 3004(m).	[date of publication of final rule], [FR page numbers].
* * *	* * *	* * *	* * *

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

22. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

23. In § 302.4, Table 302.4 is amended by adding the following new entries in alphanumeric order at the end of the table to read as follows:

§ 302.4 Designation of hazardous substances

* * * * *

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[Note: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Regulatory synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA waste No.	Category	Pounds (Kg)
K173 [f]	.....	.....	*1	4	K173	X	1(0.454)
K174 [f]	.....	.....	*1	4	K174	X	1(0.454)
K175 [f]	.....	.....	*1	4	K175	X	1(0.454)

† Indicates the statutory sources as defined by 1, 2, 3, and 4 below.

* * * * *

4—Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001.
*1—Indicates that the 1-pound RQ is a CERCLA statutory RQ.

* * * * *

[f] See 40 CFR 302.6(b)(1) for application of the mixture rule to this hazardous waste.

24. Section 302.6 is amended by revising paragraph (b)(1)(iii) introductory text and by adding entries K173, K174, and K175 to the table in paragraph (b)(1)(iii) in numerical order to read as follows:

§ 302.6 Notification requirements.

* * * * *

(b) * * *

(1) * * *

(iii) For waste streams K169, K170, K171, K172, K173, K174, and K175, knowledge of the quantity of all of the hazardous constituent(s) may be assumed, based on the following maximum observed constituent concentrations identified by EPA:

Waste	Constituent	Max ppm
*	*	*
K173	2,3,7,8-TCDD	0.000000017
	1,2,3,7,8-PeCDD	0.00000015
	1,2,3,4,7,8-HxCDD	0.00000012
	1,2,3,6,7,8-HxCDD	0.00000091
	1,2,3,7,8,9-HxCDD	0.00000092
	1,2,3,4,6,7,8-HpCDD	0.000044
	OCDD	0.00022
	2,3,7,8-TCDF	0.00000045
	1,2,3,7,8-PeCDF	0.0000012
	2,3,4,7,8-PeCDF	0.0000015
	1,2,3,4,7,8-HxCDF	0.000042
	1,2,3,6,7,8-HxCDF	0.000045
	1,2,3,7,8,9-HxCDF	0.000014
	2,3,4,6,7,8-HxCDF.	0.000027
	1,2,3,4,6,7,8-HpCDF	0.0013
	1,2,3,4,7,8,9-HpCDF	0.00017
	OCDF	0.006
	Chloroform	7.1
K174	2,3,7,8-TCDD	0.000039
	1,2,3,7,8-PeCDD	0.0000108
	1,2,3,4,7,8-HxCDD	0.0000241
	1,2,3,6,7,8-HxCDD	0.000083
	1,2,3,7,8,9-HxCDD	0.000062
	1,2,3,4,6,7,8-HpCDD	0.00123
	OCDD	0.0129
	2,3,7,8-TCDF	0.000145
	1,2,3,7,8-PeCDF	0.0000777
	2,3,4,7,8-PeCDF	0.000127
	1,2,3,4,7,8-HxCDF	0.001425
	1,2,3,6,7,8-HxCDF	0.000281
	1,2,3,7,8,9-HxCDF	0.00014
	2,3,4,6,7,8-HxCDF.	0.000648
	1,2,3,4,6,7,8-HpCDF	0.0207
	1,2,3,4,7,8,9-HpCDF	0.0135
	OCDF	0.212
K175	Mercury	9200

* * * * *

[FR Doc. 99–20753 Filed 8–24–99; 8:45 am]

BILLING CODE 6560–50–P

federal register

Wednesday
August 25, 1999

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Remove the American Peregrine Falcon From the Federal List of Endangered and Threatened Wildlife, and To Remove the Similarity of Appearance Provision for Free-Flying Peregrines in the Conterminous United States; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF04

Endangered and Threatened Wildlife and Plants; Final Rule To Remove the American Peregrine Falcon From the Federal List of Endangered and Threatened Wildlife, and To Remove the Similarity of Appearance Provision for Free-Flying Peregrines in the Conterminous United States

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have determined that the American peregrine falcon (*Falco peregrinus anatum*) is no longer an endangered or threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). This determination is based on available data indicating that this subspecies has recovered following restrictions on organochlorine pesticides in the United States and Canada, and following the implementation of successful management activities. This action will remove the American peregrine falcon (*Falco peregrinus anatum*) throughout its range as an endangered species from the Federal List of Endangered and Threatened Wildlife, thereby removing all protections provided by the Act. It also will remove the designation of ''endangered due to similarity of appearance'' for any free-flying peregrine falcons within the 48 conterminous United States. It will not affect protection provided to this species by the Migratory Bird Treaty Act (MBTA), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), or state laws and regulations, nor will it affect the endangered listing status of the Eurasian peregrine falcon (*Falco peregrinus peregrinus*) under the Act.

EFFECTIVE DATE: August 25, 1999.

ADDRESSES: The administrative file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003 (telephone (805) 644–1766/facsimile 805/644–3958).

FOR FURTHER INFORMATION CONTACT: Robert Mesta at the above address for further information on the removal of the peregrine falcon from the endangered species list.

SUPPLEMENTARY INFORMATION:

Background

The peregrine falcon (*Falco peregrinus*) is a medium-sized raptor weighing approximately 1,000 grams (36 ounces) and having a wing span of 112 centimeters (44 inches). The adult peregrine falcon has a dark gray back and crown, dark bars or streaks on a pale chest and abdomen, and heavy malar (cheek) stripes on the face. Immature falcons are buff-colored in front and have dark brown backs; adults are white or buff in front and bluish-gray on their backs. Peregrines prey almost entirely on other birds, and occasionally on bats, caught in midair (Hickey and Anderson 1969).

The peregrine falcon has an almost worldwide distribution, with three subspecies recognized in North America (Brown and Amadon 1968). The Peale's falcon (*F. p. pealei*) is a year-round resident of the northwest Pacific coast from northern Washington through British Columbia to the Aleutian Islands. The Arctic peregrine falcon (*F. p. tundrius*) nests in the tundra of Alaska, Canada, and Greenland, and is typically a long-distance migrant, wintering as far south as South America. The American peregrine falcon (*F. p. anatum*) occurs throughout much of North America from the subarctic boreal forests of Alaska and Canada south to Mexico. The American peregrine falcon nests from central Alaska, central Yukon Territory, and northern Alberta and Saskatchewan, east to the Maritimes and south (excluding coastal areas north of the Columbia River in Washington and British Columbia) throughout western Canada and the United States to Baja California, Sonora, and the highlands of central Mexico (48 FR 8799). American peregrine falcons that nest in subarctic areas generally winter in South America, while those that nest at lower latitudes exhibit variable migratory behavior; some are nonmigratory (Yates *et al.* 1988).

Since the early 1970s, efforts to reestablish peregrine falcons in the eastern and midwestern United States have successfully returned this species to areas from which it was extirpated (See ''Eastern United States'' under ''Peregrine Falcon Recovery''). Peregrine falcons are now found nesting in all States within their historical range east of the 100th meridian, except for Rhode Island, West Virginia, and Arkansas.

Peregrine falcons declined precipitously in North America following World War II (Kiff 1988). Research implicated organochlorine pesticides, mainly 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-ethane (DDT), applied in the United States and Canada during this same period, as causing the decline (for a review, see Risebrough and Peakall 1988). Use of these chemicals peaked in the 1950s and early 1960s and continued through the early 1970s. Organochlorines and their metabolites, including DDT and its principal metabolite DDE (1,1-dichloro-2,2-bis(*p*-chlorophenyl)-ethylene), aldrin, dieldrin, and others, are stable, persistent compounds that are stored in the fatty tissues of animals ingesting contaminated food (Fyfe *et al.* 1988).

Organochlorines can affect peregrine falcons either by causing direct mortality or by adversely affecting reproduction. Because mortality in wild birds is difficult to study, the effect of organochlorines on mortality is not as well known as the effects on reproduction. Organochlorines can adversely affect reproduction by causing egg breakage, addling, hatching failure, and abnormal reproductive behavior by the parent birds (Risebrough and Peakall 1988). DDE prevents normal calcium deposition during eggshell formation, resulting in thin-shelled eggs that are susceptible to breakage during incubation. In general, populations laying eggs with shells that averaged more than 17 percent thinner than pre-DDT eggs had such high rates of reproductive failure that the number of peregrine falcon pairs declined (Peakall and Kiff 1988).

During the period of DDT use in North America, eggshell thinning and nesting failures were widespread in peregrine falcons, and in some areas, successful reproduction virtually ceased (Hickey and Anderson 1969). As a result, there was a slow but drastic decline in the number of peregrine falcons in many areas of North America. The degree of exposure to these pesticides varied among regions, and peregrine falcon numbers in more contaminated areas suffered greater declines. Peregrine falcons that nested outside of agricultural and forested areas where DDT was heavily used were affected less, although some of these individuals were still exposed to DDT when wintering in areas of pesticide use. Presumably all peregrine falcon individuals have eaten some migratory prey containing organochlorines (for reviews, see Hickey and Anderson 1969; Kiff 1988; Peakall and Kiff 1988).

Peregrine falcons nesting in the agricultural and forested areas east of the Mississippi River in the United States and in eastern Canada south of the boreal forest were the most heavily contaminated and were essentially

extirpated by the mid-1960s (Berger *et al.* 1969). Peregrine falcons in the Great Plains states east of the Rocky Mountains and south of the boreal forest in Canada and the United States were also extirpated in the DDT-era (Cade 1975; Enderson *et al.* 1995). No active eyries (nests) were found in surveys of 133 formerly used peregrine falcon eyries in the latter part of the 1964 nesting season in the eastern United States and the Maritime Provinces in Canada (Berger *et al.* 1969). By 1975, there were only three peregrine falcon pairs in Alberta, and no other peregrine falcon pairs were found south of latitude 60 degrees North and east of the Rocky Mountains in Canada (Erickson *et al.* 1988).

West of the 100th meridian, peregrine falcons were significantly reduced; only 33 percent of historical nest sites in the Rocky Mountains were still occupied by 1965 (Enderson 1969). The peregrine falcon disappeared as a breeding species from southern California, and major declines also occurred in other parts of the western United States and in much of southern Canada and the Northwest Territories (Kiff 1988). In contrast, peregrine falcons in most areas of the Pacific coast of Alaska remained fairly stable during this period, due to their lower exposure to organochlorine pesticides. The exact degree of local declines in much of western North America remains somewhat speculative due to a lack of accurate pre-pesticide era census data. For example, in the southwestern United States and mainland Mexico, peregrine falcons were not censused until after the beginning of the use of organochlorines (Kiff 1988).

Previous Federal Actions

Population declines due to negative impacts of DDT and its metabolites on peregrine falcon reproduction and survival led us to list two of the three North American subspecies, the Arctic peregrine falcon and the American peregrine falcon, as endangered in 1970 under the Endangered Species Conservation Act of 1969 (Public Law 91–135, 83 Stat. 275). Arctic and American peregrine falcons were included in the United States' list of endangered foreign species on June 2, 1970 (35 FR 8491) under the Endangered Species Conservation Act of 1969, and the native list of endangered species on October 13, 1970 (35 FR 16047). Upon passage of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), the native and foreign species lists were combined into a single list of endangered and threatened species. Both the American and Arctic peregrine falcon subspecies were listed as endangered throughout their respective ranges. The Peale's peregrine falcon was not listed because it was reproducing at near normal levels with only traces of DDT.

On March 1, 1983, we published a proposed rule to (1) reclassify the Arctic peregrine falcon from endangered to threatened; (2) clarify the status of the American peregrine falcon (*Falco peregrinus anatum*) in some areas of its range; and (3) designate all free-flying peregrine falcons in the 48 conterminous United States as endangered under the similarity of appearance provisions of section 4(e) of the Act (48 FR 8796). A final rule was published on March 20, 1984 (49 FR 10520). Pursuant to the similarity of appearance provisions, species that are not considered to be endangered or threatened are treated as such for the purpose of providing protection to a species that is biologically endangered or threatened.

On June 12, 1991, we announced in the **Federal Register** a Notice of Status Review of American and Arctic peregrines (56 FR 26969). The Arctic peregrine was removed as a threatened species from the Federal List of Endangered and Threatened Wildlife on October 5, 1994 (59 FR 50796) but was still regulated under the Act in the lower 48 United States due to the similarity of appearance provision for all *Falco peregrinus* peregrine falcons. The similarity of appearance provision was maintained because the American peregrine falcon was still listed as endangered.

We published an Advanced Notice of a Proposal to Remove the American Peregrine Falcon from the Federal List of Endangered and Threatened Wildlife on June 30, 1995 (60 FR 34406). This was based on data indicating this subspecies was recovered following restrictions on the use of organochlorine pesticides in the United States and Canada and because of successful management activities, including the reintroduction of captive-bred and relocated wild hatchling peregrine falcons. Current data provides additional support for recovery of all North American peregrine falcons, including the American peregrine falcon subspecies. We published a proposed rule to remove the peregrine falcon in North America from the Federal List of Endangered and Threatened Wildlife on August 26, 1998, based on continuing data indicating this species was recovered (63 FR 45446).

The processing of this final rule conforms with our listing priority guidance published on May 8, 1998 (63 FR 25502). This guidance clarifies the order in which we will process rulemakings, giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of outstanding proposed listings, resolving the conservation status of candidate species, processing administrative findings on petitions to add species to the lists or reclassify species from threatened to endangered status, and delisting or reclassifying actions. The lowest priority actions, processing critical habitat designations, are in Tier 3. Processing of this final rule is a Tier 2 action.

Peregrine Falcon Recovery

Section 4(f) of the Act directs us to develop and implement recovery plans for listed species. In some cases, we appoint experts to recovery teams to assist in the writing of recovery plans. Between 1974 and 1975 we formed recovery teams consisting of Service, State, and other experts. In cooperation with us, these recovery teams produced four regional recovery plans: three for the American peregrine falcon (Alaska, Rocky Mountains/Southwest United States, and the Pacific Coast of the United States), and one for the peregrine falcon in the eastern United States. Although no United States recovery plans established recovery criteria for peregrine falcons nesting outside of the United States, the Canadian Wildlife Service published an *Anatum* Peregrine Falcon Recovery Plan (Erickson *et al.* 1988) establishing recovery criteria for American peregrine falcons in Canada. Recovery plans for peregrine falcons called for captive rearing and release of birds in several areas of North America. In the eastern United States, where peregrine falcons were extirpated, the initial recovery objective was to reestablish peregrine falcons through the release of offspring from a variety of wild stocks being held in captivity by falconers. The first experimental releases of captive-produced young occurred in 1974 and 1975 in the United States. Since then, approximately 6,000 falcons were released throughout its historic range in North America. These releases helped to re-establish breeding pairs in areas where the species was extirpated, and accelerated the recovery of the species.

Later, reintroduction was also pursued in eastern Canada using only *F. p. anatum* breeding stock from the boreal regions of the subspecies' range. All peregrine falcons released to augment wild populations in western North America west of the 100th meridian, where small numbers of

American peregrines survived the pesticide era, were derived from western *anatum* stock (Enderson *et al.* 1995).

The most significant factor in the recovery of the peregrine falcon was the restriction placed on the use of organochlorine pesticides. Use of DDT was banned in Canada in 1970 and in the United States in 1972 (37 FR 13369). Restrictions that controlled the use of aldrin and dieldrin were imposed in the United States in 1974 (39 FR 37246). Since implementation of these restrictions, residues of the pesticides have significantly decreased in many regions where they were formerly used. Consequently, reproductive rates in most surviving peregrine falcon populations in North America improved, and numbers began to increase (Kiff 1988; Enderson *et al.* 1995).

In Alaska and northwest Canada, American peregrine falcon populations were locally depressed, but enough individuals survived the pesticide era to allow populations to expand without the need for release of captive-bred falcons. Likewise, in the southwestern United States, very few captive-bred birds were released, and populations recovered naturally following restrictions on the use of organochlorine pesticides. In southwest Canada, the northern Rocky Mountain States, and the Pacific Coast States, however, local populations were greatly depressed or extirpated, and over 3,400 young American peregrine falcons were released to promote recovery in those areas (Enderson *et al.* 1995).

American peregrine falcon population growth was noted in Alaska in the late 1970s (Ambrose *et al.* 1988b), and, by 1980, population growth was found in many other areas (Enderson *et al.* 1995). The rate of increase varied among regions of North America, undoubtedly influenced by variation in patterns of pesticide use, potential differences in the rate of pesticide degradation, and the degree to which local populations had declined. Populations in some portions of the range of American peregrine falcons, such as Alaska, northwest Canada, and southwestern United States, reached densities several years ago that suggested recovery was approaching completion (Ambrose *et al.* 1988b; Mossop 1988; Geoff Holroyd, Canadian Wildlife Service, *in litt.* 1993; Enderson *et al.* 1995). Residual organochlorine pesticide contamination continues to affect eggshells in some areas, such as portions of coastal California (Jarman 1994) and western Texas (Bonnie McKinney, Texas Parks and Wildlife Department, pers. comm. 1997), but these effects are localized. Despite these localized effects and the variation in the rate of increase among regions, local populations throughout North America have increased in size, and positive trends in nearly all areas suggest that an extensive recovery of American peregrine falcons has taken place.

Recovery Status

To aid in assessing peregrine falcon recovery, the current status was compared to specific recovery plan objectives for American peregrine falcons in (1) Alaska, (2) Canada, (3) the Pacific Coast, (4) the Rocky Mountains and the Southwest, and for the peregrine falcon in, and (5) the eastern United States. The current status of the subspecies in Mexico is discussed below, although no recovery plan or recovery objectives are established for Mexico.

Alaska

The Peregrine Falcon Recovery Plan, Alaska Population (Alaska Recovery Plan) (U.S. Fish and Wildlife Service 1982a) includes both Arctic and American peregrine falcons nesting in Alaska. The following discussion relates only to provisions regarding the American peregrine falcon, as the Arctic peregrine falcon was delisted on October 5, 1994 (59 FR 50796).

The Alaska Recovery Plan established recovery objectives based on four measurements for assessing the status of American peregrine falcons including population size, reproductive performance, pesticide residues in eggs, and eggshell thickness. The recovery objectives included:

(1) 28 nesting pairs in 2 specified study areas (16 in upper Yukon and 12 in upper Tanana);

(2) An average of 1.8 young per territorial pair;

(3) Average organochlorine concentration in eggs of less than 5 parts per million (ppm) (wet weight basis DDE); and

(4) Eggshells no more than 10 percent thinner than pre-DDT era eggshells.

The Alaska Recovery Plan suggested that these objectives be maintained in the specified study areas for 5 years before reclassifying from endangered to threatened status, and remain constant or improve for an additional 5 years before delisting.

Surveys were conducted in the upper Yukon and Tanana Rivers, for which historical population data were available, using consistent methodology from 1973 to the present so trends would be discernable. Surveys conducted between 1966 and 1998 along the upper Yukon River demonstrated increases in the number of occupied nesting territories from a low of 11 known pairs in 1973 to 46 pairs in 1998 (Ambrose *et al.* 1988b; Robert Ambrose, U.S. Fish and Wildlife Service, *in litt.* 1997a, 1999). Similarly, along the upper Tanana River, the number of occupied nesting territories increased from 2 in 1975 to 33 in 1998 (R. Ambrose, *in litt.* 1997a; 1999). The recovery objective of 28 occupied nesting territories in the two study areas was first achieved (post-DDT) in 1988, with 23 nesting territories on the Yukon River and 12 on the Tanana River. The number has increased steadily since that time to the current level of 79 occupied nesting territories in 1998, with 46 pairs on the Yukon River and 33 pairs on the Tanana River (R. Ambrose, *in litt.* 1999). Thus, the recovery objective of 28 occupied nesting territories was achieved and surpassed for 10 years. A minimum of 301 breeding pairs of American peregrine falcons currently nest in Alaska.

Productivity measured along the upper Yukon and Tanana Rivers fell to a low of about 1.0 young per territorial pair per year (yg/pr) in the late 1960s, but began to increase in the mid-1970s. By 1982, productivity exceeded the objective of 1.8 yg/pr, and varied between 1.6 and 3.0 yg/pr in the years since. Between 1994 and 1998, productivity averaged 2.0 yg/pr (sample size (N) = 362 nests/pairs). Overall, between 1982 and 1998, the Yukon River study area averaged 1.79 yg/pr, and the Tanana River study area averaged 1.85 yg/pr (R. Ambrose, *in litt.* 1999). It is expected that there are yearly variations in productivity, which most wildlife species experience. However, average productivity for the peregrine falcon was constant or improving, thus meeting the goal of at least 1.8 yg/pr over the last 10 years as recommended by the Alaska Recovery Plan.

Mean concentrations of DDE in peregrine falcon eggs in excess of 15–20 ppm are associated with nesting failure, whereas productivity is usually sufficient to maintain population size if residues average less than this concentration (Peakall *et al.* 1975, as cited in Peakall and Kiff 1988; Newton *et al.* 1989). In Alaska, average DDE residues in American peregrine falcons averaged 12.2 ppm from 1979 through 1984, 5.8 ppm from 1988 through 1991, and 3.5 ppm from 1993 through 1995 (R. Ambrose, *in litt.* 1997b). Current data suggest that the concentrations of less than 5 ppm DDE residue levels in peregrine falcon eggs have improved in the last 10 years (R. Ambrose *in litt.* 1997b). As a result of lowered DDE

concentrations, there was consistent population growth during that time.

In Alaska, eggshells were as much as 20–22 percent thinner than pre-DDT era shells in the mid-1960s (Cade *et al.* 1988). By the early 1980s, shells were about 14 percent thinner than before the DDT era (Ambrose *et al.* 1988a). Eggshells averaged 13.0 percent thinner from 1979 through 1984, 13.1 percent thinner from 1988 through 1991, and 12.1 percent thinner from 1993 through 1995 (R. Ambrose, *in litt.* 1997b). The average thickness of pre-DDT American peregrine falcon eggs from Alaska is not precisely known, so current estimates of thinning could be inaccurate. While average eggshell thinning has not yet reached the level of 10 percent or less of the pre-DDT era, it has improved over the last 10 years. Also, reproduction was sufficient to allow consistent population growth since the late 1970s, and productivity has, on average, exceeded its stated recovery objective for 17 years.

In summary, based on the most current information (1998 survey and early 1990s contamination data), we conclude that goals underlying all four objectives were met or exceeded. On average, the number of pairs occupying nesting territories in the two study areas and productivity exceeded the recovery objectives for the past 17 years. Neither DDE residues in eggs nor eggshell thinning has prevented a dramatic population growth since the late 1970s.

Canada

The 1988 *Anatum* Peregrine Falcon Recovery Plan for Canada (Canadian Recovery Plan) (Erickson *et al.* 1988) categorized the historical range of the American peregrine falcon throughout Canada into three regions, which include the Western Mountains, Interior Plains, and the Eastern Seaboard and Great Lakes. These regions were subdivided into nine zones on the basis of historical population levels, habitat, political boundaries, and restoration needs. The zones are (1) Maritime, (2) Great Lakes, (3) Prairies, (4) Mackenzie River Valley, (5) Northern Mountains, (6) Southern Mountains, (7) Eastern Mackenzie Watershed, (8) Western Canadian Shield, and the (9) Eastern Canadian Shield. Coastal British Columbia was excluded from consideration in the Canadian Recovery Plan because that area is occupied by *F.p. pealei.*

The goal of the Canadian Recovery Plan was to increase the wild American peregrine falcon population in Canada so the subspecies is no longer considered endangered or threatened by the Committee on the Status of Endangered Wildlife in Canada. The proposed objectives were (1) to establish by 1992 a minimum of 10 territorial American peregrine falcon pairs in each of Zones 1 to 6, and (2) to establish by 1997, in each of 5 of these 6 zones, a minimum of 10 pairs naturally fledging 15 (1.5 yg/pr) or more young annually, measured as a 5-year average beginning in 1993. No recovery objectives were established for Zones 7, 8, and 9. The Canadian Recovery Plan did not contain separate objectives for reclassification of the subspecies in Canada from its current endangered status to threatened.

Starting in 1990, the Canadian Wildlife Service has coordinated and published a national range-wide peregrine falcon population survey once every 5 years. The results of the 1995 national population survey were used in the following status summary of the American peregrine falcon in Canada (Ursula Banasch, Canadian Wildlife Service, *in litt.* 1997).

There were 98 known nest sites in Zones 1 and 2 (southern Ontario and Quebec, northern Great Lakes, Bay of Fundy and Labrador), and surveys located 64 pairs. There were 98 known nest sites in Zone 3 (Manitoba, Saskatchewan and Alberta), and surveys located 41 pairs. There were 117 known nest sites in Zone 4 (eastern N.W. Territories), and surveys located 83 pairs. There were 125 known nest sites in Zone 5 (Yukon), and surveys located 113 pairs. There were 50 known nest sites in Zone 6 (Interior British Columbia), and surveys located 18 pairs. The total known number of pairs for all six zones in 1995 was 319, with minimum objectives achieved for every recovery zone.

The only comprehensive range-wide productivity surveys available to us were the national population surveys coordinated by the Canadian Wildlife Service in 1990 and 1995 (U. Banasch, *in litt.* 1997; Holroyd and Banasch 1996). Surveys conducted in the intervening years were not nationally coordinated, and therefore not complete. Thus, we used the combined average annual productivity data collected in the 1990 and 1995 surveys to address this recovery objective.

In Zones 1 and 2, average productivity was 1.7 yg/pr (N=104 nests). In Zone 3, average productivity was 1.5 yg/pr (N=55). In Zone 4, average productivity was 2.0 yg/pr (N=171). In Zone 5, average productivity was 1.8 yg/pr (N=626). No productivity data were available for Zone 6. The 2-year average annual productivity for the Canadian population of American peregrine falcons was 1.8 yg/pr.

Although the Canadian Recovery Plan did not identify recovery objectives for pesticide residue or eggshell thinning levels, 205 eggs and 62 samples from 28 specimens of peregrine falcons were collected in Canada between 1965 and 1987 to assess organochlorine residue concentrations. In all three subspecies (*F.p. anatum, F.p. tundrius, F.p. pealei*), the proportion of specimens having residue concentrations above established critical values (concentration at which egg failure occurs, which varies among organochlorine contaminants) had decreased and was inversely correlated with improvements in the reproductive success of the population (Peakall *et al.* 1990).

In summary, the Canadian Recovery Plan identified two objectives to determine recovery for the American peregrine falcon population in Canada. Based on current available information, both objectives were met. The total number of pairs for all six zones in 1995 was 319, with minimum objectives achieved for every recovery zone. This count exceeds the total recovery objective of 60 pairs by 259 pairs. The average annual productivity data for 1990 and 1995 either met or exceeded objectives in five of the six zones with an average annual productivity of 1.8 yg/pr for the American peregrine falcon population in Canada.

Pacific Coast

To reclassify the American peregrine falcon from endangered to threatened, the Pacific Coast Recovery Plan (Pacific Population Plan) (U.S. Fish and Wildlife Service 1982b) recommended that 122 pairs be established in a specified distribution spanning California, Washington, Oregon, and Nevada. The distribution goals were based on 22 management units distributed throughout the historic range of the Pacific Coast peregrine falcon population. For each management unit, the population must achieve a specified minimum number of active pairs before downlisting can be considered. The Pacific Population Plan also recommended that with attainment of 185 wild, self-sustaining pairs (California 120, Oregon 30, Washington 30, and Nevada 5 pairs) and an average productivity of 1.5 yg/pr for a 5-year period, the subspecies could be considered for delisting. Since this final rule addresses the delisting of the peregrine falcon, only the latter two objectives are discussed in this section. The Pacific Population Plan defined a ''self-sustaining'' population as one whose natural productivity without human management is equal to or greater than its mortality.

By 1976, no American peregrine falcons were found at 14 historical nest sites in Washington, and Oregon had also lost most of its peregrine falcons. In addition, only 1 or 2 pairs remained on the California coast, with no more than 10 nest sites known to be occupied in the entire State (Cade 1994). A steadily increasing number of American peregrine falcon pairs breeding in Washington, Oregon, and Nevada was indicated by surveys from 1991 through 1998. Known pairs in Washington increased from 17 to 45, in Oregon from 23 to 51, and in Nevada from 3 to 6 (Gary Herron, Nevada Division of Wildlife, pers. comm. 1997; Martin Nugent, Oregon Department of Fish and Wildlife, *in litt.* 1999; David Anderson, Washington Department of Fish and Game, *in litt.* 1997). The number of American peregrine falcons in California increased from an estimated low of 5 to 10 breeding pairs in the early 1970s (Herman 1971), to a minimum of 167 occupied sites in 1998 (Janet Linthicum, Santa Cruz Predatory Bird Research Group, *in litt.* 1999). The increase in California was concurrent with the restriction of DDT and management that included the release of over 750 American peregrine falcons, including captive-reared and relocated wild hatchlings, through 1997 (Walton 1997). Recovery of American peregrine falcons in some areas of California, however, was impeded by continuing elevated DDT levels (Jarman 1994; Walton 1997).

The recovery of the peregrine falcon could be the result of a lower than expected first-year mortality of released birds from the augmentation program, which accelerated the growth of the Pacific population (Brian Walton, Santa Cruz Predatory Bird Research Group, pers. comm. 1997). As a result, intensive human management has essentially ended, and the release of captive-bred American peregrine falcons was suspended in Nevada in 1989, in California in 1992 (although the relocation of wild hatchlings continues), and in Oregon and Washington in 1995. Based on available information, the first recovery objective was met; a minimum known population of 270 pairs exceeds the delisting goal of 185 by 85 pairs. Also, the distribution goals for the Pacific Coast population was met in all four States. Surveys conducted from 1991 through 1998 demonstrate a steadily increasing number of American peregrine falcon pairs, indicating that natural productivity is greater than mortality in this recovery region.

Productivity measured in Washington between 1993 and 1998 ranged from 1.3 to 1.8 yg/pr, with an average of 1.5 yg/pr (N=204) (D. Anderson, *in litt.* 1999). In Oregon, productivity between 1993 and 1998 ranged from 0.8 to 1.9 yg/pr, with an average of 1.3 yg/pr (N=178) (M. Nugent, *in litt.* 1997; David Peterson, U.S. Fish and Wildlife Service, *in litt.* 1999). Between 1993 and 1998, productivity in California ranged from 1.4 to 1.7 yg/pr (N=523), with an average of 1.6 yg/pr (J. Linthicum *in litt.* 1999). No productivity data were available for Nevada.

Productivity, an important measure of population health, can be difficult to determine in wide-ranging species nesting in remote landscapes that are often difficult to access. However, available data indicate that the average productivity from 1993 through 1998 in Washington, Oregon and California was 1.5 yg/pr (D. Anderson, *in litt.* 1999; M. Nugent, *in litt.* 1997; David Peterson, U.S. Fish and Wildlife Service, *in litt.* 1999; J. Linthicum *in litt.* 1999). Therefore, we consider this objective to be met.

The Pacific Population Plan did not identify recovery objectives for pesticide residue or eggshell thinning levels. However, organochlorine residues and eggshell thinning were measured in California starting in the early 1970s. Jarman (1994) reported DDE concentrations in 105 peregrine eggs collected from California from 1987 to 1992, and 11 eggs from Oregon from 1990 through 1993. Data collected in nine study regions in California (Jarman 1994) indicated the highest concentrations of DDE were found in California eggs from the Channel Islands and mid-coast with 21 and 13 ppm, respectively. The southern coast and San Francisco regions had the lowest concentrations of 5.5 and 4.3 ppm, respectively. The DDE concentrations in eggs collected along the coast of California (between San Francisco Bay and 34° N) did not decrease between 1969 and 1992 (Jarman 1994). Eggs from Oregon contained DDE levels of 10 ppm.

Eggshells from coastal California continued to show thinning. In northern and central coastal California, eggshells collected between 1975 and 1995 averaged 17.7 and 19.1 percent thinner than pre-DDT era, respectively (J. Linthicum, *in litt.* 1996). In northern interior California, where 104 of the 186 sites were active at least once from 1975–1993, eggshells averaged 15.6 percent thinner than pre-DDT era shells (J. Linthicum, *in litt.* 1996). Eggshells collected on the Channel Islands off the southern coast of California in 1992–1995 averaged 19.4 percent thinner than those collected in California prior to 1947 (J. Linthicum, *in litt.* 1996). In montane California, the average was 15 percent thinner than normal, and in the southern interior (coastal mountains) the average was 17.9 percent thinner than normal (J. Linthicum, *in litt.* 1996). Urban pairs experienced eggshell thinning averaging 8.7 percent in the San Francisco area and 10.9 percent in the Los Angeles/Orange County area. A summary of 633 clutch mean measurements representing 1,237 samples of one or more eggshells collected between 1975 and 1995 from the historical range of the American peregrine falcon in California averaged 16.1 percent thinner (J. Linthicum, *in litt.* 1996). However, current reproduction indicates an expanding population in most areas despite high organochlorine residue concentrations and associated eggshell thinning in some areas of the Pacific population.

Rocky Mountain/Southwest

The American Peregrine Falcon Rocky Mountain/Southwest Population Recovery Plan (U.S. Fish and Wildlife Service 1984) established three objectives for delisting, including (1) increasing the *Falco peregrinus anatum* population in the Rocky Mountain/Southwest region to a minimum of 183 breeding pairs and the following distribution: Arizona (46), Colorado (31), Idaho (17), Montana (20), Nebraska (1), New Mexico (23), North Dakota (1), South Dakota (1), Texas (8), Utah (21), and Wyoming (14); (2) sustaining a long-term average production of 1.25 yg/pr without manipulation by 1995; and (3) observing eggshell thinning of no more than 10 percent from the pre-DDT era for a 5-year span.

The prairie States of North Dakota, South Dakota, Nebraska, Kansas, and Oklahoma contain little peregrine falcon habitat, and historical data are incomplete. No recovery goals for a specific number of peregrine falcon pairs were set for Kansas or Oklahoma; nesting peregrine falcons are not known from Oklahoma. Currently, South Dakota, Nebraska and Kansas each have one peregrine falcon pair (Mark Martell, The Raptor Center, pers. comm. 1998; Tordoff *et al.* 1997); no peregrine falcon pairs are currently known to occur in North Dakota or Oklahoma.

The Rocky Mountain/Southwest population of the American peregrine falcon has made a profound comeback since the late 1970s when surveys showed no occupied nest sites in Idaho, Montana, or Wyoming and few pairs in Colorado, New Mexico, and the Colorado Plateau, including parts of southern Utah and Arizona (Cade 1994). Surveys conducted from 1991 through 1998 indicated that the number of American peregrine falcon pairs in the

Rocky Mountain/Southwest population is steadily increasing. In 1991, this population supported 367 known pairs; in 1998 the number of pairs increased to 535 (Robert Mesta, U.S. Fish and Wildlife Service, *in litt.* 1999). Surveys conducted from 1992 through 1998 showed that, with the exception of North Dakota, all States within the Rocky Mountain/Southwest population have met or exceeded their specific delisting goals for breeding pairs.

The current minimum known number of peregrine falcon pairs for each State include Arizona 159, Colorado 89, Idaho 17, Montana 18, Nebraska 1, New Mexico 32, North Dakota 0, South Dakota 1, Texas 11, Utah 164, Wyoming 42, and Kansas 1 (Greg Beatty, Arizona Game and Fish Department, *in litt.* 1997; James Enderson, Western Peregrine Falcon Recovery Team, pers. comm. 1999; Dennis Flath, Montana Department of Fish and Parks, *in litt.* 1999; Frank Howe, Utah Division of Wildlife Resources, *in litt.* 1999; Levine *et al.* 1998; McKinney 1994; B. McKinney, pers. comm. 1999; Robert Oakleaf, Wyoming Game and Fish Department, *in litt.* 1999; Sator O. Williams III, New Mexico Department of Game and Fish, *in litt.* 1999). The current Rocky Mountain/Southwest population is 535, which surpasses the objective of 183 by 352 pairs.

In Arizona , productivity from 1989 through 1997 ranged from 0.9 to 1.8 yg/yr, with an average productivity of 1.1 yg/pr (N=294). Recent average productivity (1994–1997) is 0.9 yg/pr (N=194) (Ward and Siemens 1995; G. Beatty, *in litt.* 1997).

In 1973, 1974, and 1975, productivity in Colorado was 0.2 (N=11), 1.9 (N=8), and 0.7 yg/pr (N=8), respectively, reflecting the irregular and generally poor productivity typical of the 1970s (Platt and Enderson 1988). Long term productivity measured in Colorado from 1985 through 1998 ranged from 1.2 to 1.9 yg/pr, with an average of 1.6 yg/pr (N=753) (Gerry Craig, Colorado Division of Wildlife, *in litt.* 1999; J.H. Enderson, pers. comm. 1999). Recent productivity from 1994 through 1998, averaged 1.6 yg/pr (N=395) (G. Craig, *in litt.* 1999).

In Idaho, productivity recorded from 1989 through 1998 ranged from 0 to 2.5 yg/pr, with an average of 1.6 yg/pr for this 10-year period (N=120). Recent productivity from 1994 through 1998 averaged 1.4 yg/pr (N=75) (Levine *et al.* 1998). In Montana, productivity between 1984 and 1998 ranged from 0.3 to 3.0 yg/pr, with an average of 1.7 yg/pr for the 15-year period (N=137). Recent productivity from 1994 through 1998 averaged 1.5 yg/pr (N=91) (D. Flath, *in litt.* 1999). In Nebraska, productivity between 1992 and 1998 for a single pair ranged from 0 to 5.0 yg/pr, with an average of 1.7 yg/pr for the 7-year period (N=7) (Lloyd Kiff, The Peregrine Fund, *in litt.* 1997; Tordoff *et al.* 1998).

For the period 1986 through 1998, New Mexico experienced a 12-year average productivity of 1.6 yg/pr (N=278). Recent productivity from 1995 through 1998 averaged 1.4 yg/pr (N=131) (S. Williams, *in litt.* 1997, 1999). In Texas, long term productivity recorded from 1975 through 1998 ranged from 0 to 2.3 yg/pr, with an average of 0.9 yg/pr (N=185) for the 23-year period. Recent productivity from 1994 through 1998 averaged 0.5 yg/pr (N=69) (McKinney 1994; B. McKinney, pers. comm. 1999).

In Utah, between 1985 and 1987, productivity averaged 0.8 yg/pr (N=117). From 1991 through 1996, productivity ranged from 0.9 to 2.0 yg/pr, with an average of 1.3 yg/pr (N=629) for the 6-year period (Bunnell 1994; F. Howe, *in litt.* 1997). In Wyoming, productivity between 1984 and 1998 ranged from 0.9 to 3.0 yg/pr, with an average of 1.7 yg/pr (N=282) for the 15-year period. Recent productivity between 1994 and 1998 averaged 1.8 yg/pr (N=179) (Joe White, Wyoming Game and Fish Department, *in litt.* 1995; R. Oakleaf, *in litt.* 1999).

In Kansas, productivity between 1993 and 1998 ranged from 0 to 3.0 yg/pr, with an average of 1.0 yg/pr (N=6) for the 4-year period (L. Kiff, *in litt.* 1997; Tordoff *et al.* 1998). In 1998, the first pair of peregrine falcons were located in South Dakota; they produced no young.

Although Texas and Arizona have exceeded their goals for number of pairs, current productivity is below the goal of 1.25 yg/pr and below their long term productivity averages by 44 and 18 percent respectively. Heavy metal contamination, particularly mercury, in adults and nestlings may be depressing productivity in Texas (Andrew Sansom, Texas Parks and Wildlife Department, *in litt.* 1995). Residual mercury contamination from mines operated along the Rio Grande River in the early 1900s is the suspected cause (B. McKinney, pers. comm. 1997). The current productivity level in Arizona is not fully understood, but may be a continuation of the variability exhibited in productivity between 1989 and 1995 (Garrison and Spencer 1996; Bruce Taubert, Arizona Game and Fish Department, pers. comm. 1999).

Kansas and South Dakota are two more States that currently have not met the productivity goal of 1.25 yg/pr. Kansas has had only one peregrine falcon pair since 1992, and breeding is sporadic each year.

Average productivity for the 11 States supporting breeding populations is 1.3 yg/pr, exceeding the goal of 1.25 yg/pr goal. Even though Texas, Kansas, South Dakota and Arizona currently have not met the productivity goal, productivity throughout the Rocky Mountain/Southwest region is more than sufficient for recruitment to exceed mortality, so dramatic population growth has resulted.

In Arizona, eggshells collected between 1978 and 1983 averaged 14.2 percent thinner, and 20 eggshell replicates collected from 1989 through 1994 averaged 13 percent thinner, than pre-DDT era eggshells (Ellis *et al.* 1989, Ward and Siemens 1995). In Colorado and New Mexico, shells from 260 eggs laid between 1977 and 1985 averaged 12 percent thinner than pre-DDT eggshells (Enderson *et al.* 1988). In another analysis of eggs from New Mexico, eggshells collected in 1977 averaged 20 percent thinner than pre-DDT eggshells, but in 1985 averaged only 14 percent thinner (Ponton *et al.* 1988). Eggshells collected in Colorado from 1973 through 1997 were as much as 25.1 percent thinner and at least 6.0 percent thinner than pre-DDT eggshells, with an average thinning of 13.5 percent. Only Colorado has achieved the objective for eggshell thickness. Sampling in Colorado in 1990, 1991, 1992, 1993, and 1994 produced measurements of 10.6, 11.7, 8.6, 8.1, and 6.0 percent thinning respectively, with an average annual mean of 9.0 percent thinning for this period (G. Craig, *in litt.* 1995). Although the recovery objective was not met in other States in the region, there is a general trend toward thicker eggshells in measurements taken since the mid-1970s (L. Kiff, pers. comm. 1995).

The Rocky Mountain/Southwest Recovery Plan did not identify a recovery objective for pesticide residue levels. However, organochlorine pesticide residues in American peregrine falcon eggs measured in Colorado and New Mexico between 1973 and 1979 averaged 26 ppm DDE, but the average declined to 15 ppm by 1980–1983 (Enderson *et al.* 1988). The average DDE concentration in 5 eggs collected in Colorado from 1986 through 1989 was 11 ppm (Jarman *et al.* 1993).

In summary, the first recovery objective in the Rocky Mountain/Southwest Recovery Plan was met; the current population of 535 pairs exceeds the goal of 183 pairs by 352 pairs. These pairs are distributed throughout the Rocky Mountain/Southwest States, meeting or exceeding the population goals in 10 of the 13 States in this

region. The second objective of sustaining a long-term average production of 1.25 yg/pr without manipulation by 1995 was met by all Rocky Mountain/Southwest States that have breeding American peregrine falcons except Texas, Kansas, South Dakota, and Arizona. By the mid-1980s the practice of fostering young into active nests was terminated, therefore, the long-term average productivity this recovery region has experienced was accomplished without nest manipulation. The current reproductive level in the 11 States with breeding populations is 1.3 yg/pr, exceeding the second objective of 1.25 yg/pr. Therefore, we consider the intent of this objective met. Based on the degree of recovery achieved, the third objective, that average eggshell thinning be no more than 10 percent from the pre-DDT era average for 5 years, appears to be conservative. The increase in numbers of American peregrine falcons indicates the subspecies has recovered without the necessity of reaching this specific recovery objective.

Eastern United States

The eastern peregrine population has a unique history and complex status under the Act. As stated previously, peregrine falcons were extirpated in the eastern United States and southeastern Canada by the mid-1960s. In 1974, shortly after the passage of the Act, the National Audubon Society sponsored a meeting of experts in peregrine biology, including representatives from the Service, to address the conservation of the species in North America (U.S. Fish and Wildlife Service 1991). This sparked the beginning of an effort to reestablish the peregrine in the eastern United States through the introduction of offspring from parents of multiple subspecies. Peregrine falcons were raised in captivity from parent subspecies then listed as endangered (*Falco peregrinus anatum, F. p. tundrius, F. p. peregrinus*), unlisted subspecies (*F. p. pealei, F. p. brookei, etc.*), and combinations of these subspecies. The first experimental releases of captive-produced young in the eastern States occurred in 1974 and 1975 (Cade 1994). These and future releases, coordinated by the Service, State fish and wildlife agencies, and representatives of The Peregrine Fund, demonstrated that hacking, the practice of retaining and feeding young captive-bred birds in partial captivity until they learn to fly and hunt on their own, was an effective method of introducing captive-bred peregrines to the wild (U.S. Fish and Wildlife Service 1991).

In 1978, we issued a policy statement confirming support for the use of North American peregrines to establish an eastern peregrine falcon population, supported with endangered species funds, and the use of peregrines from other geographic areas for specific research purposes. The policy applied only to peregrine falcons in the east (Keith M. Schreiner, U.S. Fish and Wildlife Service, *in litt.* 1978).

Thus, notwithstanding the similarity of appearance designation, we have continued to fully support the restoration of the eastern peregrine falcon under the 1991 revised Peregrine Falcon Eastern Population Recovery Plan. We have given the eastern peregrine falcon equal consideration with the American peregrine falcon with respect to recovery.

The Peregrine Falcon Eastern Population Recovery Plan (Eastern Plan), first published in 1979, and revised in 1985 and 1991 (U.S. Fish and Wildlife Service 1991), addressed the recovery of the peregrine falcon in the Eastern United States, a population re-established beginning in 1974 and 1975 by releasing captive-bred peregrine falcons of mixed genetic heritage. The recovery plan established two recovery objectives (1) establish a minimum of 20–25 nesting pairs in each of 5 recovery units and sustained them for a minimum of 3 years; and (2) an overall minimum of 175'200 pairs demonstrating successful, sustained nesting. The five recovery units are (1) Mid-Atlantic Coast, (2) Northern New York and New England, (3) Southern Appalachians, (4) Great Lakes, and (5) Southern New England/Central Appalachians.

The first recovery objective is nearly achieved, with three of the five recovery units (Mid-Atlantic Coast, Northern New York and New England, and Great Lakes) surpassing 20 to 25 nesting pairs of peregrine falcons for 3 years. The Mid-Atlantic Coast unit had 65 pairs fledging 110 young in 1998 and averaged 62 pairs and 90 fledglings annually from 1996 through 1998. The Northern New York and New England unit had 50 pairs fledging 70 young in 1998 and averaged 47 pairs and 61 fledglings annually from 1996 through 1998. The Great Lakes unit had 44 pairs fledging 95 young in 1998 and averaged 40 pairs and 74 fledglings from 1996 through 1998. The Southern Appalachians unit had 14 pairs fledging seven young in 1998, and averaged 11 pairs fledging 14 young from 1996 through 1998. The Southern New England and Central Appalachians unit had 20 pairs fledging 26 young in 1998 and averaged 15 pairs fledging 22 young from 1996 through 1998 (L. Kiff, *in litt.* 1997; David Flemming, U.S. Fish and Wildlife Service, *in litt.* 1997; Mike Amaral, U.S. Fish and Wildlife Service, *in litt.* 1999). In 1998, there was a total of 193 pairs counted in the five eastern State recovery units, which was the upper minimum recovery level of the Eastern Plan. The recovery goal, however, was probably met in 1997, because up to 10 percent of territorial pairs in any given year are believed to escape detection and are not counted (Cade *et al.* 1988). Importantly, the number of territorial pairs recorded in the eastern peregrine falcon recovery area has increased an average of 10 per cent annually for the past 7 years (1992–1998). Equally important is that the productivity of these pairs during the same 7-year period has averaged 1.5 yg/pr, thus demonstrating sustained successful nesting.

As of 1998, there were at least 32 nesting peregrine pairs in six midwestern States, which is outside the recovery area delineated in the 1991 Eastern Plan. The birds are nesting successfully in a larger area than was believed likely in 1991. Peregrine falcons now found in midwestern States are the result of captive-reared and released birds, and others that probably came from the peregrine falcons released in the eastern States. However, there appears to be a zone of no nesting in the northeastern Great Plains that separates the western American peregrine falcons from the introduced eastern peregrine falcons (Chuck Kjos, U.S. Fish and Wildlife Service, pers. comm. 1997). There are now more than 225 pairs of peregrine falcons in the midwestern and eastern States where peregrine falcons were extirpated.

Mexico

None of the existing recovery plans written for peregrine falcons in North America established recovery criteria for birds that nest in Mexico. There is very little historical or recent information on peregrine falcons in Mexico to accurately assess their current status in Mexico.

Porter *et al.* (1988) reported 42 known nesting territories on the western side of the Baja California Peninsula. From 1966 through 1971, only three pairs occurred in this region and none were found in 1976 (Porter *et al.* 1988), indicating a substantial decline had occurred by the mid-1970s. Most of these territories apparently were checked since that time, but seven pairs were located between 1985 and 1992 in areas not occupied in previous years (Massey and Palacios 1994).

In 1993, three active American peregrine falcon nests were discovered in Ojo de Liebre (Scammon's Lagoon) on the western side of the Baja California Peninsula in an area without historical nesting records (Castellanos *et al.* 1994). The central west coast of the Baja California Peninsula was an important breeding area with a historical population of about 13 pairs (Banks 1969). Between 1980 and 1994, Castellanos *et al.* (1997) conducted breeding surveys of American peregrine falcons in this area of the coast and found 10 nesting pairs. Castellanos *et al.* (1997) studied the reproductive success of three pairs in 1993 and five pairs in 1994 located at Ojo de Liebre and San Ignacio Lagoons. An average of three eggs, 1.8 nestlings, and 1.6 fledglings were produced per nest. This productivity appears to be within the range of normal productivity for healthy populations (Cade *et al.* 1988). These observations suggest some recent recovery on the west coast of the Baja California Peninsula.

On the western (Gulf of California) side of mainland Mexico, Porter *et al.* (1988) reported 23 historical nest sites. A number of new nest sites were found in this area between 1966 and 1984, increasing the number of known nest sites to 51. Territory occupancy averaged about 82 percent between 1967 and 1971 and 77 percent between 1971 through 1975, indicating that territory occupancy in that area never declined as significantly as on the west side of the Baja California Peninsula. Porter and Jenkins (1988) believed that the number of occupied territories in the Gulf area increased after 1967 following a reduction in DDE residues in prey.

Between 1989 and 1997, Robert Mesta, (*in litt.* 1997) found three pairs of American peregrine falcons, one pair on the Rio Aros and two on the Rio Yaqui, Sonora. Hunt *et al.* (1988) found 14 occupied nesting territories in the highlands of northeast Mexico in 1982. In this area and adjacent west Texas, territory occupancy averaged about 70 percent during 1973–1985.

Most of what is known about productivity and pesticide residues in Mexico comes from the western mainland near the Gulf of California. Porter *et al.* (1988) found that productivity along the Gulf of California between 1965 and 1984 was ''somewhat less than normal,'' and five addled eggs collected between 1976 and 1984 averaged 12.8 ppm DDE with a range of 2.4 to 25.0 ppm (Porter and Jenkins 1988). DDE residues in prey in the Gulf area declined from the 1960s to the 1980s, and this decline correlated with increases in productivity and the number of breeding pairs (Porter and Jenkins 1988). Some prey, however, still contained high pesticide residues, and reproduction appeared to be affected by organochlorine at three of 15 nests examined (Porter and Jenkins 1988).

Hunt *et al.* (1988) found that only five of 14 pairs produced young in northeast Mexico in 1982. Hunt *et al.* (1988) reported significant DDE residues in peregrine falcon prey species in western Texas in the mid 1980s, but prey species in Mexico were not sampled.

In summary, there was little research on the distribution, numbers, and status of American peregrine falcons in Mexico, and most research took place in the Baja California Peninsula and the Gulf of California regions. Numbers on the west coast of the Baja California Peninsula declined significantly (Porter *et al.* 1988), but observations suggest that numbers may have increased in recent years (Massey and Palacios 1994; Castellanos *et al.* 1994; and Castellanos *et al.* 1997). In the Gulf of California area, territory occupancy never was known to drop below 77 percent (Porter *et al.* 1988), and it increased in the 1970s and 1980s (Porter and Jenkins 1988).

No information on population trends for American peregrine falcons in Mexico is available. However, the status of the Mexican population may be similar to that of the population occupying similar habitat in nearby Arizona (G. Hunt, pers. comm. 1997). Exposure to organochlorine-based pesticides by Mexico nesting populations continues to be a concern. In 1997, as part of the North American Agreement for Environmental Cooperation, a parallel agreement to the North American Free Trade Agreement between the United States, Canada, and Mexico, the Commission for Environmental Cooperation (CEC) established a North American Regional Action Plan (NARA) on DDT. Mexico, a member nation of the CEC, proposes a phased reduction of DDT (Philip Johnson, U.S. Fish and Wildlife Service, pers. comm. 1999). Specific goals of this reduction are: (1) Reduce the use of DDT for malaria control in Mexico by 80 percent in 5 years (beginning in 1997); (2) eliminate the illegal use of DDT in agriculture in Mexico; (3) develop a cooperative approach to minimize movement of malaria-infected mosquitos across borders and reduce the illegal importation of DDT; and (4) advance global controls on DDT production, export and use.

Adverse effects of organochlorine pesticides in the environment remains an international concern for peregrine falcons nesting in Mexico, and for peregrine falcons wintering in or migrating through Latin America. By undertaking the steps proposed in the NARA, the United States, Canada, and Mexico are committing to ongoing cooperative activities and yearly reporting on progress made on these initiatives and objectives. Annual reports will be submitted to the North American Working Group for the Sound Management of Chemicals and subsequently disseminated to the Council of the Commission for Environmental Cooperation and the public.

Summary of Peregrine Falcon Recovery

Five regional peregrine falcon recovery plans, four for American peregrine falcons in Canada and the western United States, and one for the eastern United States introduced peregrine falcon population, were written to guide recovery efforts and establish criteria to be used in measuring recovery. These recovery plans included objectives for population size and reproductive performance. Only two of the recovery plans included specific objectives that applied to pesticide residues in eggs and eggshell thinning. The combined breeding population size goal for the four American peregrine falcon recovery plans is 456 pairs. Currently, a minimum of 1,425 pairs occupy the range of the American peregrine falcon in Alaska, Canada, and the western United States. There are 193 peregrine falcon pairs in the five recovery units included in the Eastern Plan, and an additional 32 peregrine falcon pairs occur in midwestern States in areas not included in the Eastern Plan recovery units. In 1998, the total known breeding population of peregrine falcons was 1,650 pairs in the United States and Canada.

Productivity is an important measure of population health, and each of the four American peregrine falcon recovery regions met or exceeded their respective productivity goals, as did the eastern peregrine population.

Other objectives, including those for pesticide residues in eggs and the degree to which eggshells are thinner than pre-pesticide era eggshells, vary among the plans. In the case of eggshell thinning, current measurements obtained in some areas fall short of recovery objectives. Eggshell thinning was originally suggested by recovery teams as an indicator of whether organochlorine contamination was preventing species recovery. Despite the failure of populations in localized areas to meet recovery objectives, overall, populations of American peregrine

falcons have increased considerably. This increase continues to occur even after reintroduction efforts were curtailed. The consistent and geographically widespread trends in increasing population size demonstrate that current levels of reproductive failure, pesticide residues, and eggshell thinning still affecting American peregrine falcons in some areas have not prevented recovery of the subspecies in North America.

Table 1 summarizes the recovery plan goals for each of the regions and Canada, as well as the current recovery status.

TABLE 1.—AMERICAN PEREGRINE FALCON RECOVERY PLAN GOALS AND CURRENT (1998) RECOVERY STATUS.

Recovery plan	Delisting goal	Current status	Comments/degree to which delisting goals are met
Alaska:			
Pairs	28 pairs in study areas.	79 pairs in study areas.	Exceeded goal by 51 pairs in study areas. Approximately 301 pairs known State-wide.
Productivity (young/pair)	1.8 yg/pr	1.9 yg/pr	Exceeded goal.
DDT (parts per million)	less than 5 ppm	3.5 ppm	Exceeded goal.
Eggshell thinning	less than 10 percent.	12.1 percent	Goal not met, but has not prevented recovery; goal probably too conservative.
Canada:			
Pairs	60 pairs (10 each in 6 zones).	319 pairs	Exceeded goal by 259 pairs.
Productivity	1.5 yg/pr	1.8 yg/pr	Exceeded goal.
Pacific Coast:			
Pairs	185 pairs	270 pairs	Exceeded goal by 85 pairs.
Productivity	1.5 yg/pr	1.5 yg/pr	Goal met.
Rocky Mountain/Southwest:			
Pairs	183 pairs	535 pairs	Exceeded goal by 352 pairs.
Productivity	1.25 yg/pr	1.3 yg/pr	Exceeded goal.
Eggshell thinning	less than 10 percent.		Goal measured by only a few States; cannot be assessed.
Eastern/Great Lakes:			
Pairs	175–200 pairs (with no fewer than 20–25 in each of 5 recovery zones).	193 pairs	Exceeded goal in 3 zones; goals in other 2 zones probably were met; an additional 32 peregrine falcon pairs occur in several Midwestern States not included under the Eastern Plan.

Summary of Issues and Recommendations

In the August 26, 1998, proposed rule (63 FR 45446), we requested that all interested parties provide information and comments on the status of and proposal to delist the American peregrine falcon. Announcements of the proposed rule were sent to Federal, State, county, and city-elected officials, Federal and State agencies, interested private citizens, and local area newspapers and radio stations. We provided the governments of Canada and Mexico with the proposed rule, and both countries responded with comments. We held public hearings on December 3, 1998, in Wisconsin and December 8, 1998, in New Hampshire. In addition, we solicited formal scientific peer review of the proposal in accordance with our July 1, 1994, Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities (59 FR 34270). We requested three individuals, who possess expertise in peregrine falcon biology, to review the proposed rule by the close of the comment period. All three individuals responded to our request and their comments were incorporated into this final rule.

We considered all comments, including oral testimony at the public hearings. We received a total of 29 oral comments and 893 comment letters from 49 States, and the District of Columbia, Canada, Mexico, Germany, Bali, four Federal agencies, 27 State resource agencies, 305 falconry associations or individual falconers, and 40 conservation organizations. Of the comments received, 633 supported the proposal to delist, 266 opposed the proposal, 11 supported downlisting, and 12 letters duplicated comments from individuals who previously provided oral comments.

Because many respondents offered similar comments, those comments of a similar nature are grouped. These comments, and our responses, are presented below.

Issue 1: In the Midwest, delisting will result in less cooperation by building owners and managers to protect peregrine falcons nesting on their buildings.

Our Response: Currently, 28 States in the midwestern and eastern United States support nesting peregrine falcons. Approximately 87 percent of the midwestern pairs and 33 percent of the eastern pairs are nesting on manmade structures: bridges, buildings and smokestacks (Martell and McNicoll 1999). Currently, there are 117 nests on nest boxes or trays in 19 States and the District of Columbia. Should delisting the peregrine falcon act as a disincentive for owners and managers to protect nesting peregrine falcons on their buildings, the long-term security of this urban population could be threatened (Martell and McNicoll 1999).

Between January and March of 1999, 75 people with information on 95 of the 117 nest sites were asked if delisting would affect their current management strategies. Responses were overwhelmingly in favor of continuing to manage for the presence of nesting pairs for some of the following reasons: pigeon control, good public relations, positive effect on building employees, and good environmental stewardship (Martell and McNicoll 1999). Survey results do not suggest that delisting of the peregrine falcon would result in widespread removal of nest boxes and trays or discouragement of nesting on manmade structures. Furthermore, the survey found the public widely appreciated and accommodated

peregrines at the manmade structures on which they nest (Martell and McNicoll 1999).

Issue 2: Disturbance due to recreational rock climbing poses a threat to nesting peregrine falcons.

Our Response: The increasing popularity of rock climbing throughout North America, particularly in the northeast, is becoming a serious problem for land managers trying to protect nesting peregrine falcons. Unlike the western landscape that provides rock climbers with more and larger cliffs and thus some alternatives to conflicts with nesting peregrine falcons, the smaller and limited cliffs of the northeast present fewer alternatives to peregrine/climber conflicts.

The peregrine falcon will still be protected by the MBTA. Additional protection is provided by other laws such as the National Forest Management Act (16 U.S.C. 1600) and the Federal Land Management and Policy Act (43 U.S.C. 1701). These continued protections are adequate to address this threat. See Factor D under Summary of Factors Affecting the Species.

In addition, we are aware of several very effective raptor management plans that were cooperatively developed by land managers, representatives of the climbing community, and other interested parties (plans that contain effective public education components). Some examples include plans developed by the Prescott National Forest in Arizona, Yosemite National Park in California, Adirondack State Park in New York, Zion National Park in Utah, Smith Rock State Park in Oregon, the Nantahala National Forest in North Carolina, and the Colorado National Monument in Colorado. All of these plans include seasonal rock climbing restrictions to prevent disturbance of raptor nests from rock climbing activities. The development of more of these partnerships is essential to the preservation of the peregrine falcon and the sport of rock climbing. Organizations like the Access Fund which represent the climbing community have continued to express a strong desire to work with both private and public land managers to resolve any conflicts originating from the use of cliffs by climbers.

Issue 3: The Act's section 6 funds currently being used by States to support peregrine falcon monitoring programs will not be available once the peregrine is delisted.

Our Response: We are authorized through the Secretary of the Interior to provide grants to States to assist in monitoring the status of recovered species pursuant to section 4(g) under section 6 of the Act. Existing and future Federal assistance in the form of section 6 funding to States for conservation work will not be affected by the delisting, as long as States continue to identify monitoring peregrine falcons as a high priority.

Issue 4: The data do not support delisting the American peregrine falcon throughout its range in the United States. The Service should consider downlisting the American peregrine falcon to threatened rather than delisting.

Our Response: Recent data show improvements in numbers of breeding pairs of peregrine falcons and productivity (Refer to Table 1, ''Recovery Status,'' and ''Summary of Peregrine Falcon Recovery''), and demonstrate that goals set for numbers and productivity for the American peregrine falcon recovery plans were met or exceeded. The combined population size goal for the four American peregrine falcon recovery plans is 456 pairs. Currently, a minimum of 1,425 known pairs occupy sites in Alaska, Canada, and the western United States, and a number of additional pairs have probably gone undetected. Overall average productivity goals in all four American peregrine falcon recovery plans, using productivity as a recovery criterion, were met or exceeded.

Only the Alaska recovery plan set a goal for DDT levels, and only two recovery plans (Alaska and Rocky Mountain/Southwest) specified objectives for eggshell thinning. The Alaska Recovery Plan set a delisting goal of less than 5 ppm DDT and less than 10 percent eggshell thinning. Recent data for American peregrine falcon eggs in Alaska indicate DDT levels at less than 3.5 ppm, exceeding that goal, and eggshell thinning is at 12.1 percent. Measurements for eggshell thinning were not consistently taken in the Rocky Mountain/Southwest States. Colorado has met the recovery plan eggshell thinning goal of less than 10 percent; the average of the annual means for 1990–1994 was 9.0 percent. Data for other States show a general trend toward thicker eggshells since the mid-1970s (refer to Rocky Mountain/Southwest section under Recovery Status).

Three of 5 peregrine falcon recovery units in the eastern United States have met recovery goals, and 193 pairs documented in 1998 indicate the overall recovery goal of 175–200 pairs was met. In addition, another 32 pairs are nesting in areas of the Midwest outside the recovery units specified in the Eastern Plan but nevertheless contribute to overall restoration goals.

We believe that the species has essentially achieved the goals established for recovery and, in many areas, has exceeded the goals. We believe the available information supports full delisting of the species throughout its range, and the species clearly is not in danger of extinction, is not likely to become endangered within the foreseeable future throughout a significant portion of its range, and warrants full delisting.

Issue 5: American peregrine falcons should not be delisted because they are not restored throughout the historical range.

Our Response: We have determined the American peregrine falcon has recovered throughout its historical range. Restoration of the American peregrine falcon within every area throughout its historical range is not required by the Act, is not required for recovery, nor was it a goal of any of the recovery plans. Generally, the goal of a recovery program is to restore the species to a point at which protection under the Act is no longer required. To be recovered, a species must not be endangered with extinction, or be likely to become endangered within the foreseeable future. Although a few, localized areas have not quite met their numerical recovery goals, the overall status of the American peregrine falcon has improved significantly such that it is considered recovered and warrants delisting. As a species recovers in numbers and populations expand, more of the historical range can be re-occupied where appropriate habitat remains.

Issue 6: There are gaps in the scientific knowledge about American peregrine falcon biology. A population viability analysis was not done, and genetic diversity, viable population size, population dynamics, and long-term stability of populations have not been determined.

Our Response: A complete understanding of the biology of a species is not required to determine a species' conservation status under the Act. Population viability analyses are important tools for attempting to quantify threats to a species, particularly those facing loss and fragmentation of habitat, and the consequences of conservation actions, as well as aiding in identifying critical factors for study, management, and monitoring. These analyses are not always essential, however, to determine when a species has achieved recovery, particularly in the case of the American peregrine falcon. It is evident that

recovery of this subspecies was largely achieved by eliminating the use of DDT and by successful management activities, including the reintroduction of captive-bred American peregrine falcons. Recovery goals established for the species were met or exceeded, with few exceptions.

Issue 7: Organochlorine pesticides still persist within the breeding range of the American peregrine falcon and continue to depress natural productivity.

Our Response: We recognize that although the peregrine falcon has made a dramatic recovery throughout its historical range in the United States, the presence of environmental contaminants is still affecting the productivity of certain regional populations. Eggs collected on the eastern shore of Virginia and Maryland had slightly elevated levels of DDE, dieldrin, and mercury, which was associated with reproductive problems (U.S. Fish and Wildlife Service 1994). On the Channel Islands in California, particularly Catalina, populations are still affected by organochlorine residues and eggshell thinning (Jarman 1994). In west Texas, heavy metal contamination, particularly mercury may be depressing productivity (A. Sansom, *in litt.*1995). Residual mercury from mines operated along the Rio Grande River in the early 1900s is the suspected source of this contamination (B. McKinney, pers. comm. 1997). We recognize the possible threat that environmental contaminants pose to the sustained recovery of this species and therefore, will include a contaminant monitoring component in the post-delisting monitoring plan. Refer to Factor E under Summary of Factors Affecting the Species, for an in-depth discussion of contaminants. See also our response to issue 8.

Issue 8: The continued unrestricted use of organochlorine pesticides in Latin America places the American peregrine falcon at risk of contamination while on migration and on its wintering grounds.

Our Response: Comparisons of blood samples collected during fall and spring migration indicate that, although migrant peregrine falcons are known to accumulate pesticides while wintering in Latin America, DDE residues in the blood taken from female peregrine falcons captured during spring migration at Padre Island, Texas decreased between 1978 and 1994 below levels that would affect reproduction (Henny *et al.* 1996). Despite the use of organochlorines in Latin America, the American peregrine falcon has recovered over its historical range, and Arctic peregrine falcons, which also winter in Latin America, were delisted due to their recovery. Refer to Factor E under Summary of Factors Affecting the Species for an in-depth discussion. The North American Working Group for the Sound Management of Chemicals promotes a regional perspective that encourages the active involvement of Central and South American countries in the implementation of the North American Regional Action Plan on DDT, and is facilitating international cooperation on combating malaria in these regions without the continued use of organochlorine pesticides. This effort could eventually eliminate or reduce one source of DDT in Central and South American countries.

Issue 9: The take of American peregrine falcons for falconry after its delisting will create an additional threat to the subspecies.

Our Response: Delisting the American peregrine falcon will not affect the protection given to all migratory bird species, including the peregrine falcon, under the MBTA. The regulations issued pursuant to the MBTA allow for issuance of permits to take raptors for falconry and other purposes provided the taking will not threaten wildlife populations (50 CFR 21.28 and 13.21(b)). Currently we are working with State wildlife agencies to develop biological criteria and two management plans to govern the issuance of permits for take of peregrine falcons to ensure the taking does not negatively impact wild populations, particularly those in need of further restoration. The first management plan will deal with the take of eyas (nestling) peregrines. A second management plan will deal with the take of passage (migrating first-year) peregrines. The management plans will include criteria for harvest, implementation criteria, and procedures for evaluating effects of the harvest. They will pertain to the take of all wild peregrine falcons in the U.S., including the American peregrine falcon, and will apply to all falconry, raptor propagation, and scientific collecting permits. Take will not be permitted under the MBTA until the draft management plans undergo public review, are approved, finalized, and published in the **Federal Register**. Some exceptions may be made on a case-by-case basis for scientific purposes. The effects of take for all purposes will be assessed during the monitoring period following delisting. Refer to Factor D under the Summary of Factors Affecting the Species section and the Effects of This Rule section for further information.

Issue 10: The Canadian Wildlife Service has expressed concern that American peregrine falcons breeding in Canada but migrating to or through the United States will be taken for falconry purposes.

Our Response: Canada's recovery program for American peregrine falcons is still in progress and the Canadian government is concerned that any take of American peregrines migrating from Canada could impact recovery. We are working with the governments of Canada and Greenland in considering the appropriateness of harvest of peregrines migrating through the United States. If take of these passage birds is approved, it would be designed to avoid take of American peregrines originating in Canada and instead target the more abundant Arctic peregrines from northern Alaska, Canada, and Greenland.

Issue 11: The Service cannot consider delisting the American peregrine falcon until all recovery goals in the four existing recovery plans for this subspecies are met or exceeded.

Our Response: Section 4(f) of the Act directs us to develop and implement recovery plans for species of animals or plants listed as endangered or threatened. Recovery is the process by which the decline of an endangered or threatened species is arrested or reversed and threats to its survival are neutralized so that long-term survival in nature can be ensured. The goal of this process is the maintenance of secure, self-sustaining wild populations of species with the minimum investment of resources. One of the main purposes of the recovery plan is to enumerate goals (guidelines) that will help us to determine when recovery for a particular species is achieved. Meeting or exceeding all of the specific recovery goals for a listed species is not required by the Act before delisting can occur.

We determine whether recovery is achieved based on a species' performance relative to the goals set in its recovery plan and the best available scientific information. A species is considered recovered when it is no longer in danger of extinction (i.e., endangered), or likely to become endangered within the foreseeable future throughout all or a significant portion of its range (i.e., threatened). The American peregrine falcon has either met, exceeded, or is very close to meeting the recovery goals set for this subspecies throughout its range. We believe that the intent of all the objectives are met and that the recovery of the subspecies justifies delisting.

Issue 12: The eastern peregrine falcon population has not met the recovery goals set forth in the Eastern Recovery

Plan and, therefore, should remain on the endangered species list.

Our Response: The eastern peregrine falcon population is protected only due to the similarity of appearance to *F. p. anatum,* which has protected individual eastern peregrine falcons from direct take. Thus, their status with respect to recovery has no direct impact on the decision to delist the American peregrine falcon. Nevertheless, we have supported and still fully support the restoration of this population.

Data through 1998 on the status of the eastern peregrine falcon population indicate that the intent of the recovery goals set for this population are met. The recovery plan established 2 recovery objectives including (1) a minimum of 20–25 nesting pairs in each of 5 recovery units which are established and sustained for a minimum of 3 years, and (2) an overall minimum of 175–200 pairs demonstrating successful, sustained nesting. Three of the five recovery units (Mid-Atlantic Coast, Northern New York and New England, and Great Lakes) have surpassed the nesting pair goal for 3 years. The Southern Appalachians and Southern New England/Central Appalachians units may not yet have achieved the goals established for the number of breeding pairs for those areas. However, the overall minimum of 175–200 successful pairs in the eastern region was achieved, and over the past 6 years (1992–1998), the number of territorial pairs has increased an average of 10 percent annually. There are now at least 193 pairs of peregrine falcons in the eastern States where falcons were extirpated, and pairs are successfully nesting throughout a greater range than was anticipated. We believe the intent of the recovery objectives are satisfied and that recovery of the peregrine in the eastern United States is sufficiently established. Refer to the Recovery Status section for additional discussion on this subject.

Issue 13: The status of the American peregrine falcon in Mexico was not adequately addressed.

Our Response: While population status and trends for falcons nesting in Mexico are not well known, American peregrine falcon populations in the United States and Canada, including those migrating to and from Latin America, have met or exceeded their criteria for delisting. Restoration of the American peregrine falcon within every area throughout its historical range is not required by the Act, nor is it required for recovery. Mexico's proposed phased reduction of DDT under the North American Regional Action Plan will make a significant contribution toward increasing peregrine falcon populations in Mexico. Refer to the Mexico section under Recovery Status for additional discussion on this subject.

Issue 14: The Service's delisting proposal is not supported by an adequate scientific review.

Our Response: The proposed rule to remove the peregrine falcon in North America from the Federal List of Endangered and Threatened Wildlife received reviews from a variety of scientific institutions and individual scientists. Two examples are the Ornithological Council and the Raptor Research Foundation. The Ornithological Council consists of nine leading scientific ornithological societies: the American Ornithologists' Union, Association of Field Ornithologists, Consejo Internacional para la Preservaciòn de las Aves, Cooper Ornithological Society, Colonial Waterbird Society, Pacific Seabird Group, Raptor Research Foundation, Society of Caribbean Ornithology, and Wilson Ornithological Society. Together it has a membership of approximately 6,500 ornithologists. One of its primary missions is to provide scientific information about birds to legislators, regulatory agencies, industry decision makers, conservation organizations and others, and to promote the use of scientific information in the making of policies that affect birds.

The task of evaluating the proposed rule on behalf of the Ornithological Council was accepted by a committee of Raptor Research Foundation scientists. The Raptor Research Foundation is a scientific society that represents professional raptor scientists and managers throughout North America and around the world. This committee of raptor scientists reviewed the available data and submitted a report that was endorsed by both the Ornithological Council and the Raptor Research Foundation as their position on the proposed rule. This report underwent peer review and was published in the Wildlife Society Bulletin (Millsap *et al.*, 1998, WSB 26(3); 522–538). While expressing some concern about the status of the eastern peregrine population, the authors concurred with our position that the peregrine falcon warranted delisting range-wide.

Issue 15: Recovery plans used to evaluate the recovery of the peregrine falcon are out of date and need to be revised to reflect more accurate contemporary goals and the Service should not misrepresent the goals in the current plans.

Our Response: As addressed in our response to Issue 11, section 4(f) of the Act directs us to develop and implement recovery plans for species of animals or plants listed as endangered or threatened. Recovery is the process by which the decline of an endangered or threatened species is arrested or reversed and threats to its survival are neutralized so that long-term survival in nature can be ensured. One of the main purposes of the recovery plan is to enumerate goals (guidelines) that will help us to determine when recovery of a particular species is achieved. Meeting or exceeding all of the specific recovery goals for a listed species before it can be delisted is not required by the Act. Section 4 of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act, establish the procedures for listing, reclassifying, and delisting species. We may list a species if one or more of the five factors described in section 4(a)(1) of the Act threatens the continued existence of the species. A species may be delisted, according to 50 CFR 424.11(d), if the best scientific and commercial data available substantiate that the species is neither endangered or threatened because of (1) extinction, (2) recovery, or (3) the original data for classification of the species were in error. We have determined that substantial peregrine falcon recovery has taken place, and none of the five factors addressed in section 4(a)(1) of the Act is currently negatively affecting the peregrine falcon to the degree that the species is endangered or threatened.

Issue 16: Post-delisting monitoring for at least 5 years is essential.

Our Response: We agree. Section 4(g)(1) of the Act requires the Secretary to implement a system, in cooperation with the States, to monitor for not less than 5 years the status of all species which have recovered to the point that protection of the Act is no longer required (section 4(g)). If it becomes evident during the course of the post-delisting monitoring that the species again requires the protection of the Act, it would be relisted.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act, set forth the procedures for listing, reclassifying, and delisting species on the Federal lists. We may list a species if one or more of the five factors described in section 4(a)(1) of the Act threatens the continued existence of the species. A species may be delisted, according to 50 CFR 424.11(d), if the

best scientific and commercial data available substantiate that the species is neither endangered or threatened because of (1) extinction, (2) recovery, or (3) the original data for classification of the species were in error.

After a thorough review of all available information, we have determined that substantial peregrine falcon recovery has taken place since the early 1980s. We determined that none of the five factors addressed in section 4(a)(1) of the Act, and discussed below, is currently affecting the species, including the American peregrine falcon subspecies and introduced peregrine falcon populations, such that the species is no longer endangered (in danger of extinction throughout all or a significant portion of its range) or threatened (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). These factors and their application to the peregrine falcon in North America are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Peregrine falcons occupy a variety of habitat types and nest from the boreal forest region of Alaska and Canada, through much of Canada and the western United States, south to parts of central and western Mexico. Nesting habitat includes cliffs and bluffs in boreal forests, coastal cliffs and islands, urban skyscrapers and other structures, and cliffs and buttes in southwestern deserts. In some breeding areas, such as the southern United States, some or all of the birds remain year-round on their nesting territories. In other breeding areas, particularly in high latitudes, many or all of the individuals are highly migratory; these individuals occupy a number of regions and habitat types throughout the year as they nest, migrate to and from wintering areas, and occupy their wintering ranges. Due to the extensive geographic distribution of the peregrine falcon, the wide variety of habitat types in which the species nests, and the immense area that some of the more migratory individuals occupy during a year, the peregrine falcon occupies an extremely broad array of areas and habitats throughout its range. As a result, the degree to which peregrine falcons were affected by human-caused habitat modification varies widely by region, habitat type, and individual falcons within the population.

As the human population has grown in North America, the rate of habitat alteration has unquestionably increased. Certainly some peregrine falcon habitat was destroyed, such as the many wetlands drained in recent years that were previously used by peregrine falcons for foraging or as migratory staging areas during spring and fall. But peregrine falcons have colonized many cities in North America due to the abundance of nest sites on buildings and the abundance of prey, such as rock doves (*Columba livia*), that thrive in urban areas. Therefore, some forms of habitat modification have negatively affected peregrine falcons while other forms have benefited them. It would be burdensome to estimate the net, overall effect of habitat modification on the species throughout North America.

Although the rate of habitat modification in North America has increased in recent decades, the number of American peregrine falcons occupying the region has increased substantially since the late 1970s or early 1980s. In several parts of their range, including parts of Alaska, the Yukon and Northwest Territories, California, and the southwestern United States, the number of breeding pairs has increased rapidly in recent years, and some local populations now occur at very high densities (R. Ambrose, pers. comm. 1997; G. Holroyd, pers. comm. 1997; Enderson *et al.* 1995). Because these rapid population growth rates and high densities were achieved despite habitat modification in North America, we conclude that habitat modification or destruction was not a limiting factor in peregrine recovery. It does not currently threaten the existence of the American peregrine falcon nor is it likely to in the foreseeable future.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Delisting the peregrine falcon will not result in overutilization because the delisting will not affect protection provided the peregrine falcon by the MBTA. The take of all migratory birds, including peregrine falcons, is governed by the MBTA's regulations on the taking of migratory birds for educational, scientific, and recreational purposes and requiring harvest be limited to levels that prevent overutilization (See Factor D).

C. Disease or Predation

Peregrine falcons are susceptible to a number of diseases and parasites such as tapeworms, mites, ticks, botulism, fowl pox, and viral encephalitis (U.S. Fish and Wildlife Service 1982b; Trainer (1969) as cited in U.S. Fish and Wildlife Service 1984). However, these organisms are not known to affect the peregrine falcon at the population level.

Mammals and other raptors are known to prey on peregrine falcons, including such species as the great horned owl (*Bubo virginianus*), red-tailed hawk (*Buteo jamaicensis*), raccoon (*Procyon lotor*), and coyote (*Canis latrans*) (U.S. Fish and Wildlife Service 1982b, 1984). For example, great horned owls are natural predators of peregrine falcons (U.S. Fish and Wildlife Service 1991) and are possibly responsible for the slow recovery of peregrine falcons in the two northern recovery areas in the reestablished eastern population (M. Amaral *in litt.* 1995). Great horned owl predation was not documented as a significant cause of the decline in peregrine falcons and has not affected the species' overall recovery.

Golden eagles (*Aquila chrysaetos*) are also known to prey on young peregrine falcons. Barbara Behan (U.S. Fish and Wildlife Service, pers. comm. 1999) witnessed a golden eagle prey on young peregrine falcons at a hack site in Colorado, stooping and footing one of the falcons, and leaving the area with it in its talons. The same eagle, or another, returned numerous times over the next several days, and the other four falcons disappeared in that time, despite efforts by the hack site attendants to scare the eagles away from the site.

Though the peregrine falcon is occasionally preyed upon, this factor is not known to affect the peregrine falcon at the population level.

D. The Inadequacy of Existing Regulatory Mechanisms

Protection from take and commerce for the peregrine falcons under the Endangered Species Act will be removed upon delisting. However, peregrine falcons are still protected by the MBTA. Section 704 of the MBTA states that the Secretary of the Interior is authorized and directed to determine if, and by what means, the take of migratory birds is allowed and to adopt suitable regulations permitting and governing the take. In adopting regulations, the Secretary is to consider such factors as distribution and abundance to ensure that take is compatible with the protection of the species.

The MBTA and its implementing regulations (50 CFR Parts 20 and 21) prohibit take, possession, import, export, transport, selling, purchase, barter, or offering for sale, purchase or barter, any migratory bird, their eggs, parts, and nests, except as authorized under a valid permit (50 CFR 21.11). Regulations at 50 CFR 21.28 and 21.30 authorize the issuance of permits to take, possess, transport and engage in

commerce with raptors for falconry and for propagation. Other regulations authorize the issuance of permits for scientific collecting (50 CFR 21.23), special purposes such as rehabilitation or education (50 CFR 21.27), and depredation (50 CFR 21.41). Prior to issuance of these permits, meeting certain criteria is required, including a requirement that the issuance will not threaten a wildlife population (50 CFR 13.21(b)(4)). In cooperation with State wildlife agencies we will develop draft biological criteria for management of take of wild peregrines under the MBTA. The resulting management plans will include biological criteria for take, implementation criteria, and procedures for evaluating the effects of the taking. It will pertain to the take of peregrines in the United States for falconry and other purposes. With limited exceptions, take will not be permitted under MBTA until the draft management plans undergo public review, are approved, finalized, and published in the **Federal Register**. In addition to considering the effect on wild populations, issuance of raptor propagation permits requires that we consider whether suitable captive stock is available and whether wild stock is needed to enhance the genetic variability of captive stock (50 CFR 21.30(c)(4)).

These existing regulatory provisions will adequately protect against excessive take of peregrine falcons. If necessary, protective measures could be expanded by promulgation of a regulation under the MBTA. We have both the legal authority and the obligation to regulate take of peregrines under the MBTA (see additional discussion of the MBTA in the Effects of this Rule section below).

In the absence of habitat protection under the Act, there are no other existing Federal laws that specifically protect the habitat of this species (see ''Critical Habitat''). However, loss of habitat was not identified as a threat to the species and was not a factor identified as contributing to the species' listing.

An important regulatory mechanism affecting peregrine falcons is the requirement that pesticides be registered with the Environmental Protection Agency (EPA). Under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136), the EPA requires environmental testing of all new pesticides. Testing the effects of pesticides on representative wildlife species prior to pesticide registration is specifically required. This protection from effects of pesticides are not altered by delisting the peregrine falcon.

On July 1, 1975, peregrine falcons were included in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. This treaty was established to prevent international trade that may be detrimental to the survival of plants and animals. Generally, both import and export permits are required by the importing and exporting countries before an Appendix I species may be shipped, and Appendix I species may not be imported for primarily commercial purposes. Although CITES does not itself regulate take or domestic trade, CITES permits may not be issued if the export will be detrimental to the survival of the species or if the specimens were not legally acquired. This protection is not be altered by delisting the peregrine falcon under the Act.

Peregrine falcons are still afforded some protection by land management agencies under laws such as the National Forest Management Act (16 U.S.C. 1600) and the Federal Land Management and Policy Act (43 U.S.C. 1701). National Forest Management Act regulations specify that ''fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area.'' (36 CFR 219.19). Guidelines for each planning area must provide for a diversity of plant and animal communities based on the suitability of a specific land area. United States Forest Service regional foresters are responsible for identifying sensitive species occurring within their Region. Sensitive species are those that may require special management emphasis to ensure their viability and to preclude trends toward endangerment that would result in the need for Federal listing. The delisting of the peregrine falcon will require Federal land managers to consider the need for designating the peregrine falcon as a sensitive species to ensure that forest management activities do not contribute to a need for relisting. The Federal Land Policy and Management Act requires that public lands be managed to protect the quality of scientific, ecological, and environmental qualities, among others, and to preserve and protect certain lands in their natural condition to provide food and habitat for fish and wildlife.

Federal delisting of the peregrine falcon will not remove the peregrine falcon from State threatened and endangered species lists, or suspend any other legal protections provided by State law. States may have more restrictive laws protecting wildlife, including restrictions on use for falconry, and may retain State threatened or endangered status for the peregrine falcon (see 50 CFR 21.28). Depending on the biological status, States generally list peregrine falcons as endangered, threatened, critically imperiled or as a species of concern. Currently, the peregrine falcon is State-listed in 38 of the 40 States that have nesting pairs. The two States that do not have the species listed—Colorado and Arizona—removed the peregrine falcon from their lists due to its recovery in those States. However, both will continue to regulate take for falconry and other purposes. In many States, falconry is administered cooperatively by the Service and the States.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Egg collecting, shooting, harvest for falconry, habitat destruction, climate change, and the extinction of passenger pigeons were all considered as possible factors causing or contributing to the decline in peregrine falcon populations in North America; however, no evidence supports any of these factors as causing the widespread reproductive failure and population decline that occurred. In contrast, an overwhelming body of evidence has accumulated showing that organochlorine pesticides affected survival and reproductive performance sufficiently to cause the decline. There currently is no question within the scientific community that contamination with organochlorines was the principal cause for the drastic declines and extirpations in peregrine falcon populations that took place in most parts of North America (Kiff 1988).

Although the use of all organochlorine pesticides causing reproductive failure in peregrine falcons was restricted in the United States and Canada in the early 1970s, their use continues in some areas of Latin America. It was shown, by comparing blood samples collected during fall and spring migration, that migrant peregrine falcons accumulate organochlorines while wintering in Latin America (Henny *et al.* 1982). Henny *et al.* (1996) demonstrated that DDE residues in the blood taken from female peregrine falcons captured during spring migration at Padre Island, Texas decreased between 1978 and 1994. In second-year peregrines, residues dropped from 1.43 ppm between 1978 and 1979 to only 0.25 ppm in 1994 and from 0.88 to 0.41 ppm for older peregrines; these levels are well below those that would affect reproduction (Henny *et al.* 1996).

The widespread reproductive failure and population decline of peregrine

falcons in North America coincided with the period of heavy organochlorine use in the United States. Although there was not an immediate lowering of pesticide residues in eggs following restrictions on the use of organochlorines north of Mexico (Enderson *et al.* 1995), residues gradually declined following the restrictions (Ambrose *et al.* 1988b; Enderson *et al.* 1988; Peakall *et al.* 1990), and most surviving populations began to increase in size thereafter. Despite the continued use of organochlorines in Latin America, populations of American peregrine falcons in North America have recovered substantially in recent years. In fact, Arctic peregrine falcons that winter predominantly in Latin America recovered to the point that the subspecies was removed from the Federal List of Threatened and Endangered Wildlife on October 4, 1994 (59 FR 50796).

Additionally, some of the avian prey used during the nesting season by peregrine falcons throughout North America also winter in Latin America. Many of these prey return to their nesting areas with pesticide residues accumulated during the winter (Fyfe *et al.* 1990). Peregrine falcons preying upon these birds during the summer are further exposed to Latin American pesticides. Overall, pesticide use in Latin America does not appear to have adversely affected reproductive success in American peregrine falcon populations in North America.

We recognize that certain populations of American peregrine falcons have recovered to a lesser degree, and that in some of these populations organochlorine residues are still high and reproductive rates remain lower than normal. Populations on the Channel Islands off southern California are still affected by high organochlorine residues and eggshell thinning (Jarman 1994). This is a localized threat, and the result of using offshore islands as DDT disposal areas during the 1940s. Despite the residual effects of organochlorines on the Channel Islands, this population is continuing to increase, although some of the increase could be the result of the release of a significant number of captive-bred young or dispersal from other areas where recovery is greater (B. Walton, pers. comm. 1997). Based on published values in the literature, detected concentrations of DDT in peregrine falcon eggs collected in New Jersey were sufficient to impact reproduction. Productivity and eggshell thinning data, however, did not support a conclusion of reproductive impairment due to DDT contamination (U.S. Fish and Wildlife Service and New Jersey Department of Environmental Protection 1997). Jarman (1994) suggested that these locally higher egg residues result from a local source of DDT or DDE. As a result, the effects are localized, and the observations do not reflect the current status of peregrine falcons as a whole. In recent years, numbers of peregrine falcons have increased significantly throughout their historical range despite the effects of localized organochlorine residues.

Similarly, American peregrine falcons in southwest Canada have not recovered as well as in most other regions of North America. Despite the release of several hundred captive-bred young in the prairie Provinces and western Canada (Holroyd and Banasch 1990), the number of pairs occupying territories is still well below the number of known historical nest sites (G. Holroyd, *in litt.* 1993). In southern Canada, including the prairie region, the proportion of reintroduced young that entered the breeding population was considerably lower than in the United States (Peakall 1990; Enderson *et al.* 1995). The factor or factors causing this lower recruitment rate remain unknown, but survivorship of peregrine falcons released into this area may be lower than in adjacent portions of the subspecies' range. Pesticide residues in American peregrine falcon eggs do not appear to be higher in southwest Canada than in the United States (Peakall *et al.* 1990). Therefore, higher residual organochlorine contamination is apparently not responsible, and the number of pairs occupying this region continues to increase.

Exposure to organochlorine pesticides caused drastic population declines in peregrine falcons. Following restrictions on the use of organochlorines in the United States and Canada, residues in eggs declined and reproduction rates improved. Improved reproduction, combined with the release of thousands of captive-reared young and relocated wild hatchlings, allowed the American peregrine falcon to recover and peregrine falcons to be successfully reestablished in those areas of the historical range from which the species was extirpated. Pesticide residues, reproductive rates, and the rate of recovery have varied among regions within the vast range of this species. In some areas, such as the Channel Islands off the southern coast of California, the lingering effects of DDT have caused reproductive rates to remain low. Local source contamination may even cause continued reproductive problems in the Channel Islands. In southwest Canada, the rate of recovery, or onset of recovery, apparently lagged behind most other areas, but recent trends suggest that historical nest sites will continue to be gradually re-colonized.

The peregrine falcon has recovered throughout its historical range. Although the recovery is slow in a few parts of the historical range, these areas represent a small portion of the species' overall range. Furthermore, evidence collected in recent years shows that a combination of lingering residues of organochlorines in North America and contamination resulting from the continued use of organochlorines in Latin America has not prevented a widespread and substantial recovery of peregrine falcons, as numbers of peregrine falcons continue to increase. We conclude, therefore, that the continued existence of the American peregrine falcon is no longer threatened by exposure to organochlorine pesticides.

In summary, due to the reduction in the effects of pesticides and widespread positive trends in population size, we have determined that the American peregrine falcon has recovered and is no longer endangered with extinction, or likely to become endangered within the foreseeable future throughout all or a significant portion of its range. We considered the alternative of downlisting the species, but recent data show improvements in breeding pair numbers and productivity, demonstrating that the delisting goals set for the American peregrine falcon in recovery plans were met or exceeded. We believe this available information supports the full delisting of the species throughout its range. Therefore, we are removing the peregrine falcon from the Federal List of Endangered and Threatened Wildlife, thus, removing endangered status for the American peregrine falcon throughout its range, and the similarity of appearance provision for all free-flying peregrine falcons within the 48 conterminous United States.

In accordance with 5 U.S.C. 553(d), we have determined that this rule relieves an existing restriction and good cause exists to make the effective date of this rule immediate. Delay in implementation of this delisting would cost government agencies staff time and monies conducting formal section 7 consultation on actions which may affect species no longer in need of the protections under the Act. Relieving the existing restriction associated with this listed species will enable Federal agencies to minimize any further delays in project planning and implementation for actions that may affect peregrine falcons.

Effects of This Rule

This final rule will affect the protection afforded to North American peregrine falcons under the Act. It will not affect the status of the Eurasian peregrine falcon (*F. p. peregrinus*), currently listed under the Act as endangered wherever it occurs. The endangered designation under the Act for the American peregrine falcon will be removed and the designation of endangered due to similarity of appearance for all free-flying peregrine falcons found within the 48 conterminous United States, including the Arctic and Peale's peregrine falcons, and the reestablished eastern and midwestern populations, will be removed. Therefore, taking, interstate commerce, import, and export of North American peregrine falcons will no longer be prohibited under the Act. In addition, Federal agencies will no longer be required to consult with the Service under section 7 of the Act in the event activities they authorize, fund or carry out adversely affect peregrine falcons. However, as previously discussed, removal of the protection of the Act will not affect the protection afforded all peregrine falcons under the MBTA.

The take and use of peregrine falcons must comply with appropriate State regulations. State regulations applying to falconry vary among States and are subject to change over time. The applicable State regulations may be more but not less restrictive than Federal regulations.

This rule will not affect the peregrine falcon's Appendix I status under CITES, and CITES permits will still be required to import and export peregrine falcons to and from the United States. CITES permits will not be granted if the export will be detrimental to the survival of the species or if the falcon was not legally acquired.

Critical Habitat

Critical habitat for the American peregrine falcon includes five areas in northern California (50 CFR 17.95). The Act defines critical habitat as ''specific areas within the geographical area occupied by the species, at the time it is listed on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection.'' Since critical habitat can be designated only for species listed as endangered or threatened under the Act, all currently designated American peregrine falcon critical habitat will be removed upon publication of this final rule.

Monitoring

Section 4(g)(1) of the Act requires us to monitor a species for at least 5 years after delisting. A monitoring plan was provided in the proposed delisting rule on August 26, 1998 (63 FR 45446). We are currently developing a revised monitoring plan which will be made available for public review in the **Federal Register** in the near future.

Take for Falconry and Other Purposes

Wild American and Arctic peregrine falcons were unavailable for falconry and raptor propagation in the contiguous United States since these two subspecies of peregrine falcons were listed under the Act in 1970. In Alaska, the Arctic peregrine became available for take in 1994 when it was delisted, but take of this subspecies was still restricted in the contiguous United States pursuant to the similarity of appearance provision of the Act. Take of Peale's peregrines also was restricted in the contiguous United States since 1984 pursuant to the similarity of appearance provisions of the Act.

With this delisting, which removes protection of the Act, regulation and management of peregrine falcons in the United States will fall primarily under the MBTA and State regulations. In anticipation of delisting, we are working with the State wildlife agencies to develop draft biological criteria for management of take of peregrines. These criteria will serve as the basis for discussions with authorities in Canada and Greenland to identify appropriate limits for take of passage birds. We will then prepare environmental assessments on the management of nestlings and passage birds and solicit public comment. The resulting management plans will include biological criteria for harvest, implementation criteria, and procedures for evaluating the harvest. One objective of the plans is to allow a level of take that does not compromise continuing restoration of peregrine falcons in North America. We expect to complete the management plan for nestlings by the Spring of 2000, and the management plan for passage birds by the Fall of 2000. Take of peregrine falcons in the conterminous United States is not permitted under the MBTA until the management plans undergo public review and are finalized, approved, and published in the **Federal Register**. Some permit exceptions may be made for scientific research. In Alaska, take of American peregrine falcons is not permitted but take of Peale's and Arctic peregrines may be authorized.

Executive Order 12866

This rule was not reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act, require that interested members of the public and affected agencies have an opportunity to comment on agency information collection and recordkeeping activities (see 5 CFR 1320.8(d)). We cannot conduct or sponsor, and a person is not required to respond to a collection of information, unless we are in possession of a current OMB Control Number. We intend to collect information from the public during the post-delisting monitoring period. A description of the information that will be collected was provided in the proposed delisting rule. We are revising the monitoring plan that was described in the proposed delisting rule, and will obtain a revised OMB Control Number for, and request public comment on, the revised monitoring plan in the **Federal Register** in the near future.

National Environmental Policy Act

We have determined that an environmental assessment or environmental impact statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Robert Mesta, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

For the reasons set out in the preamble, we hereby amend part 17, subchapter B of chapter I, Title 50 of the

Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.11 [Amended]

2. Section 17.11(h) is amended by removing the entries for ''Falcon, American peregrine, *Falco peregrinus anatum*'' and ''Falcon, peregrine, *Falco peregrinus*'' under ''BIRDS'' from the List of Endangered and Threatened Wildlife.

§ 17.95 [Amended]

3. Section 17.95(b) is amended by removing the critical habitat entry for ''American Peregrine Falcon.''

Dated: August 17, 1999.

Jamie Rappaport Clark,

Director, U. S. Fish and Wildlife Service.

[FR Doc. 99–21959 Filed 8–20–99; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 211/P.L. 106–48

To designate the Federal building and United States courthouse located at 920 West Riverside Avenue in Spokane, Washington, as the ''Thomas S. Foley United States Courthouse'', and the plaza at the south entrance of such building and courthouse as the ''Walter F. Horan Plaza''. (Aug. 17, 1999; 113 Stat. 230)

H.R. 1219/P.L. 106–49

Construction Industry Payment Protection Act of 1999 (Aug. 17, 1999; 113 Stat. 231)

H.R. 1568/P.L. 106–50

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H.R. 1664/P.L. 106–51

Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Aug. 17, 1999; 113 Stat. 252)

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Military Construction Appropriations Act, 2000 (Aug. 17, 1999; 113 Stat. 259)

S. 507/P.L. 106–53

Water Resources Development Act of 1999. (Aug. 17, 1999; 113 Stat. 269)

S. 606/P.L. 106–54

For the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes. (Aug. 17, 1999; 113 Stat. 398)

S. 1546/P.L. 106–55

To amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that Act, and for other purposes. (Aug. 17, 1999; 113 Stat. 401)

Last List August 18, 1999

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