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Rules and Regulations

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

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 890

RIN 3206 AJ03 (3206 AI63)

Federal Employees Health Benefits (FEHB) Program and Department of Defense (DoD) Demonstration Project

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: OPM is issuing a final regulation to implement the portion of the National Defense Authorization Act for 1999 that establishes authority for a demonstration project under which certain Medicare and other eligible DoD beneficiaries can enroll in health benefit plans in certain geographic areas under the Federal Employees Health Benefits (FEHB) Program. The demonstration project will run for a period of three years from January 1, 2000, through December 31, 2002. This regulation specifies only the requirements that differ from existing FEHB Program regulations because of unique aspects of the demonstration project.

DATES: The effective date of this regulation is July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, Policy Analyst, Insurance Policy and Information Division, OPM, Room 3425, 1900 E Street, NW., Washington, DC 20415–0001. He can also be reached at (202) 606–0004 or by electronic mail (E-mail) at: mwkaszyn@opm.gov.

SUPPLEMENTARY INFORMATION: The purpose of this regulation is to implement the portion of the National Defense Authorization Act for 1999, Public Law 105–261, that amended chapter 55 of title 10, United States Code, and chapter 89 of title 5, United States Code, to establish a demonstration project under which certain Medicare and other eligible DoD beneficiaries can enroll in health benefit plans offered under the FEHB Program. The legislation was signed into law on October 17, 1998. The demonstration project will run for a period of three years from January 1, 2000, through December 31, 2002. DoD, with OPM concurrence, has selected eight geographic areas to serve as demonstration areas. The legislation requires that between 6 and 10 geographic areas be selected. No more than 66,000 individuals can participate in the demonstration project at any one time. Beneficiaries who are provided coverage under the demonstration project will not be eligible to receive care at a military medical treatment facility or to enroll in a health care plan under DoD's TRICARE program. Individuals who disenroll or cancel enrollment from the demonstration project are not eligible to reenroll in the demonstration project. OPM will establish separate risk pools for developing demonstration project enrollee premium rates. The government contribution for demonstration enrollees will be paid by DoD and cannot exceed the maximum percentage or dollar amount that the government would have contributed had the enrollee been enrolled as a regular FEHB enrollee in the same health benefits plan and at the same level of benefits.

The legislation requires OPM and DoD to jointly produce and submit two reports to Congress designed to assess the viability of expanding access to the FEHB Program to certain Medicare and other eligible DoD beneficiaries permanently. The first report is due by April 1, 2001; the second is due by December 31, 2002. The reports will focus on enrollee participation levels, impact on Medicare Part B enrollment, premium rates and costs as compared to those for regular FEHB enrollees, impact on accessibility of care in military treatment facilities, impact on medical readiness and training in military treatment facilities, impact on the cost, accessibility, and availability of prescription drugs for DoD beneficiaries, and recommendations on eligibility and enrollment.

OPM has determined it necessary to specify certain differences from existing FEHB Program regulations because of the unique features of the demonstration project. This regulation amends Part 890 of title 5, Code of Federal Regulations (CFR) to authorize these differences. Should the program be extended beyond the three year demonstration project period, we will regulate to address any necessary changes to these provisions.

On July 6,1999, OPM published an interim regulation in the **Federal Register** (64 FR 36237). OPM subsequently received one comment from a trade association representing FEHB fee-for-service/PPO plans. The commenter indicated that the regulation does not address whether FEHB carriers must issue certificates of creditable coverage required under the Health Insurance Portability and Accountability Act (HIPAA) and asked if this was required under the demonstration project. The regulation is intended to change normal FEHB Program practice where specifically indicated. It is not intended to affect practices that have not been specifically addressed. Therefore, carriers must issue certificates of creditable coverage to meet the requirements of HIPAA for demonstration project enrollees the same as they do for regular FEHB Program enrollees.

Other minor clarifying changes have been made to the regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect health insurance carriers under the Federal Employees Health Benefits Program.

Executive Order 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 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professionals, Hostages, Iraq, Kuwait, Lebanon, Reporting and record keeping requirements, Retirement.

Office of Personnel Management.

Janice R. Lachance,

Director.

For the reasons set forth in the preamble, OPM is amending 5 CFR part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; § 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; § 890.102 also issued under sections 11202(f), 11232(e), 11246 (b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

2. A new Subpart M is revised to read as follows:

Subpart M—Department of Defense Federal Employees Health Benefits Program Demonstration Project

Sec.
890.1301 Purpose.
890.1302 Duration.
890.1303 Eligibility.
890.1304 Enrollment.
890.1305 Termination and cancellation.
890.1306 Government premium contributions.
890.1307 Data collection.
890.1308 Carrier participation.

Subpart M—Department of Defense Federal Employees Health Benefits Program Demonstration Project

§ 890.1301 Purpose.

The purpose of this subpart is to implement section 721 of the National Defense Authorization Act for 1999, Public Law 105–261. This section amended chapter 55 of title 10, United States Code, and chapter 89 of title 5, United States Code, to establish a demonstration project under which certain Medicare and other eligible Department of Defense (DoD) beneficiaries can enroll in health benefit plans offered under the Federal Employees Health Benefits (FEHB) Program in certain geographic areas. The legislation was signed into law on October 17, 1998. The demonstration project will run for a period of three years. The legislation requires the Office of Personnel Management (OPM) and DoD to jointly produce and submit two reports to Congress designed to assess the viability of expanding access to the FEHB Program to certain Medicare and other eligible DoD beneficiaries permanently. OPM is authorizing certain differences from regular FEHB Program practices in order to ensure the successful implementation of the demonstration project. This regulation authorizes those differences.

§ 890.1302 Duration.

The demonstration project will run from January 1, 2000, through December 31, 2002.

§ 890.1303 Eligibility.

(a) To enroll in the demonstration project, an individual must live within one of the demonstration areas and meet the definition of an eligible beneficiary in 10 U.S.C. 1108(b). An eligible beneficiary under this subpart is—

(1) A member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c *et seq.*);

(2) An individual who is an unremarried former spouse of a member or former member described in section 1072(2)(F) or section 1072(2)(G) of title 10, United States Code;

(3) An individual who is—

(i) A dependent of a deceased member or former member described in section 1076(b) or 1076(a)(2)(B) of title 10, United States Code, or of a member who died while on active duty for a period of more than 30 days; and

(ii) A ''member of family'' as defined in section 8901(5) of title 5, United States Code; or

(4) An individual who is—

(i) A dependent of a living member or former member described in section 1076(b)(1) of title 10, United States Code, who is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act, regardless of the member's or former member's eligibility for such hospital insurance benefits; and

(ii) A ''member of family'' as defined in section 8901(5) of title 5, United States Code.

(b) An eligible beneficiary may enroll in an FEHB plan under chapter 89 of title 5, United States Code, for self-only coverage or for self and family coverage. A self and family enrollment will include coverage of a dependent of the military member or former member who meets the definition of a ''member of family'' in section 8901(5) of title 5, United States Code. A self and family enrollment will not cover a person related to the eligible beneficiary that does not qualify as a ''member of family'' (as defined in section 8901(5) of title 5, United States Code) of the military member or former member.

(c) A person eligible for coverage under this subpart shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5, United States Code, or in other subparts of this part (except as provided in paragraphs (a)(3), (a)(4), and (b) of this section) as a condition for enrollment in health benefit plans offered through the FEHB Program under the demonstration project.

(d) When determining whether an individual is a ''member of family'' under section 8901(5) of title 5, United States Code, for purposes of paragraph (a)(3) and (a)(4) of this section, a DoD member or former member described in section 1076(b) or 1076(a)(2)(B) of title 10, United States Code, shall be deemed to be an employee under chapter 89 of title 5, United States Code. The sole purpose for deeming these members or former members of the uniformed services employees under chapter 89 of title 5, United States Code, is to determine which of their dependents can enroll as eligible beneficiaries in the demonstration project.

(e) A person who is eligible to enroll in the FEHB Program as an employee as defined in section 8901(1) of title 5, United States Code, is not eligible to enroll in an FEHB plan under the demonstration project.

§ 890.1304 Enrollment.

(a) Open Season for eligible beneficiaries will be held concurrent with the Open Season for regular FEHB enrollees. Open Seasons will be held in the years 1999, 2000 and 2001. Eligible beneficiaries will be able to enroll for coverage, change enrollment tiers (e.g., self-only or self and family), or change health benefit plans or plan options during these periods.

(b) Enrolled eligible beneficiaries are required to pay associate membership dues if they enroll in open employee organization sponsored plans that are participating in the demonstration project.

(c) DoD will deny enrollment of eligible beneficiaries when the total number of eligible beneficiaries and family members enrolled in the demonstration project reaches 66,000.

(d) Eligible beneficiaries can enroll only in health plans offered by health benefit carriers who are participating in the demonstration project.

(e) Eligible beneficiaries and family members enrolled in the demonstration project are not eligible to obtain services from military medical treatment facilities or to enroll in a health care plan under the TRICARE Program.

(f) An eligible beneficiary enrolled in an FEHB plan under the demonstration project may change health benefits plans and coverage in the same manner as any other FEHB Program enrollee, except as provided for in this subpart.

§ 890.1305 Termination and cancellation.

(a) If an enrolled eligible beneficiary moves out of a demonstration area, the enrollment of the eligible beneficiary and all family members will be terminated. If an enrolled eligible beneficiary moves to an area located within a demonstration area, he or she will continue to be eligible to participate in the demonstration project. If the eligible beneficiary was enrolled prior to the move in an HMO that does not serve the new demonstration area, the eligible beneficiary will have an opportunity to select a new health plan offered by a carrier participating in the demonstration project in the new area. If the eligible beneficiary was enrolled in a fee-for-service plan prior to the move and moves to another area that is within an existing demonstration area, the eligible beneficiary can maintain his or her current coverage.

(b) If an enrolled eligible beneficiary disenrolls, cancels, or terminates enrollment for any reason, he or she will not be eligible to reenroll in the demonstration project. Once coverage ends, eligible beneficiaries and all family members have the right to resume all of the benefits to which they are entitled to under title 10 of the United States Code. Medicare-covered eligible beneficiaries and their eligible family members who had Medigap policies prior to their enrollment in the demonstration project are entitled to reinstate that coverage under the conditions stated in section 1108(l) of title 10, United States Code.

(c) Eligible beneficiaries and their family members are eligible for Temporary Continuation of Coverage (TCC) under the conditions and for the durations described in subpart K or until the end of the demonstration project, whichever occurs first. The effective date of TCC for eligible beneficiaries or their eligible family members will be the day after other coverage under this subpart ends. Eligible beneficiaries or their eligible family members selecting TCC must enroll in a health plan offered by a carrier participating in the demonstration project. If an eligible beneficiary or eligible family member enrolled in DoD TCC moves from a demonstration project area, coverage ends. DoD TCC enrollees will be responsible for paying the entire DoD premium rate (OPM's approved net-to-carrier DoD rate plus 4 percent for contingency and administration reserves) plus 2 percent of this premium rate for administration of the program. DoD will make arrangements to collect premiums plus the 2 percent administrative charge from eligible beneficiaries and forward them to OPM's Employees Health Benefits Fund. OPM will establish procedures for receiving the 2 percent administrative payment into the Employees Health Benefits Fund and making this amount available to DoD for administration of the program.

(d) Enrolled eligible beneficiaries are not eligible for the temporary extension of coverage and conversion opportunities described in subpart D of this part.

§ 890.1306 Government premium contributions.

The Secretary of Defense is responsible for the government contribution for enrolled eligible beneficiaries and family members. The government contribution toward demonstration project premium rates will be determined in accordance with subpart E of this part.

§ 890.1307 Data collection.

Each carrier will compile, maintain, and when requested by OPM or DoD, report data on its plan's experience necessary to produce reports containing the following information and analysis:

(a) The number of eligible beneficiaries who elect to participate in the demonstration project.

(b) The number of eligible beneficiaries who elected to participate in the demonstration project and did not have Medicare Part B coverage before electing to participate.

(c) The costs of health benefits charges and the costs (direct and indirect) of administering the benefits and services provided to eligible beneficiaries who elect to participate in the demonstration project as compared to similarly situated enrollees in the FEHB Program.

(d) Prescription drug costs for demonstration project beneficiaries.

§ 890.1308 Carrier participation.

(a) All carriers who participate in the FEHB Program and provide benefits to enrollees in the geographic areas selected as demonstration project areas must participate in the demonstration project, except as provided for in paragraphs (b), (c), and (d) of this section.

(b) Carriers who have less than 300 FEHB enrollees may, but are not required to, participate in the demonstration project.

(c) Carriers may, but are not required to, participate in the demonstration project if their service area overlaps a small portion (as determined by OPM) of a demonstration project geographic area.

(d) Carriers offering fee-for-service plans with enrollment limited to specific groups will not participate in the demonstration project.

[FR Doc. 00–13850 Filed 6–1–00; 8:45 am]

BILLING CODE 6325–01–U

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 00–034–1]

Plum Pox

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are quarantining part of Adams County, PA, due to the detection of plum pox in that region and are restricting the interstate movement of certain articles from the quarantined area that present a risk of transmitting plum pox. This action is necessary on an emergency basis to prevent the spread of plum pox to noninfested areas of the United States.

DATES: This interim rule is effective on June 2, 2000. We invite you to comment on this docket. We will consider all comments that we receive by August 1, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 00–034–1 Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 00–034–1.

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, USDA,

APHIS, PPQ, 4700 River Road Unit 134, Riverdale, MD 20737; (301) 734–8899.

SUPPLEMENTARY INFORMATION:

Background

We are amending the ''Domestic Quarantine Notices'' in 7 CFR part 301 by adding a new subpart, ''Plum Pox,'' composed of new §§ 301.74 through 301.74–4 and referred to below as the regulations. These regulations quarantine portions of Adams County, PA, due to the detection of plum pox and restrict the interstate movement of certain articles from the quarantined area that present a risk of transmitting plum pox.

Plum pox is an extremely serious viral disease of plants that can affect many *Prunus* (stone fruit) species, including plum, peach, apricot, almond, nectarine, and sweet and tart cherry. A number of wild and ornamental *Prunus* species may also be susceptible to this disease. Infection eventually results in severely reduced fruit production, and the fruit that is produced is often misshapen and blemished. Plum pox virus is transmitted locally by a variety of aphid species as well as by budding and grafting with infected plant material. It spreads over longer distances through movement of infected budwood, nursery stock, and other plant parts. The strain of plum pox detected in Adams County, PA—the D strain—is not known to be transmitted by seed or fruit. This particular strain in Pennsylvania is also not known to infect cherry. There are no effective methods for treating trees or other plant material infested with plum pox. There are also no effective treatments to prevent the onset of plum pox other than eradication of nearby plant material already identified as infected. In Europe, plum pox has been present for a number of years and is considered to be the most serious disease affecting susceptible *Prunus* varieties.

Recent delimiting surveys of orchards have established that portions of Adams County, PA, in the area of Latimore Township and Huntington Township are infested with plum pox. Prior to this discovery, plum pox had not been detected in the United States.

Officials of the Animal and Plant Health Inspection Service (APHIS) and the Pennsylvania Department of Agriculture (PDA) have begun an intensive survey and eradication program in and around the infested area. The PDA has also instituted a quarantine encompassing Latimore and Huntington Townships in Adams County, PA, the area where plum pox is now known to be present. The PDA quarantine prohibits any movement of stone fruit trees (including nursery stock) and stone fruit budwood within the quarantined area as well as movement of these same regulated articles out of the quarantined area into other regions of Pennsylvania. There is no restriction on the movement of fruit since there is no evidence that the virus is spread from the fruit. Federal regulations are necessary in order to restrict the interstate movement of these same regulated articles and prevent the spread of plum pox to noninfested areas of the United States. This interim rule establishes those Federal regulations, which are described below.

Section 301.74—Restrictions on Interstate Movement of Regulated Articles

Section 301.74 prohibits the interstate movement of regulated articles from quarantined areas except in accordance with the regulations.

Section 301.74–1—Definitions

Section 301.74–1 contains definitions of the following terms: *Administrator, Animal and Plant Health Inspection Service, Departmental permit, infestation (infested, infected), inspector, interstate, moved (move, movement), person, Plant Protection and Quarantine, plum pox, quarantined area, regulated article,* and *State.*

Section 301.74–2—Regulated Articles

Certain articles present a significant risk of spreading plum pox if they are moved from quarantined areas without restrictions. We call these articles regulated articles. Paragraphs (a) and (b) of § 301.74–2 list the following as regulated articles:

- All plant material and plant parts of *Prunus* (stone fruit) species other than *P. avium, P. cerasus, P. effusa, P. laurocerasus, P. mahaleb, P. padus, P. sargentii, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. yedoensis,* and *P. virginiana,* except for seeds and fruit that is free of leaves and other plant parts. This includes, but is not limited to, trees, seedlings, root stock, budwood, branches, twigs, and leaves.
- Any other product or article that an inspector determines to present a risk of spreading plum pox when the inspector notifies the person in possession of the product or article that it is subject to the restrictions in the regulations.

Section 301.74–3—Quarantined Areas

Paragraph (a) of § 301.74–3 provides the criteria for the inclusion of States, or portions of States, in the list of quarantined areas. Any State or portion of a State in which plum pox is detected through inspection and laboratory testing, or in which the Administrator has reason to believe that plum pox is present, will be listed as a quarantined area. In addition, an area will be designated as a quarantined area when the Administrator considers it necessary due to the area's inseparability for quarantine enforcement purposes from localities in which plum pox has been detected.

Paragraph (a) of § 301.74–3 also provides that we will designate less than an entire State as a quarantined area if we determine that the State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are substantially the same as those imposed on the interstate movement of regulated articles and that the designation of less than the entire State as a quarantined area will prevent the interstate spread of plum pox.

The boundary lines that delimit the portion of a State to be designated as a quarantined area may vary due to factors such as the location of host material that is a source of infestation, nearby transportation centers such as bus stations and airports, the pattern of persons moving in that State, the number and patterns of transmission of plum pox, and the availability of clearly identifiable lines to serve as boundaries.

We have determined that it is not necessary to designate the entire State of Pennsylvania as a quarantined area because plum pox has not been detected in areas outside of Adams County, PA. In addition, Pennsylvania has adopted and is enforcing restrictions on the intrastate movement of regulated articles, and those restrictions are substantially the same as those we are imposing on the interstate movement of regulated articles. Therefore, in accordance with the criteria described in the previous paragraph, we have designated the following as quarantined areas: Latimore Township and Huntington Township, both of which are located in Adams County, PA.

Paragraph (b) of § 301.74–3 provides that we may temporarily designate any other area in a State as a quarantined area should we determine that the nonquarantined area meets the criteria for designation as a quarantined area described in § 301.74–3(a). In such cases, we will give the owner or person in possession of the area a copy of the regulations along with written notice of the area's temporary designation as a quarantined area, after which time the interstate movement of any regulated article from the area will be subject to the regulations. This provision is necessary to prevent the interstate spread of plum pox during the interval between the time of detection and the

time a document establishing the quarantined area can be made effective and published in the **Federal Register**. If an area's designation as a temporary quarantined area is terminated, we will provide written notice of that termination to the owner or person in possession of the area as soon as is practicable.

Section 301.74–4—Conditions Governing the Interstate Movement of Regulated Articles From Quarantined Areas

This section prohibits the interstate movement of regulated articles from a quarantined area with two exceptions. First, an article can be moved by APHIS or another agency of the U.S. Department of Agriculture for experimental or scientific purposes. Such articles must be moved in accordance with a Departmental permit issued by the Administrator under conditions specified on the permit to prevent the spread of plum pox.

Second, articles which originate from outside the quarantine area may pass through the quarantine area as long as the shipment includes a waybill that indicates the point of origin. Such articles that are merely passing through the quarantined area must be moved in an enclosed vehicle or completely covered to prevent access by aphids while traveling through the quarantined area. Such articles must not be uncovered, unpacked, or unloaded while in the quarantined area.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the spread of plum pox to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. This rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This rule quarantines part of Adams County, PA, due to the detection of plum pox and restricts the interstate movement of certain articles from the quarantined area that present a risk of transmitting the strain of plum pox. This action is necessary on an emergency basis to prevent the spread of plum pox to noninfested areas of the United States.

The overall economic effect of this interim rule is expected to be small. The quarantine to be imposed on Latimore Township and Huntington Township prohibits the movement of most stone fruit budwood, root stock, and other plant material from the quarantined area. Since the fruit itself is not a vector of the disease, the quarantine imposes no restrictions on the movement of fruit out of the quarantined area. Therefore, growers in the quarantined area are able to sell and move their fruit production without restriction.

The quarantine does prohibit the movement of susceptible budwood and root stock. However, stone fruit growers move small quantities of plant material for commercial purposes. In 1999, there was a movement of 700 bud sticks (worth about $1 apiece) out of the quarantined area. In some years, there have been no movements.

The prohibition on the movement of susceptible plant material would also affect nurseries. There is one small nursery in the quarantined area. However, it does very little, if any, business in the products subject to regulation under the quarantine. There are two other nurseries within Adams County, PA, but outside the quarantined area that have been affected by the plum pox outbreak, although not by these regulations. Because these nurseries received plant material from the quarantined area, trees from their spring 2000 and spring 2001 peach, nectarine, plum, and apricot crop are unsalable. The losses are estimated to total $700,000. In addition, these two nurseries have also had to alter their operations due to their proximity to and association with the quarantined area where plum pox has been detected.

Effect on Small Entities

The Regulatory Flexibility Act requires that agencies specifically consider the economic effects of their rules on small entities. The Small Business Administration (SBA) defines a firm engaged in agriculture as ''small'' if it has less than $500,000 in annual receipts.

Within the quarantined area of Latimore Township and Huntington Township, there are seven peach, plum, and nectarine producers with orchards totaling approximately 800 acres. Four of these producers are known to have orchards where plum pox has been detected. None of the producers in the quarantined area would be considered small under SBA guidelines. In Adams County as a whole, there are 124 stone fruit growers. Of these, about two-thirds would be considered small under SBA guidelines.

There is one small nursery in the quarantined area. However, it does very little, if any, business in products subject to regulation under the quarantine. There are two nurseries in Adams County, PA, but outside the quarantined area, which have been affected indirectly by their proximity to plum pox detection in the quarantined area. Neither of these nurseries outside the quarantined area are considered small under SBA guidelines. Neither is affected by this rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Executive Order 12988

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

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for the plum pox program in Pennsylvania. The assessment provides a basis for the conclusion that implementing a quarantine to prevent the spread of plum pox to noninfested areas of the United States under the conditions specified in the interim rule

will not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. Part 301 is amended by adding a new ''Subpart Plum Pox,'' §§ 301.74 through 301.74–4, to read as follows:

Subpart—Plum Pox

Sec.

301.74 Restrictions on interstate movement of regulated articles.
301.74–1 Definitions.
301.74–2 Regulated articles.
301.74–3 Quarantined areas.
301.74–4 Conditions governing the interstate movement of regulated articles from quarantined areas.

Subpart—Plum Pox

§ 301.74 Restrictions on interstate movement of regulated articles.

No person may move interstate from any quarantined area any regulated article except in accordance with this subpart.[1]

§ 301.74–1 Definitions.

The following definitions apply to this subpart.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture.

Departmental permit. A document issued by the Administrator in which he or she affirms that interstate movement of the regulated article identified on the document is for scientific or experimental purposes and that the regulated article is eligible for interstate movement in accordance with § 301.74–4 of this subpart.

Infestation (infested, infected). The presence of plum pox or circumstances or symptoms that makes it reasonable to believe that plum pox is present.

Inspector. Any employee of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

Interstate. From any State into or through any other State.

Moved (move, movement). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Plant Protection and Quarantine. Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Plum pox. A plant disease caused by plum pox potyvirus that can affect many *Prunus* (stone fruit) species, including, but not limited to, almond, apricot, nectarine, peach, plum, and sweet and tart cherry. The strain of plum pox in Pennsylvania does not affect cherry trees.

Quarantined area. Any State, or any portion of a State, listed in § 301.74–3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.74–3(b) of this subpart.

Regulated article. Any article listed in § 301.74–2(a) or otherwise designated as a regulated article in accordance with § 301.74–2(b), based on its susceptibility to the form or strain of plum pox detected in the quarantined area.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.74–2 Regulated articles.

The following are regulated articles:

(a) All plant material and plant parts of *Prunus* (stone fruit) species other than *P. avium, P. cerasus, P. effusa, P. laurocerasus, P. mahaleb, P. padus, P. sargentii, P. serotina, P. serrula, P. serrulata, P. subhirtella, P. yedoensis,* and *P. virginiana,* except for seeds and fruit that is free of leaves and other plant parts. This includes, but is not limited to, trees, seedlings, root stock, budwood, branches, twigs, and leaves.

(b) Any other product or article that an inspector determines to present a risk of spreading plum pox when the inspector notifies the person in possession of the product or article that it is subject to the restrictions in the regulations.

§ 301.74–3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section each State, or each portion of a State, in which plum pox has been detected through inspection and laboratory testing, or in which the Administrator has reason to believe that plum pox is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which plum pox has been detected. Less than an entire State will be designated as a quarantined area if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated articles; and

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance and to seize, qurantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles a provided in seciton 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd AND 150ff).

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of plum pox.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which the quarantine designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas:

Pennsylvania

Adams County. The townships of Latimore and Huntington.

§ 301.74–4 Conditions governing the interstate movement of regulated articles from quarantined areas.

The interstate movement of any regulated article from a quarantined area [2] is prohibited except when:

(a) The regulated article is moved by the United States Department of Agriculture:

(1) For an experimental or scientific purpose;

(2) Pursuant to a Departmental permit issued by the Administrator for the regulated article;

(3) Under conditions specified on the Departmental permit and found by the Administrator to be adequate to prevent the spread of plum pox; and

(4) With a tag or label bearing the number of the Departmental permit issued for the regulated article attached to the outside of the container of the regulated article or attached to the regulated article itself if not in a container; or

(b) The regulated article originated outside the quarantined area and:

(1) Is moved in an enclosed vehicle or is completely enclosed by a covering (such as canvas, plastic, or other closely woven cloth) adequate to prevent access by aphids or other transmission agents of plum pox while in the quarantined area;

(2) The regulated article's point of origin is indicated on the waybill; and

(3) The regulated article must not be uncovered, unpacked, or unloaded while moving through the quarantined area.

Done in Washington, DC, this 30th day of May 2000.

William R. DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 00–13931 Filed 6–1–00; 8:45 am]

BILLING CODE 3410–34–U

[2] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV00–930–4 IFR]

Tart Cherries Grown in the States of Michigan, et al.; Authorization of Japan as an Eligible Export Outlet for Diversion and Exemption Purposes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule authorizes Japan as an eligible export market under the diversion and exemption provisions of the Federal tart cherry marketing order (order). Currently, shipments to Canada, Mexico, or Japan do not qualify for diversion credit and may not be approved as exempt uses. The Cherry Industry Administrative Board (Board) recommended allowing shipments to Japan to qualify as exempt use shipments and to be eligible for diversion credit. The order regulates the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin and is administered locally by the Board.

DATES: Effective June 5, 2000; comments received by August 1, 2000 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax: (202) 720–5698 or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella or Kenneth G. Johnson, DC Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, Suite 5D03, Unit 155, 4700 River Road, Riverdale, Maryland 20737, telephone: (301) 734–5243; Fax: (301) 734–5275; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930) regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department or USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an

inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This rule authorizes shipments of tart cherries to Japan to qualify as exempt use shipments and to be eligible for diversion credit. Currently, exports to countries other than Canada, Mexico, or Japan may receive diversion credit, and may qualify as exempt shipments. Japan has not been eligible for diversion and exemption in the past because, according to the Board, tart cherry markets were well established in that country. The Board, at its March 2, 2000, meeting, recommended allowing Japan to become an eligible export outlet for diversion credit and exempt uses in order to stimulate export sales to that country. This is because exports to Japan have greatly decreased.

The order authorizes the use of volume regulation. In years when volume regulation is implemented to stabilize supplies, a certain percentage of the cherry crop is required to be set aside as restricted tonnage, and the balance may be marketed freely as free tonnage. The restricted tonnage is required to be maintained in handler-owned inventory reserve pools. Handlers in volume regulated States may fulfill their restricted tonnage requirements with diversion credits earned by diverting cherries or cherry products. Handlers are permitted to divert (at plant or with grower-diversion certificates from growers choosing not to deliver their crop) as much of their restricted percentage (reserve pool) requirements as they deem appropriate. Handlers also may divert cherries by using cherries or cherry products for exempt purposes, including the development of export markets. Presently, these markets do not include Canada, Mexico, and Japan.

Section 930.62 of the order (Exemptions) provides that cherries which are diverted in accordance with § 930.59, which are used for new product and new market development, which are used for experimental purposes, or which are used for any other purposes designated by the Board, including cherries processed into products for markets for which less than 5 percent of the preceding 5-year average production of cherries was utilized, may be exempted from the assessment, quality control, volume regulation, and reserve provisions of the order.

Currently, § 930.162 of the rules and regulations under the order authorizes exemptions for the sale of cherries and cherry products, including the development of sales for new and different tart cherry products or the expansion of sales for existing tart cherry products, to countries other than Canada, Mexico, and Japan.

When the Board initially recommended regulations for exempt uses and handler diversion in 1997, exports to Japan were at an average of 3.0 million pounds. The industry considered Japan, as well as Canada and Mexico, to be premium markets for tart cherries, not outlets for which exemptions and diversion credit could be given. However, in 1998, sales to Japan fell to 1.6 million pounds. The Board therefore recommended that exports to Japan be eligible for diversion and exemption. This, in the Board's opinion, would provide incentive for handlers to make shipments to that country and stimulate market activity.

The Regulatory Flexibility Act and Effects on Small Businesses

The Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has prepared this initial regulatory flexibility analysis. The Regulatory Flexibility Act (RFA) would allow AMS to certify that regulations do not have a significant economic impact on a substantial number of small entities. However, as a matter of general policy, AMS' Fruit and Vegetable Programs (Programs) no longer opt for such certification, but rather perform regulatory flexibility analyses for any rulemaking that would generate the interest of a significant number of small entities. Performing such analyses shifts the Programs' efforts from determining whether regulatory flexibility analyses are required to the consideration of regulatory options and economic or regulatory impacts.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of tart cherries who are subject to regulation under the order and approximately 900 producers of tart cherries in the regulated area. Small agricultural service firms, which include handlers, have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of tart cherry producers and handlers may be classified as small entities.

The principal demand for tart cherries is in the form of processed products. Tart cherries are dried, frozen, canned, juiced, and pureed. During the period 1995/96 through 1999/00, approximately 90 percent of the U.S. tart cherry crop, or 280.3 million pounds, was processed annually. Of the 280.3 million pounds of tart cherries processed, 63 percent was frozen, 29 percent was canned and 8 percent was utilized for juice. Exports to Japan in 1998 were 1.6 million pounds.

This rule authorizes tart cherry shipments to Japan to qualify as exempt use shipments and to be eligible for diversion credit. The objective of this action is to stimulate and expand sales of tart cherries to that country. Authority for this action is found in §§ 930.59 and 930.62.

The impact of this rule would be beneficial to growers and handlers. It would assist growers to market a greater proportion of their crop to handlers who have access to export markets. Handlers, instead of diverting product at-plant or in-orchard or placing product in reserves, could ship product to Japan and receive diversion certificates that could be used to offset any restricted percentage obligations. Handlers also would benefit from this action as they would be able to process greater amounts of tart cherries, as a result of receiving more product from growers for shipment to Japan, through their facilities, thus spreading their operation costs and increasing returns to growers.

One alternative to this action would be to continue to disallow exemptions and diversion credit for shipments to Japan. However, this would not be favorable to cherry growers and handlers and could cause a further decline in the Japanese market.

This rule would not impose any additional recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, the Department has not identified any relevant Federal rules which duplicate, overlap or conflict with this rule.

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the

information collection and recordkeeping requirements imposed by this order have been previously approved by OMB and assigned OMB Number 0581–0177.

The Board's meetings were widely publicized throughout the tart cherry industry and all interested persons were invited to attend them and participate in Board deliberations. Like all Board meetings, the March 2000 meeting was a public meeting and all entities, both large and small, were able to express their views on these issues. The Board itself is composed of 18 members, of which 17 members are growers and handlers and one represents the public. Also, the Board has a number of appointed committees to review certain issues and make recommendations.

Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

This rule invites comments on authorizing Japan as an eligible export outlet for purposes of the diversion and exemption provisions under the order.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes requirements by providing an additional opportunity for handlers to receive an exemption or diversion credit; (2) the Board needs this rule to be in place by July 1, 2000, so handlers can take advantage of this option; (3) the Board recommended this change at a public meeting and interested parties had an opportunity to provide input; and (4) this rule provides a 60-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 930.159 [Amended]

2. In § 930.159, paragraph (a) is amended by removing the word ''Japan'' and adding the word ''and'' in between the words ''Canada'' and ''Mexico''.

§ 930.162 [Amended]

3. In § 930.162, paragraph (a) and paragraph (b)(3) are amended by removing the word ''Japan'' and adding the word ''and'' in between the words ''Canada'' and ''Mexico''.

Dated: May 26, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–13782 Filed 6–1–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–21–AD; Amendment 39–11753; AD 2000–11–05]

RIN 2120–AA64

Airworthiness Directives; Air Tractor Incorporated Models AT–301, AT–401, and AT–501 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Air Tractor Incorporated (Air Tractor) Models AT–301, AT–401, and AT–501 airplanes that are equipped with a 3/16-inch thick aluminum fin front spar fitting and an all metal rudder. This AD requires that you repetitively inspect the vertical fin front spar attachment fittings for fatigue cracks, and rework the vertical fin if any cracks are found. This AD is the result of reports of a vertical fin front spar fitting failure on a Model AT–401 airplane. The actions specified by this AD are intended to detect and correct cracks in the vertical fin front spar attachment fittings, which could result in failure of the vertical fin. This condition could lead to loss of directional control and eventual loss of airplane control.

DATES: This AD becomes effective on June 23, 2000.

The Director of the Federal Register previously approved the incorporation by reference of Snow Engineering Company Service Letter #138, Revised August 7, 1996, as of August 25, 1997.

The Director of the Federal Register approved the incorporation by reference of Snow Engineering Company Service Letter #196, Revised March 7, 2000, as of June 23, 2000.

The Federal Aviation Administration (FAA) must receive any comments on this rule on or before July 28, 2000.

ADDRESSES: Submit comments in triplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–21–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

You may get the service information referenced in this AD from Air Tractor Incorporated, P.O. Box 485, Olney, Texas 76374. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–21–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Romero, Aerospace Engineer, Airplane Certification Office, FAA, 2601 Meacham Boulevard, Fort Worth, Texas 76137; telephone: (817) 222–5102; facsimile: (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Discussion

What events have caused this AD? The FAA has received a report of an incident involving an Air Tractor Model AT–401 airplane. The following describe this incident:

1. The vertical fin front spar plate cracked and caused failure of the vertical fin front spar fitting;

2. The rear spar consequently failed and the fin contacted the elevator, which caused difficulty in controlling the airplane; and

3. The front spar failure occurred in the 3/16-inch thick aluminum fin front spar fitting across one of the bolt holes where the fitting attaches to the fuselage frame.

What are the consequences if the condition is not corrected? Fatigue cracking of the vertical fin front spar attachment fittings, if not detected and corrected, could result in structural failure of the front spar and consequently the rear spar. This could result in loss of directional control and loss of control of the airplane.

Is there service information that applies to this subject? Snow Engineering Company has issued the following service information that relates to this subject:

Service letter #	Issue/revision dates	Procedures for
Service Letter #196	Issued February 9, 2000; Revised March 7, 2000	Reworking the vertical fin.
Service Letter #138	Issued July 29, 1995; Revised August 7, 1996	Repetitively inspecting the vertical fin front spar attachment fittings for fatigue cracks.

The FAA's Determination and an Explanation of the Provisions of the AD

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, we determined that:

—An unsafe condition exists or could develop on certain Air Tractor Models AT–301, AT–401, and AT–501 airplanes of the same type design to the incident airplane that are equipped with a 3/16-inch thick aluminum fin front spar fitting and an all metal rudder; and

—AD action should be taken in order to detect and correct cracks in the vertical fin front spar attachment fittings, which could result in failure of the vertical fin. This condition could lead to loss of directional control and eventual loss of airplane control.

What does this AD require? This AD requires you to:

1. repetitively inspect vertical fin front spar attachment fittings for fatigue cracks; and

2. rework the vertical fin if any cracks are found.

Once you rework the vertical fin, you may discontinue the repetitive inspections.

The applicability of Snow Engineering Company Service Letter #138 refers to different airplanes than are referenced in this AD action. AD 97–14–05, Amendment 39–10063 (62 FR 38445, July 18, 1997), covers the airplanes referenced in Service Letter #138. The inspection procedures also apply for the airplanes referenced in this AD action. Therefore, Snow Engineering Company Service Letter #138 also applies to this AD, as well as AD 97–14–05. This service letter also specifies repetitive inspection intervals of 25 hours time-in-service (TIS). Paragraph (d)(2) of this AD requires the repetitive inspections at 100 hours TIS.

Will I have the opportunity to comment prior to the issuance of the rule? Because the unsafe condition described in this document could result in loss of directional control and eventual loss of airplane control, FAA finds that notice and opportunity for public prior comment are impracticable. Therefore, 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 and was not preceded by notice and opportunity for public comment, FAA invites comments on this rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. The FAA will consider all comments received on or before the closing date. We may amend this rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether we need to take additional rulemaking action.

The FAA is re-examining the writing style we currently use in regulatory documents, in response to the Presidential memorandum of June 1, 1998. That memorandum requires federal agencies to communicate more clearly with the public. We are interested in your comments on whether the style of this document is clearer, and any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at *http://www.plainlanguage.gov.*

The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of this AD.

If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2000–CE–21–AD.'' We will date stamp and mail the postcard back to you.

Regulatory Impact

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

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. We have determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If FAA determines that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, we will prepare a final regulatory evaluation. You may obtain a copy of the evaluation (if required) from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, under 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. FAA amends Section 39.13 by adding a new airworthiness directive (AD) to read as follows:

2000–11–05 Air Tractor Incorporated: Amendment 39–11753; Docket No. 2000–CE–21–AD.

(a) *What airplanes are affected by this AD?* The following airplane models and serial numbers that are:

(1) Certificated in any category; and

(2) Equipped with a 3/16-inch fin front spar fitting and an all metal rudder.

Models	Serial numbers
AT–301	301–0100 through 301–0736
AT–401	401–0662 through 401–0736
AT–501	501–0002 through 501–0030

Note: This AD does not affect the requirements of AD 97–14–05, Amendment 39–10063 (62 FR 38445, July 18, 1997). AD 97–14–05 requires similar actions to this AD on Models AT–302, AT–400, AT–400A airplanes, and certain Models AT301, AT–401, and AT–501 airplanes that are not affected by this AD.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register.

(c) *What problem does this AD address?* The actions required by this AD are intended to detect and correct cracks in the spar plates, which could result in failure of the vertical fin. This condition could lead to loss of directional control and eventual loss of control of the airplane.

(d) *What must I do to address this problem?* To address this problem, you must accomplish the following:

Action	Compliance time	Procedures
(1) Initial inspection of the fin front spar attachment fittings for fatigue cracks.	At whichever of the following that occurs later. (i) Upon accumulating 4,000 hours time-in-service (TIS); or,. (ii) Within the next 25 hours TIS after the June 23, 2000 (the effective date of this AD).	Accomplish in accordance with the Inspection Requirements section of Snow Engineering Company Service Letter #138, Issued July 29, 1995; Revised August 7, 1996.
(2) Repetitive inspections of the fin front spar attachment fittings. Repetitive inspection requirement only applies if no cracks are found and you choose not to rework the fin front spar attachment.	Within 100 hours TIS after the initial inspection and thereafter at intervals not to exceed 100 hours TIS if you have no cracks and choose not to rework the fin front spar attachment.	Accomplish in accordance with the Inspection Requirements section of Snow Engineering Company Service Letter #138, Issued July 29, 1995; Revised August 7, 1996.
(3) Rework the fin front spar attachment fittings	(i) Prior to further flight after any inspection where a crack is found in the front or rear spar area. (ii) This eliminates the repetitive inspection requirement of this AD.	Accomplish in accordance with the Vertical Fin Rework Instructions section of Snow Engineering Company Service letter #196, Issued February 9, 2000; Revised March 7, 2000.
(4) Optional rework of the fin front spar attachment fittings	Any time to eliminate the repetitive inspection requirement of this AD.	Accomplish in accordance with the Vertical Fin Rework Instructions section of Snow Engineering Company Service Letter #196, Issued February 9, 2000; Revised March 7, 2000.

Note: The applicability of Snow Engineering Company Service Letter #138 refers to different airplanes than are referenced in this document. AD 97–14–05, Amendment 39–10063 (62 FR 38445, July 18, 1997), covers the airplanes referenced in Snow Engineering Company Service Letter #138. The inspection procedures also apply for the airplanes referenced in this AD. Therefore, Snow Engineering Company Service Letter #138 also applies to this AD, as well as AD 97–14–05. This service letter also specifies repetitive inspection intervals of 25 hours TIS. Paragraph (d)(2) of this AD requires the repetitive inspections at 100 hours TIS.

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Fort Worth Airplane Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Rob Romero, Aerospace Engineer, FAA, Fort Worth ACO, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone: (817) 222–5102; facsimile: (817) 222–5960.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *Are any service bulletins incorporated into this AD by reference?* You must accomplish the actions required by this AD in accordance with Snow Engineering Company Service Letter #138, Revised August 7, 1996, and Snow Engineering Company Service Letter #196, Revised March 7, 2000.

(1) The Director of the Federal Register previously approved the incorporation by

reference of Snow Engineering Company Service Letter #138, Revised August 7, 1996, as of August 25, 1997.

(2) The Director of the Federal Register approved the incorporation by reference of Snow Engineering Company Service Letter #196, Revised March 7, 2000 under 5 U.S.C. 552(a) and 1 CFR part 51.

(3) You may get copies from Air Tractor Incorporated, P.O. Box 485, Olney, Texas 76374. You may look at copies at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(i) *When does this amendment become effective?* This amendment becomes effective on June 23, 2000.

Issued in Kansas City, Missouri, on May 22, 2000.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–13445 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–CE–36–AD; Amendment 39–11762; AD 2000–11–14]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Models PC–12 and PC–12/45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document adopts a new airworthiness directive (AD) that applies to all Pilatus Aircraft Ltd. (Pilatus) Models PC–12 and PC–12/45 airplanes that are equipped with pneumatic deicing boots. This AD requires you to revise the Airplane Flight Manual (AFM) to include requirements for activation of the airframe pneumatic deicing boots. This AD is the result of reports of in-flight incidents and an accident (on airplanes other than the affected Pilatus airplanes) that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The Pilatus Models PC–12 and PC–12/45 airplanes have a similar type design (as it relates to airframe pneumatic ice boots) to the incident and accident airplanes. The actions specified by this AD are intended to assure that flightcrews activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation. This action will prevent reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

EFFECTIVE DATE: July 17, 2000.

ADDRESSES: You may examine information related to this AD at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–CE–36–AD, 901 Locust, Room 506, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 506, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

What Caused This AD?

This AD is the result of reports of in-flight incidents and an accident (on airplanes other than the affected Pilatus airplanes) that occurred in icing conditions where the airframe pneumatic deicing boots were not activated. The Pilatus Models PC–12 and PC–12/45 airplanes have a similar type design (as it relates to airframe pneumatic ice boots) to the incident and accident airplanes.

What Is the Potential Impact If FAA Took No Action?

The information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Pilatus Models PC–12 and PC–12/45 airplanes that are equipped with pneumatic deicing boots. This proposal published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on October 8, 1999 (64 FR 54833). The NPRM proposed to require revising the Limitations Section of the AFM to include requirements for activation of pneumatic deicing boots at the first indication of ice accumulation on the airplane.

Was the Public Invited To Comment?

The FAA invited interested persons to participate in the making of this amendment. Following is a summary of the two comments received with FAA's response.

Comment Issue No. 1: Allow the Use of Recent Airplane Flight Manual (AFM) Additions

What Is the Commenter's Concern?

Pilatus requests that FAA allow the operators of the affected airplanes to use as an alternative method of compliance the most recent information for Section 2, Limitations, of the Pilatus PC12 Airplane Flight Manual (AFM). This information is included in Report No.: 01973–001, page 2–12, Revision 9: September 1, 1999, and includes the following language:

> The wing and tail leading edge pneumatic deicing boot system must be activated at the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system (if installed), whichever occurs first.
>
> The wing and tail leading edge pneumatic deicing boot system may be deactivated only after leaving icing conditions and after the aircraft is determined to be clear of ice.

What Is FAA's Response to the Concern?

We have determined that inserting this report into the Section 2, Limitations, of the Pilatus PC12 AFM provides an equivalent level of safety to the actions included in the NPRM. Therefore, we are changing the AD to include the option of incorporating into the AFM the information proposed in the NPRM or Report No.: 01973–001, page 2–12, Revision 9: September 1, 1999.

Comment Issue No. 2: Information is Already Included in the Normal Procedures Section of the AFM

What Are the Commenter's Concerns?

The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, believes that the intent of this AD is already covered in the Pilatus PC12 AFM. The FOCA's concerns are as follows:

1. The appropriate time to activate the pneumatic deice boots on the affected Pilatus airplanes is prior to entry into icing conditions, and until the airfoils are free of ice after exiting icing conditions. This information is included in Section 4.10 (Normal Procedures) of the PC12 AFM;

2. These instructions are not necessary in the Limitations Section of the AFM. The Limitations Section should only include limitations relating to speeds, environment (temperatures),

or system functions (time limits or configurations). Guidance for this is in FAA Advisory Circular (AC) 25.1419–1, dated August 18, 1999. Paragraph 12(b)(2) of this AC identifies the Procedures Section as the proper place for information ''. . . when the ice protection system should be activated.''

The FOCA requests FAA withdraw the NPRM.

What Is FAA's Response to the Concerns?

We concur that the information is currently in the Normal Procedures section of the Pilatus PC12 AFM and that previous guidance (advisory circulars) provides information for putting this information in such a section. However, section 91.9 of the Federal Aviation Regulations (14 CFR 91.9) only mandates the operating limitations (Limitations Section): ''no person may operate a civil aircraft without complying with the operating limitations specified in the approved Airplane or Rotorcraft Flight Manual.''

Based upon the importance of operating the deice boots at the appropriate time, we determined that the information is mandatory. The only method FAA has of changing the Limitations Section of an AFM is through AD action, provided an unsafe condition is demonstrated.

Therefore, we do not concur that the NPRM should be withdrawn. We are not changing the AD as a result of this comment.

The FAA's Determination

What Is FAA's Final Determination on This Issue?

After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the following:

—Including the option of incorporating Report No.: 01973–001, page 2–12, Revision 9: September 1, 1999, into Section 2, Limitations, of the Pilatus PC12 AFM; and

—Minor editorial corrections.

How Does Including This Option and the Minor Editorial Corrections Affect the AD?

We have determined that including the AFM option and the minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

How Many Airplanes Does This AD Impact?

We estimate that this AD affects 100 airplanes in the U.S. registry.

What Is the Cost Impact of the Affected Airplanes on the U.S. Register?

There is no dollar cost impact. We estimate 1 workhour for you to insert the AFM revision. You can accomplish this action if you hold at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7). You must make an entry into the aircraft records that shows compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9). Therefore, the only cost impact of this AD is the time it will take you to insert the information into the AFM.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, under 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. FAA amends Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

2000–11–14 PILATUS AIRCRAFT LTD.: Amendment 39–11762; Docket No. 99–CE–36–AD.

(a) *What airplanes are affected by this AD?* Models PC–12 and PC–12/45 airplanes, all serial numbers, that are:

(1) equipped with pneumatic deicing boots; and

(2) certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the above airplanes on the U.S. Register. The AD does not apply to your airplane if it is not equipped with pneumatic de-icing boots.

(c) *What problem does this AD address?* The information necessary to activate the pneumatic wing and tail deicing boots at the first signs of ice accumulation is critical for flight in icing conditions. If we did not take action to include this information, flight crews could experience reduced controllability of the aircraft due to adverse aerodynamic effects of ice adhering to the airplane prior to the first deicing cycle.

(d) *What must I do to address this problem?* To address this problem, you must revise the Limitations Section of FAA-approved Airplane Flight Manual (AFM) to include the following requirements for activation of the ice protection systems. You must accomplish this action within the next 10 calendar days after July 17, 2000 (the effective date of this AD), unless already accomplished. You may insert a copy of this AD in the AFM to accomplish this action:

• Except for certain phases of flight where the AFM specifies that deicing boots should not be used (e.g., take-off, final approach, and landing), compliance with the following is required.

• Wing and Tail Leading Edge Pneumatic Deicing Boot System, if installed, must be activated:

—At the first sign of ice formation anywhere on the aircraft, or upon annunciation from an ice detector system, whichever occurs first; and

—The system must either be continued to be operated in the automatic cycling mode, if available; or the system must be manually cycled as needed to minimize the ice accretions on the airframe.

• The wing and tail leading edge pneumatic deicing boot system may be deactivated only after:

—Leaving known or observed/detected icing that the flight crew has visually observed on the aircraft or was identified by the on-board sensors; and

—After the airplane is determined to be clear of ice.

Note: The FAA recommends periodic treatment of deicing boots with approved ice release agents, such as ICEX$_{TM}$, in accordance with the manufacturer's application instructions.

(e) *Have I accomplished the intent of this AD if I have incorporated the latest Pilatus PC12 AFM report into Section 2, Limitations?*

As an alternative method of compliance to the actions required by paragraphs (a), (a)(1), and (a)(2) of this AD, you may incorporate Report No.: 01973–001, page 2–12, Revision 9: September 1, 1999, into Section 2, Limitations, of the Pilatus PC12 AFM.

(f) *Can the pilot accomplish the action?* Anyone who holds at least a private pilot certificate, as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), may incorporate the AFM revisions required by this AD. You must make an entry into the aircraft records, showing compliance with this AD, in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(g) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, 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 (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(h) *Where can I get information about any already-approved alternative methods of compliance?* Contact the Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4121; facsimile: (816) 329–4091.

(i) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(j) *When does this amendment become effective?* This amendment becomes effective on July 17, 2000.

Issued in Kansas City, Missouri, on May 24, 2000.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–13874 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–18]

RIN 2120–AA66

Realignment and Establishment of VOR Federal Airways; KY and TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns Federal Airway V–517 in the vicinity of Snowbird, TN, and establishes two Federal airways, V–347 between London, KY, and Hinch Mountain, TN, and V–384 between Livingston, TN, and Volunteer, TN. This action improves navigational routings and enhances service for users, and provides for more efficient handling of air traffic between the Indianapolis and the Atlanta Air Route Traffic Control Centers' (ARTCC) airspace.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Terry Brown, 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:

History

On March 8, 1998, the FAA proposed to amend 14 CFR part 71 (part 71) to realign Federal Airway V–517 in the vicinity of Snowbird, TN, and to establish two Federal Airways, V–347 between London, KY, and Hinch Mountain, TN, and V–384 between Livingston, TN, and Volunteer, TN (64 FR 10962).

Interested parties were invited to participate in this rulemaking proceeding by submitting comments. No comments to the proposal were received. Except for editorial changes, this rule is the same as that proposed in the notice.

The Rule

This amendment to part 71 realigns V–517 in the vicinity of Snowbird, TN, by changing the origination point of the airway from the Volunteer, TN, Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) station, to the Snowbird, TN, VORTAC. Currently, V–517 extends from Volunteer, through the Miami Intersection, to London, KY, which is not a direct route. However, a direct route between Volunteer and London does exist via V–97. On the other hand, there is currently no published direct route between Snowbird and London. This amendment enhances the flow of air traffic by realigning V–517 so as to provide a direct route between Snowbird and London. This change better accommodates northwest-southeast-bound traffic in that area.

This rule also establishes two Federal airways in the Kentucky-Tennessee area: V–347 between London, KY, and Hinch Mountain, TN; and V–384 between Livingston, TN, and Volunteer, TN. These new airways provide direct routes between the affected navigation facilities which match known traffic flows, simplify flight plan filing, and reduce air traffic control communications requirements, thus resulting in enhanced service for users. These additional airways also provide air traffic controllers with more nonradar routes between Indianapolis ARTCC and Atlanta ARTCC airspace, thereby facilitating the efficient handling of nonradar-routed traffic between the two ARTCC's.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in the Order.

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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

* * * * *

Paragraph 6010(a)—Domestic VOR Federal Airways

V–347 [New]

From London, KY; to Hinch Mountain, TN.

* * * * *

V–384 [New]

From Livingston, TN; INT Livingston 121° and Volunteer, TN, 307° radials; to Volunteer.

* * * * *

V–517 [Revised]

From Snowbird, TN; INT Snowbird 329° and London, KY, 141° radials; London; INT London 004° and Falmouth, KY, 164° radials; Falmouth; Cincinnati, OH; INT Cincinnati 336° and Richmond, IN, 190° radials; Richmond; to Dayton, OH.

* * * * *

Issued in Washington, DC, on May 25, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–13750 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 00–ANM–06]

RIN 2120–AA66

Change Using Agency for Restricted Area R–2602, Colorado Springs, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of the using agency for Restricted Area R–2602 (R–2602), from ''USAF, Air Force Space Command, 2nd Space Wing, Falcon Air Force Base, CO,'' to ''USAF Space Command, 2nd Space Wing, Schriever Air Force Base, CO.'' This is an administrative change that was initiated by the U.S. Air Force (USAF) to reflect the name change of Falcon Air Force Base (AFB), CO, to Schriever AFB, CO.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, 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:

Background

As a result of an Air Force decision to rename Falcon AFB, CO, to Schriever AFB, CO, the using agency for R–2602 is being changed from ''USAF, Air Force Space Command, 2nd Space Wing, Falcon Air Force Base, CO,'' to ''USAF Space Command, 2nd Space Wing, Schriever Air Force Base, CO. The USAF requested this change to correct the current description for R–2602.

The Rule

This action amends 14 CFR part 73 by changing the name of the using agency for R–2602 from ''U.S. Air Force Space Command, 2nd Space Wing, Falcon AFB, CO,'' to ''USAF Space Command, 2nd Space Wing, Schriever AFB, CO.'' This administrative change will not alter the existing boundaries, altitudes, times of designation, or the activities conducted within the affected restricted area.

Therefore, since this action simply changes the using agency for the existing restricted area and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C 553(b) are unnecessary.

Section 73.26 of part 73 was republished in FAA Order 7400.8G, dated September 1, 1999.

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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action is a minor administrative change amending the name of the using agency for an existing restricted area. There are no changes to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures under FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts,'' and the National Environmental Policy Act of 1969.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73, as follows:

PART 73—SPECIAL USE AIRSPACE

1. The authority citation for 14 CFR part 73 continues to read as follows:

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

§ 73.26 [Amended]

2. § 73.26 is amended as follows:

* * * * *

R–2602 Colorado Springs, CO [Amended]

By removing the words ''Using agency. USAF, Air Force Space Command, 2nd Space Wing, Falcon AFB, CO,'' and substituting the words ''Using agency. USAF Space Command, 2nd Space Wing, Schriever AFB, CO.''

* * * * *

Issued in Washington, DC on May 18, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–13748 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30057; Amdt. No. 1993]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

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

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

The Rule

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

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

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on May 26, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amendment, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective August 10, 2000*

Glendale, AZ, Glendale Muni, RNAV RWY 19, Orig
Ocala, FL, Ocala Regional/Jim Taylor Field, VOR RWY 36, Amdt 17
Ocala, FL, Ocala Regional/Jim Taylor Field, NDB RWY 36, Amdt 5
Eastman, GA, Heart of Georgia Regional, VOR/DME OR GPS–A, Amdt 6
Ames, IA, Ames Muni, RNAV RWY 1, Orig
Hampton, IA, Hampton Muni, RNAV RWY 17, Orig
Hampton, IA, Hampton Muni, RNAV RWY 35, Orig
Newton, IA, Newton Muni, VOR RWY 32, Amdt 9A
Alexandria, LA, Alexandria Intl, ILS/DME RWY 14, Amdt 1, CANCELLED
Alexandria, LA, Alexandria Intl, ILS RWY 14 Orig
Leonardtown, MD, St. Mary's County, VOR RWY 11, Amdt 4, CANCELLED
Kansas City, MO, Kansas City Intl, NDB RWY 19L, Orig-A
St. Louis, MO, Spirit of St. Louis, NDB RWY 8R, Amdt 11B
St. Louis, MO, Spirit of St. Louis, NDB OR GPS RWY 26L, Amdt 2A
Kimball, NE, Kimball Muni/Robert E. Arraj Field, GPS RWY 28, Orig-A
Lexington, NE, Lexington/Jim Kelly Field, GPS RWY 32, Orig-A
Lincoln, NE, Lincoln Muni, VOR OR GPS RWY 17R, Amdt 11B
Lincoln, NE, Lincoln Muni, NDB OR GPS RWY 35L, Amdt 8B
North Platte, NE, North Platte Regional Airport/Lee Bird Field, VOR OR GPS RWY 35, Amdt 17B
North Platte, NE, North Platte Regional Airport/Lee Bird Field, NDB OR GPS RWY 30, Amdt 3B
Omaha, NE, Eppley Airfield, NDB RWY 32L, Amdt 1A
Scottsbluff, NE, Western Nebraska Regional/William B. Heilig Field, VOR/DME OR GPS RWY 5, Amdt 4A
Scottsbluff, NE, Western Nebraska Regional/William B. Heilig Field, VOR OR TACAN OR GPS RWY 23, Amdt 11A
Scottsbluff, NE, Western Nebraska Regional/William B. Heilig Field, LOC BC RWY 12, Amdt 8A
Scottsbluff, NE, Western Nebraska Regional/William B. Heilig Field, NDB OR GPS RWY 12, Amdt 8A
Hobbs, NM, Lea County (Hobbs), VOR OR TACAN RWY 3, Amdt 20A
Hobbs, NM, Lea County (Hobbs), VOR/DME OR TACAN RWY 21, Amdt 8A
Hobbs, NM, Lea County (Hobbs), LOC/DME BC RWY 21, Amdt 5B
Oklahoma City, OK, Sundance Airpark, VOR RWY 17, Amdt 1
Oklahoma City, OK, Will Rogers World, VOR RWY 17L, Amdt 2
Baytown, TX, RWJ Airpark, RNAV RWY 26, Orig
Brownwood, TX, Brownwood Regional, RNAV RWY 17, Orig
Brownwood, TX, Brownwood Regional, RNAV RWY 35, Orig
Fort Worth, TX, Fort Worth Alliance, ILS RWY 16L, Amdt 5
Fort Worth, TX, Fort Worth Alliance, ILS RWY 34R, Amdt 4
Fort Worth, TX, Fort Worth Alliance, RNAV RWY 16L, Orig
Fort Worth, TX, Fort Worth Alliance, RNAV RWY 34R, Orig
Fort Worth, TX, Fort Worth Alliance, GPS RWY 16L, Orig-B, CANCELLED
Fort Worth, TX, Fort Worth Alliance, GPS RWY 34R, Orig-B, CANCELLED
Killeen, TX, Killeen Muni, NDB OR GPS RWY 1, Amdt 5B
McAllen, TX, McAllen Miller Intl, VOR RWY 13, Amdt 15A
McAllen, TX, McAllen Miller Intl, NDB RWY 13, Amdt 6A
San Antonio, TX, San Antonio Intl, NDB RWY 12R, Amdt 20C
San Antonio, TX, San Antonio Intl, NDB RWY 30L, Amdt 11B
Elkins, WV, Elkins-Randolph County-Jennings Randolph Field, NDB–A, Orig, CANCELLED
Green Bay, WI, Austin Straubel Intl, VOR OR GPS RWY 12, Amdt 18, CANCELLED
Green Bay, WI, Austin Straubel Intl, VOR–A, Orig
Green Bay, WI, Austin Straubel Intl, VOR/DME OR TACAN RWY 36, Amdt 8
Green Bay, WI, Austin Straubel Intl, NDB RWY 6, Amdt 17
Green Bay, WI, Austin Straubel Intl, ILS RWY 36, Amdt 7
Green Bay, WI, Austin Straubel Intl, RADAR–1, Amdt 9
Green Bay, WI, Austin Straubel Intl, RNAV RWY 6, Orig
Green Bay, WI, Austin Straubel Intl, RNAV RWY 36, Orig

** * * Effective October 5, 2000*

Fort Smith, AR, Fort Smith Muni, VOR OR TACAN OR GPS RWY 25, Amdt 20B
Fort Smith, AR, Fort Smith Muni, NDB RWY 25, Amdt 24A
Little Rock, AR, Adams Field, GPS RWY 4L, Orig-A
Little Rock, AR, Adams Field, GPS RWY 4R, Orig-A
Little Rock, AR, Adams Field, GPS RWY 22L, Orig-A
Topeka, KS, Forbes Field, VOR/DME RNAV RWY 13, Amdt 4A
Point Lookout, MO, M. Graham Clark, NDB RWY 29, Amdt 7A
Point Lookout, MO, M. Graham Clark, VOR/DME RNAV OR GPS RWY 29, Amdt 2B
Point Lookout, MO, M. Graham Clark, GPS RWY 11, Orig-B
Grand Island, NE, Central Nebraska Regional, LOC/DME BC RWY 17, Amdt 9B
Lincoln, NE, Lincoln Muni, VOR OR GPS RWY 17L, Amdt 6C
Lincoln, NE, Lincoln Muni, GPS RWY 14, Orig-A
McCook, NE, McCook Muni, VOR OR GPS RWY 21, Amdt 4C
Sidney, NE, Sidney Muni, GPS RWY 30, Orig-B
Omaha, NE, Eppley Airfield, NDB OR GPS RWY 14R, Amdt 24A
Oklahoma City, OK, Will Rogers World, NDB RWY 17R, Amdt 24A
Oklahoma City, OK, Will Rogers World, NDB RWY 35R, Amdt 5B
Victoria, TX, Victoria Regional, NDB RWY 12L, Amdt 4A
Waco, TX, McGregor Muni, GPS RWY 17, Orig-A

[FR Doc. 00–13833 Filed 6–1–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30058; Amdt. No. 1994]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination

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

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

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

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

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

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on May 26, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER, SIAPs, identified as follows:

FDC date	State	City	Airport	FDC number	SIAP
04/20/00	IA	Ottumwa	Ottumwa Industrial	FDC 0/3913	LOC/DME BC RWY 13, AMDT 2B...
04/20/00	VA	Marion/Wytheville	Mountain Empire	FDC 0/1361	NDB RWY 26 AMDT 1...
04/20/00	VA	Marion/Wytheville	Mountain Empire	FDC 0/1363	GPS RWY 26 ORIG...
05/10/00	GA	Douglas	Douglas Muni	FDC 0/4874	GPS RWY 22, ORIG...
05/10/00	GA	Douglas	Douglas Muni	FDC 0/4875	GPW RWY 4, ORIG...
05/10/00	GA	Douglas	Douglas Muni	FDC 0/4877	LOC RWY 4, AMDT 2A...

FDC date	State	City	Airport	FDC number	SIAP
05/10/00	TN	Memphis	Memphis Intl	FDC 0/4868	ILS RWY 27, AMDT 2A...
05/10/00	WA	Ephrata	Ephrata Muni	FDC 0/4898	VOR/DME OR GPS RWY 2, AMDT 3...
05/10/00	WA	Spokane	Felts Field	FDC 0/4885	VOR OR GPS RWY 3L, AMDT 2A...
05/10/00	WA	Walla Walla	Walla Walla Regional	FDC 0/4870	VOR OR GPS RWY 16, AMDT 11...
05/10/00	WA	Walla Walla	Walla Walla Regional	FDC 0/4887	VOR RWY 2, AMDT 10...
05/11/00	CA	Napa	Napa County	FDC 0/4818	VOR OR GPS RWY 6, AMDT 11...
05/11/00	CA	Napa	Napa County	FDC 0/4943	LOC RWY 36L AMDT 2B...
05/11/00	CA	Sacramento	Sacramento Mather	FDC 0/4920	VOR OR GPS RWY 4R ORIG–A...
05/11/00	CA	South Lake Tahoe	Lake Tahoe	FDC 0/4921	VOR/DME OR GPS–A, AMDT 3...
05/11/00	GUA	Agana	Guam Intl	FDC 0/4940	GPS RWY 24R ORIG...
05/11/00	MO	New Madrid	County Memorial	FDC 0/4969	NDB RWY 18, AMDT 2...
05/11/00	MO	New Madrid	County Memorial	FDC 0/4970	VOR/DME RNAV OR GPS RWY 18, AMDT 1...
05/11/00	WA	Ephrata	Ephrata Muni	FDC 0/4926	VOR OR GPS RWY 20, AMDT 18...
05/12/00	CA	Chico	Chico	FDC 0/4986	GPS RWY 31R ORIG...
05/12/00	GA	Douglas	Douglas Muni	FDC 0/4995	NDB RWY 4, AMDT 2A...
05/12/00	KY	Flemingsburg	Fleming-Mason	FDC 0/5008	NDB RWY 25, ORIG...
05/12/00	WA	Burlington/Mount Vernon.	Skagit Regional	FDC 0/4989	GPS RWY 28, ORIG...
05/12/00	WA	Burlington/Mount Vernon.	Skagit Regional	FDC 0/4991	GPS RWY 10, AMDT 1...
05/12/00	WA	Burlington/Mount Vernon.	Skagit Regional	FDC 0/4993	NDB RWY 10, AMDT 3...
05/15/00	KY	Flemingsburg	Fleming-Mason	FDC 0/5054	VOR/DME OR GPS–A, AMDT 5...
05/15/00	WI	Madison	Dane County Regional-Truax Field.	FDC 0/5080	ILS RWY 36, AMDT 29B...
05/16/00	OK	Tulsa	Tulsa Intl	FDC 0/5163	RADAR–1, AMDT 17C...
05/17/00	GA	Camilla	Camilla-Mitchell County	FDC 0/5234	NDB OR GPS RWY 8, AMDT 1...
05/18/00	OH	Columbus	Ohio State University	FDC 0/5291	GPS RWY 94, ORIG–B...
05/18/00	OH	Wooster	Wayne County	FDC 0/5280	VOR RWY 28, ORIG–B...
05/18/00	OH	Wooster	Wayne County	FDC 0/5281	GPS RWY 28, AMDT 1...
05/18/00	OH	Wooster	Wayne County	FDC 0/5282	NDB RWY 28, AMDT 7B...
05/18/00	OH	Wooster	Wayne County	FDC 0/5283	VOR OR GPS RWY 10, ORIG–B...
05/19/00	FL	Orlando	Executive	FDC 0/5358	GPS RWY 25, ORIG–B...
05/19/00	KS	Garden City	Garden City Regional	FDC 0/5354	VOR/DME OR GPS RWY 30, ORIG... THIS REPLACES FDC 0/4496
05/19/00	MO	St Joseph	Rosecrans Memorial	FDC 0/5348	VOR OR TACAN RWY 17, AMDT 13...
05/19/00	TX	Abilene	Abilene Regional	FDC 0/5330	ILS RWY 35R, AMDT 6A...
05/19/00	TX	Abilene	Abilene Regional	FDC 0/5331	NDB RWY 35R, AMDT 5B...
05/19/00	TX	Abilene	Abilene Regional	FDC 0/5334	GPS RWY 35R, ORIG–A...
05/22/00	CA	Concord	Buchanan Field	FDC 0/5407	LDA RWY 19R, AMDT 7B...
05/22/00	CA	Concord	Buchanan Field	FDC 0/5408	VOR RWY 19R, AMDT 12B...
05/22/00	MI	Hancock	Houghton County Memorial	FDC 0/5425	VOR RWY 31, AMDT 14...
05/22/00	MI	Hancock	Houghton County Memorial	FDC 0/5426	VOR OR GPS RWY 25, AMDT 17...
05/22/00	MI	Hancock	Houghton County Memorial	FDC 0/5427	VOR OR GPS RWY 13, AMDT 15...
05/23/00	GA	Milledgeville	Baldwin County	FDC 0/5436	GPS RWY 10, ORIG–A...
05/23/00	GA	Milledgeville	Baldwin County	FDC 0/5437	NDB RWY 28, ORIG–A...
05/23/00	GA	Milledgeville	Baldwin County	FDC 0/5439	GPS RWY 28, ORIG–A...
05/24/00	MI	Hancock	Houghton County Memorial	FDC 0/5488	LOC/DME BC RWY 13, AMDT 11A...

[FR Doc. 00–13834 Filed 6–1–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–99–198]

RIN 2115–AA97

Safety Zone: Parade of Tall Ships Newport 2000, Newport, RI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone around vessels participating in the Newport, RI, parade of Tall Ships on July 2, 2000. The moving safety zone will extend two hundred (200) yards ahead of the lead vessel to two hundred (200) yards astern of the last vessel in the parade, and two hundred (200) yards abeam of each parading vessel along the designated parade route. The safety zone is needed to protect each of the Tall Ships, which will have limited maneuverability, from damage as well as protect passing and spectator vessels. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

DATES: This rule is effective from 10 a.m. until 4 p.m. on July 2, 2000.

ADDRESSES: Comments and material received from the public as well as documents indicated in this preamble as being available in the docket are available for inspection or copying at Coast Guard Marine Safety Office Providence, 20 Risho Avenue, Providence, Rhode Island 02914 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CWO John W. Winter at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 22, 2000, we published a notice of proposed rulemaking (NPRM) entitled Parade of Tall Ships Newport 2000, Newport, RI in the **Federal Register** (65 FR 15283). We received no comments. No public hearing was requested, and none was held.

Background and Purpose

This rule is needed to ensure the safe navigation of the Tall Ships and other smaller sailing vessels participating in a parade of sail on Sunday, July 2, 2000, as well as the safety of spectator craft. The entire parade event is scheduled to last approximately six hours, beginning at 10 a.m. and ending at 4 p.m. The parading vessels will transit outbound from Newport Harbor, then north through the East Passage, Narragansett Bay, underneath the Newport Bridge, westward around Gould Island, and then southbound out to sea.

The parade of sail route extends through the East Passage of Narragansett Bay and passes through the following points: (see NOAA Charts(s) #13218, 13221, 13223).

Latitude	Longitude
41°30′18″N	71°20′58″W
41°31′43″N	71°20′00″W
41°33′29″N	71°19′14″W
41°33′29″N	71°20′55″W
41°32′19″N	71°21′12″W
41°28′45″N	71°20′45″W
41°27′44″N	71°22′24″W

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This safety zone involves only the southeast portion of Narragansett Bay and will shut down the East passage to commercial and recreation traffic during the event. The effect of this regulation will not be significant because this rule would be in effect for only 6 hours. Recreational vessel traffic could pass safely around the safety zone through the West passage, and maritime advisories will be made well in advance allowing large commercial traffic to schedule around the event.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a small portion of Narragansett Bay from 10 a.m. and 4 p.m. on July 2, 2000.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will only be in effect for 6 hours; recreational vessel traffic can pass safely around the safety zone through the West passage; and, before the effective period, we will issue maritime advisories widely available to users of the bay, allowing large commercial traffic ample time to schedule around the event.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. No requests for assistance were received. Small businesses may send comments on the actions of the Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal

Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard has considered the environmental impact of implementing this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–198 to read as follows:

§ 165.T01–198 Safety Zone: Parade of Tall Ships Newport 2000, Rhode Island, Lower Narragansett Bay, East Passage.

(a) *Location.* A moving safety zone 200 yards ahead of the lead vessel in the parade, 200 yards astern of the last vessel in the parade, and 200 yards abeam of each vessel participating in the Tall Ships Newport 2000 parade of sail. The parade of sail route extends through the East Passage of Narragansett Bay and passes through the following points: (see NOAA Charts(s) #13218, 13221, 13223)

Latitude	Longitude
41°30′18″N	71°20′58″W
41°31′43″N	71°20′00″W
41°33′29″N	71°19′14″W
41°33′29″N	71°20′55″W
41°32′19″N	71°21′12″W
41°28′45″N	71°20′45″W
41°27′44″N	71°22′24″W

(b) *Effective period.* Paragraph (a) of this section is effective between 10 a.m. and 4 p.m. on Sunday, July 2, 2000. Departure time is dependent on the tide, weather and granting of authority for departure by the Captain of the Port, Providence.

(c) *Regulations.* (1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by siren, radio, flashing light, or other means, the operator of the vessel shall proceed as directed.

Dated: May 22, 2000.

Peter A. Popko,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Office Providence.

[FR Doc. 00–13815 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–99–197]

RIN 2115–AA97

Safety Zone: Fireworks Display, Naval Station Newport, Newport, RI

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 fireworks launching site at Naval Station Newport, Newport, RI on June 30, 2000. The safety zone is needed to safeguard the public from possible hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

DATES: This rule is effective from 8 p.m. until 11 p.m. on June 30, 2000 until 11 p.m. July 2, 2000.

ADDRESSES: Comments and material received from the public as well as documents indicated in this preamble as being available in the docket are available for inspection or copying at Coast Guard Marine Safety Office Providence, 20 Risho Avenue, Providence, Rhode Island 02914 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CWO John W. Winter at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On March 22, 2000, we published a notice of proposed rulemaking (NPRM) entitled Fireworks Display, Naval Station Newport, Newport, RI in the **Federal Register** (65 FR 15285). We received one comment. No public hearing was requested, and none was held.

Background and Purpose

The safety zone is needed to protect the public from debris and other hazards associated with a fireworks display at Naval Station Newport, starting at 8 p.m. on June 30, 2000, or in the event of rain, on July 2, 2000. The event, which is sponsored by Tall Ships Newport Salute 2000, will last approximately 3 hours.

Discussion of Comments and Changes

One comments was received from the sponsor, Tall Ships Newport Salute 2000, requesting that the rule include a rain date of July 2, 2000. A rain date was incorporated into the final rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

This safety zone involves a very small area of Narragansett Bay. The effect of

this regulation will not be significant due to the small area affected; all vessel traffic may safely transit around this safety zone; and the extensive marine advisories that will be made.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Narragansett Bay from 8 p.m. to 11 p.m. on June 30, 2000 (rain date, July 2, 2000).

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only three hours, commercial and recreational vessel traffic can pass safely around the safety zone, and before the effective period, we will issue maritime advisories widely available to users of Narragansett Bay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking. No requests for assistance were received. Small businesses may send comments on the actions of the Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard has considered the environmental impact of implementing this rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and Recordkeeping Requirements, Security measures, and Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

2. Add temporary § 165.T01–197 to read as follows:

§ 165.T01–197 Safety Zone: Fireworks Display, Naval Station Newport, Newport, Rhode Island.

(a) *Location.* All waters within a five hundred (500) yard radius of the fireworks launching platform located approximately 300 yards off shore from Coasters Island and Naval Station Newport, Newport, Rhode Island, in approximate position 41°31′00″ N and 071°20′00″ W.

(b) *Effective Period.* This section will be enforced from 8 p.m. until 11 p.m. on June 30, 2000. If the fireworks display is cancelled because of bad weather, this section will be enforced on July 2, 2000, at the same times.

(c) *Regulations.* (1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: May 22, 2000.

Peter A. Popko,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Office Providence.

[FR Doc. 00–13814 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 3, 17, and 21

RIN 2900–AJ25

Children Suffering from Spina Bifida Who Are Children of Vietnam Veterans

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) regulations concerning benefits for children suffering from spina bifida who are children of Vietnam veterans. This is necessary to implement statutory

changes contained in the Veterans' Benefits Act of 1997.

DATES: *Effective Date:* October 1, 1997.

FOR FURTHER INFORMATION CONTACT: John Bisset, Jr., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW, Washington, DC 20420, telephone (202) 273–7210.

SUPPLEMENTARY INFORMATION: Section 421 of Pub. L. 104–204 added a new chapter 18 to title 38, United States Code, authorizing VA to provide certain benefits to children suffering from spina bifida who are the natural children of Vietnam veterans. VA published three sets of regulations to implement the provisions of section 421 of Pub. L. 104–204, i.e. regulations concerning monetary allowances, provision of healthcare, and provision of vocational training and rehabilitation, in the **Federal Register** of September 30, 1997 (62 FR 51273–51296).

Section 404 of Pub. L. 105–114, the Veterans' Benefits Act of 1997, enacted on November 21, 1997, amended chapter 18 of title 38, United States Code. This document revises VA's regulations to implement those statutory amendments. The changes concerning the definition of ''Vietnam veteran,'' the definition of ''child,'' and the submission of social security numbers concern all three sets of regulations. The other changes made by this document only concern the monetary allowance regulations.

Public Law No. 104–204 defined the term ''Vietnam veteran'' as a ''veteran'' who performed active military, naval, or air service in the Republic of Vietnam ''during the Vietnam era.'' Public Law No. 105–114 amended that definition to refer to an ''individual'' who performed active military, naval, or air service in the Republic of Vietnam ''during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to the characterization of the individual's service.'' We are amending 38 CFR 3.814(c)(1) of the monetary allowance regulations accordingly. This change also affects the spina bifida regulations concerning provision of healthcare (see 38 CFR 17.901) and provision of vocational training and rehabilitation (see 38 CFR 21.8012).

Public Law No. 104–204 defined the term ''child'' as meaning a natural child of a Vietnam veteran, regardless of age or marital status, who was conceived after the date on which the veteran first entered the Republic of Vietnam ''during the Vietnam era.'' Public Law No. 105–114 amended the definition of ''child'' by changing ''during the Vietnam era'' to ''during the period beginning on January 9, 1962, and ending on May 7, 1975.'' We are amending 38 CFR 3.814(c)(2) of the monetary allowance regulations accordingly. This change also affects the spina bifida regulations concerning provision of healthcare (see 38 CFR 17.901) and provision of vocational training and rehabilitation (see 38 CFR 21.8012).

Public Law No. 105–114 revised 38 U.S.C. 1806 so that various administrative provisions of title 38, United States Code, including the following, are applicable to those applying for or receiving spina bifida benefits: 38 U.S.C. 5101(c), 5110(a), 5110(b)(2), 5110(g), 5110(i), 5111, 5112(a), 5112(b)(9), and 5112(b)(10). Accordingly, we are making the following changes.

- We are amending 38 CFR 3.216 to provide that anyone applying for or receiving benefits for a child suffering from spina bifida, as a condition for receipt or continued receipt of benefits, must furnish VA, upon request, his or her social security number, and the social security number of anyone based upon whom benefits are sought or received (38 U.S.C. 5101(c)).
- We are amending 38 CFR 3.814 of the monetary allowance regulations to provide that the effective date of a monthly award for a child suffering from spina bifida based on an original claim, a claim reopened after final adjudication, or a claim for increase will be fixed in accordance with the facts found, but will not be earlier than the date of receipt of the application for benefits (38 U.S.C. 5110(a)).
- We are amending 38 CFR 3.814 to provide that the effective date of an increased monthly award for a child suffering from spina bifida will be the earliest date as of which it is ascertainable that an increase in disability had occurred, if application is received by VA within one year of that date (38 U.S.C. 5110(b)(2)).
- We are amending 38 CFR 3.114 to provide that any award or increase of a monthly award for a child suffering from spina bifida pursuant to any law or administrative issue will not be effective prior to the effective date of the law or administrative issue and will not be retroactive more than one year from the date of application or the date of administrative determination of entitlement, whichever is earlier (38 U.S.C. 5110(g)).
- We are amending 38 CFR 3.814 to provide that a monthly award for a child suffering from spina bifida benefits based on a disallowed claim reopened on the basis of a correction of military records will be effective on the date application was made for the correction, or the date the disallowed claim was filed, whichever is later, but not retroactive for more than one year from the reopening of the disallowed claim (38 U.S.C. 5110(i)).
- We are amending 38 CFR 3.31 to provide that the payment of a monthly award for a child suffering from spina bifida may not be made for any period before the first day of the month following the month in which the award or increase became effective (38 U.S.C. 5111).
- We are amending 38 CFR 3.814 to provide that the effective date of a reduction or discontinuance of a monthly award for a child suffering from spina bifida will be fixed in accordance with the facts found, that reduction or discontinuance of such benefits by reason of beneficiary error will be the effective date of the award, and that reduction or discontinuance of such benefits by reason of administrative error will be effective as of the date of last payment (38 U.S.C. 5112(a), (b)(9), (b)(10)).

Public Law No. 104–204 provided that the amounts of the monthly monetary allowance to a child with spina bifida are subject to adjustment under the provisions of 38 U.S.C. 5312, which provides for the adjustment of certain VA benefit rates whenever there is an increase in benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 *et seq.*). 38 U.S.C. 5312(c)(2) provides that whenever rates are so increased, the Secretary may round those rates in such manner as the Secretary considers equitable and appropriate. The Secretary has determined that since all other benefits administered under VA's adjudication regulations (38 CFR part 3) are paid in even dollar amounts, for ease of administration it is appropriate to round rate increases concerning the spina bifida monetary benefit.

Under procedures established at 38 CFR 3.29, when adjusting the annual basic benefit rates for the pension programs and parents' dependency and indemnity compensation, if the resulting amounts are not even dollar amounts, VA rounds them to the next higher dollar. In computing monthly rates from the adjusted annual rates, if the resulting amounts are not even dollar amounts, VA rounds to the next lower dollar. Since Pub. L. 104–204 authorized the monetary allowance for spina bifida at a monthly rate rather than an annual rate, it is necessary to round only one time when determining a revised rate. Under 38 CFR 3.29, if rounding is necessary after the first calculation, the resulting rate is always

rounded up. We believe therefore that since only one rounding is required to revise the monetary allowance for spina bifida, it is both equitable and appropriate to round up. We are amending § 3.29 accordingly.

Public Law No. 105–114 provides that the amendments to chapter 18 of title 38, United States Code, are effective as of October 1, 1997.

This final rule reflects statutory requirements and reflects issues relating to agency management. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

No regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. The final rule will not directly affect any small entities. Only VA beneficiaries are directly affected.

The Catalog of Federal Domestic Assistance program number is 64.127.

List of Subjects

38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Reporting and recordkeeping requirements, Veterans, Vietnam.

38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: February 2, 2000.

Togo D. West, Jr.,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR parts 3, 17, and 21 are amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.29, paragraph (c) is added, to read as follows:

§ 3.29 Rounding.

* * * * *

(c) *Monthly rates under 38 U.S.C. 1805.* When increasing the monthly monetary allowance rates under § 3.814 for children suffering from spina bifida (see § 3.27(c)), VA will round any resulting rate that is not an even dollar amount to the next higher dollar.

Authority: 38 U.S.C. 1805(b)(3), 5312(c)(2)).

3. Section 3.31 is amended as follows:

a. The introductory text is amended in the first sentence by removing ''compensation, pension or dependency and indemnity compensation'' and adding, in its place, ''compensation, pension, dependency and indemnity compensation, or the monetary allowance under 38 U.S.C. 1805 for a child suffering from spina bifida who is a child of a Vietnam veteran''; and

b. Paragraph (c)(4)(ii) and the authority citation at the end of the section are revised to read as follows:

§ 3.31 Commencement of the period of payment.

* * * * *

(c) * * *

(4) * * *

(ii) Increases in Improved Pension, parents' dependency and indemnity compensation, or the monetary allowance for children suffering from spina bifida pursuant to § 3.27, or

* * * * *

Authority: 38 U.S.C. 1806, 5111.

4. Section 3.114 is amended as follows:

a. Paragraph (a) introductory text is amended by removing ''Where pension, compensation, or dependency and indemnity compensation'' in each place it appears and adding, in its place, ''Where pension, compensation, dependency and indemnity compensation, or the monetary allowance under 38 U.S.C. 1805 for a child suffering from spina bifida who is a child of a Vietnam veteran''; and

b. The authority citation at the end of paragraph (a) is revised to read as follows:

§ 3.114 Change of law or Department of Veterans Affairs issue.

* * * * *

Authority: 38 U.S.C. 1806, 5110(g)).

* * * * *

5. In § 3.216, the section heading is amended by removing ''number'' and adding, in its place, ''numbers''; the first sentence is amended immediately following ''of this part'' by adding '', or the monetary allowance for a child suffering from spina bifida who is a child of a Vietnam veteran under § 3.814 of this part,''; and the authority citation is revised to read as follows:

§ 3.216 Mandatory disclosure of social security numbers.

* * * * *

Authority: 38 U.S.C. 1806, 5101(c)).

6. Section 3.814 is amended as follows:

a. Paragraph (c)(1) is amended by removing ''a veteran'' and adding, in its place, ''an individual''; by removing ''during the Vietnam era'' and adding, in its place, ''during the period beginning on January 9, 1962, and ending on May 7, 1975, without regard to the characterization of the individual's service'';

b. Paragraph (c)(2) is amended by removing ''during the Vietnam era'' and adding, in its place, ''during the period beginning on January 9, 1962, and ending on May 7, 1975''; and

c. Paragraphs (e) and (f) are added immediately following paragraph (d)(5) and the authority citation at the end of the section is revised to read as follows:

§ 3.814 Monetary allowance under 38 U.S.C. 1805 for a child suffering from spina bifida who is a child of a Vietnam veteran.

* * * * *

(e) *Effective dates.* Except as otherwise provided, VA will award the monetary allowance for children suffering from spina bifida based on an original claim, a claim reopened after final disallowance, or a claim for increase as of the date VA received the claim or the date entitlement arose, whichever is later.

(1) VA will increase benefits as of the earliest date the evidence establishes that the level of severity increased, but

only if the beneficiary applies for an increase within one year of that date.

(2) If a claimant reopens a previously disallowed claim based on corrected military records, VA will award the benefit from the latest of the following dates: the date the veteran or beneficiary applied for a correction of the military records; the date the disallowed claim was filed; or, the date one year before the date of receipt of the reopened claim.

(f) *Reductions and discontinuances.* VA will generally reduce or discontinue awards according to the facts found except as provided in §§ 3.105 and 3.114(b).

(1) If benefits were paid erroneously because of beneficiary error, VA will reduce or discontinue benefits as of the effective date of the erroneous award.

(2) If benefits were paid erroneously because of administrative error, VA will reduce or discontinue benefits as of the date of last payment.

* * * * *

Authority: 38 U.S.C. 1805, 1806, 5110, 5112.

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721 unless otherwise noted.

2. The authority citation at the end of § 17.901 is revised to read as follows:

§ 17.901 Definitions.

* * * * *

Authority: 38 U.S.C. 101(2), 1801–1806, Pub. L. 105–114.

3. The authority citation at the end of § 17.902 is revised to read as follows:

§ 17.902 Preauthorization.

* * * * *

Authority: 38 U.S.C. 101(2), 1801–1806, Pub. L. 105–114.

4. The authority citation at the end of § 17.903 is revised to read as follows:

§ 17.903 Payment.

* * * * *

Authority: 38 U.S.C. 101(2), 1801–1806, Pub. L. 105–114.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart M—Vocational Training and Rehabilitation for Vietnam Veterans' Children With Spina Bifida

1. The authority citation for part 21, subpart M continues to read as follows:

Authority: 38 U.S.C. 101, 501, 512, 1151 note, 1801–1806, 5112, unless otherwise noted.

2. The authority citation at the end of § 21.8012 is revised to read as follows:

§ 21.8012 Definitions and abbreviations.

* * * * *

Authority: 38 U.S.C. 101(2), 1801, 1804, Pub. L. 105–114.

3. The authority citation at the end of § 21.8014 is revised to read as follows:

§ 21.8014 Application.

* * * * *

Authority: 38 U.S.C. 101(2), 1801, 1804, Public Law 105–114).

[FR Doc. 00–13660 Filed 6–1–00; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 132

[FRL–6707–7]

RIN 2040–AC08

Revocation of the Selenium Criterion Maximum Concentration for the Final Water Quality Guidance for the Great Lakes System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial revocation of final rule.

SUMMARY: In March 1995, EPA promulgated acute and chronic aquatic life criteria for selenium as part of the Final Water Quality Guidance for the Great Lakes System (40 CFR part 132). In 1996 the U.S. Court of Appeals for the District of Columbia Circuit issued an order vacating the acute criterion for selenium. *AISI* v. *EPA,* 115 F. 3d 979 (1997) (order dated September 10, 1996). EPA did not immediately publish a notice removing the vacated acute criterion from the Code of Federal Regulations because it anticipated promulgating a new acute criterion within one year. Although EPA proposed a new criterion in November 1996, it has not yet promulgated a final criterion. Based on comments received on the proposal, as well as earlier comments EPA had received on the methodology used to develop the national selenium criteria, EPA decided to subject the selenium criteria methodology to a broader workgroup and peer review process. While the selenium workgroup and peer reviewers have made good progress they are still months away from making final recommendations on the acute criterion for selenium. In the meantime, to avoid potential confusion about the status of the vacated acute criterion, EPA has decided to remove it from the final Great Lakes Guidance in 40 CFR part 132. EPA plans to propose a new replacement acute criterion once the workgroup and peer review process is complete. In the interim, EPA is recommending that States and Tribes rely on the chronic aquatic life criterion for selenium in setting permit limits. Today's action will not affect that chronic aquatic life criterion.

EFFECTIVE DATE: June 2, 2000.

ADDRESSES: The public docket for this and earlier rulemakings concerning the Water Quality Guidance for the Great Lakes System, including the proposal, public comments in response to the proposal, other major supporting documents, and the index to the docket are available for inspection and copying at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604 by appointment only. Appointments may be made by calling Mary Willis Jackson (telephone 312–886–3717).

FOR FURTHER INFORMATION CONTACT: Mark Morris (4301), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460 (202–260–0312).

SUPPLEMENTARY INFORMATION:

I. Discussion

A. Potentially Affected Entities

Citizens concerned with water quality in the Great Lakes System may be interested in this rulemaking. Also, entities potentially affected by today's action are those discharging or intending to discharge selenium to waters of the United States in the Great Lakes System. Categories and entities that may ultimately be affected include:

Category	Examples of potentially affected entities
Industry	Industries discharging or intending to discharge selenium to waters in the Great Lakes System as defined in 40 CFR 132.2.
Municipalities	Publicly owned treatment works discharging or intending to discharge selenium to waters of the Great Lakes System as defined in 40 CFR 132.2.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the definition of ''Great Lakes System'' in 40 CFR 132.2 and examine the preamble to 40 CFR part 132, which describes the part 132 regulations. See 60 FR 15366 (March 23,1995). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Background

On March 23, 1995, EPA promulgated the Final Water Quality Guidance for the Great Lakes System (Guidance) required under section 118(c)(2) of the Clean Water Act, 33 U.S.C. 1268(c)(2). See 60 FR 15366 (March 23, 1995). The Guidance protects the waters of the Great Lakes and their tributaries by establishing water quality criteria for 29 pollutants to protect aquatic life, wildlife and human health, and detailed methodologies to develop criteria for additional pollutants. It also establishes implementation procedures to help Great Lakes States and Tribes develop more consistent, enforceable water-quality based effluent limits in discharge permits, as well as more consistent total maximum daily loads for the Great Lakes System. For a description of the environmental significance of the Great Lakes System and the serious environmental threats it faces (particularly from persistent, bioaccumulative chemicals), see the April 16, 1993, preamble to the proposed Guidance (58 FR 20802).

The ambient water quality criteria included in the Guidance to protect aquatic life set maximum ambient concentrations for harmful pollutants to be met in all waters in the Great Lakes System. See 40 CFR part 132, Tables 1 and 2. Great Lakes States and Tribes were required to adopt criteria consistent with EPA's criteria by March 1997. CWA section 118(c)(2)(c). If any State or Tribe fails to adopt criteria, EPA must promulgate criteria applying in that State or Tribe's jurisdiction. *Id.* Once the criteria take effect, permits for discharges of such pollutants into the Great Lakes System must include limits as necessary to attain the criteria.

EPA promulgated aquatic life criteria for 15 toxic pollutants including selenium. The selenium criterion was based on field data from Belews Lake in North Carolina. The chronic criterion, or Criterion Continuous Concentration (CCC), was set at 5 micrograms per liter (µg/L) (the concentration of selenium in a portion of Belews Lake where no chronic effects were observed). The acute criterion, or Criterion Maximum Concentration (CMC), was calculated as 19.34 µg/L (by multiplying the CCC by a laboratory-derived acute to chronic ratio and dividing by two). The total recoverable criteria published for selenium in part 132 were derived with the same data as provided in the criteria document, ''Ambient Water Quality Criteria for Selenium—1987'' (EPA 440/5–87–008).

Several industries and trade associations challenged the acute aquatic life criterion, or CMC, for selenium. *AISI* v. *EPA*, 115 F. 3d 979 (1997). Among the issues they raised was that inorganic selenium has two oxidation states, selenite and selenate, that have different toxicities to aquatic life, and that EPA erred by promulgating a single acute criterion that failed to properly account for the two oxidation states. EPA re-examined the issue, and decided, that it would be in the public interest to propose and provide an opportunity to comment on a new approach for deriving a CMC for selenium that takes into account not only the different toxicities of the two oxidation states described above, but also new data indicating that all forms of selenium are additive. EPA requested the reviewing Court to remand the acute criterion to allow EPA to propose revisions. On September 19, 1996, the U.S. Court of Appeals for the District of Columbia Circuit issued an order vacating the acute criterion.

C. Decision to Remove the Aquatic Life CMC for Selenium

EPA proposed a revised CMC for aquatic life for selenium on November 14, 1996 (61 FR 58444). Because EPA intended to promulgate a new selenium criterion soon after its 1996 proposal, EPA did not immediately withdraw the vacated regulation from the Code of Federal Regulations as is its normal practice. However, based on comments received on the proposal, as well as earlier comments EPA had received on the methodology used to develop the national selenium criteria, EPA decided to subject the selenium criteria methodology to a broader workgroup and peer review process. While the selenium workgroup and peer reviewers have made good progress they are still months away from making final recommendations on the selenium CMC. At least one member of the public has raised concern that, since the criterion continues to appear in the CFR, it appears to remain in effect. EPA agrees that the criterion is not in effect, and, since EPA has not been able to replace it promptly, removing it will reduce the potential for confusion. Therefore, EPA has decided to withdraw the selenium CMC from part 132, Table 1(a).

EPA plans to propose a new selenium CMC for the Great Lakes Guidance once the workgroup and peer review process is complete. EPA is not removing the 1995 CCC for selenium codified in Table 2(a) to part 132. EPA is not withdrawing the Clean Water Act section 304(a) criteria document for either the acute or the chronic criterion for selenium recommended for use in the national program because criteria developed for the national program are guidance and States and Tribes may adopt other criteria that are scientifically defensible. ''Ambient Water Quality Criteria for Selenium—1987'' (EPA 440/5–87–008). EPA will consider revising the national document after the workgroup and peer reviewers complete their work, and sometime later EPA will propose a new Great Lakes criterion. The Court's order does not affect the status of either the 1995 CCC for the Guidance or any portion of the national criteria document.

D. Consequences of Today's Action

As a result of today's action, States and Tribes need not adopt or submit to EPA for review an aquatic life CMC for selenium for waters of the Great Lakes Basin. In the interim, EPA is recommending that States and Tribes rely on the aquatic life CCC for selenium in Table 2(a) of part 132 when setting

permit limits. States and Tribes have submitted aquatic life CCC for selenium that are as protective as the 1995 Guidance CCC for selenium.

II. ''Good Cause'' Under the Administrative Procedure Act

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA finds it ''unnecessary'' to provide an opportunity to comment on the strictly legal issue of the impact of the *AISI* decision on the March 1995 selenium CMC. The U.S. Court of Appeals for the District of Columbia Circuit issued an order vacating the acute criterion for selenium in 1996. This rule merely removes the criterion from the CFR to eliminate confusion. Thus, notice and public procedure are contrary to the public interest. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). For this reason, EPA has also determined that it has ''good cause'' under 5 U.S.C. 553(d) to make the rule immediately effective upon publication.

III. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

IV. Submission to Congress and the General Accounting Office

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of June 2, 2000. 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 action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

Because the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see section II), it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

VI. Unfunded Mandates Reform Act

Because the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute (see section II), it is not subject to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4).

VII. Paperwork Reduction Act

There are no information collection requirements in this final rule and therefore there is no need to obtain OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

VIII. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of the Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Because the *AISI* Court vacated the aquatic life CMC for selenium in 1996, EPA is removing it from the final Great Lakes Guidance in 40 CFR part 132. As a result, States and Tribes need not adopt or submit to EPA for review an aquatic life CMC for selenium for waters of the Great Lakes Basin as part of their part 132 submission. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

IX. 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 nor does it impose substantial direct compliance costs on them. Today's final rule only withdraws the selenium CMC from part 132, Table 1(a) of the final Great Lakes Guidance. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

X. Executive Order 13045 on 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 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 final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, this rule does not concern an environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children. This final rule merely removes the aquatic life CMC for selenium from part 132, Table 1(a) of the Guidance, consistent with the 1996 Court order vacating the acute (CMC) criterion for selenium. In the interim, EPA is recommending that States and Tribes rely on the aquatic life CCC for selenium in Table 2(a) of part 132 when setting permit limits. States and Tribes have submitted aquatic life CCC for selenium that are as protective as the 1995 Guidance CCC for selenium.

XI. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. 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 132

Environmental protection, Administrative practice and procedure, Great Lakes, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: May 25, 2000.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 132—WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

1. The authority citation for part 132 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Table 1(a) to part 132 is amended by removing the entry for selenium.

[FR Doc. 00–13771 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Parts 51–8, 51–9, and 51–10

Change in Committee Mailing Address

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Final rule.

SUMMARY: The Committee is making changes in its regulations to correct its mailing address after a recent office move.

EFFECTIVE DATE: June 2, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: G. John Heyer (703) 603–0665. Copies of this notice will be made available on request in computer diskette format.

SUPPLEMENTARY INFORMATION: The Committee is amending those provisions of its regulations which state its mailing address, as the address changed on May 12, 2000. The provisions appear in the Committee's Freedom of Information Act, Privacy Act, and nondiscrimination regulations at 41 CFR parts 51–8, 51–9, and 51–10 respectively. This amendment is exempt under 5 U.S.C. 553(a)(2) from notice-and-comment rulemaking because it is a matter of internal agency management.

Regulatory Flexibility Act

This final rule is exempt from the Regulatory Flexibility Act because it does not meet the definition of a ''rule'' in that Act.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply to this final rule because it contains no new information collection or recordkeeping requirements as defined in that Act and its regulations.

Executive Order No. 12866

The Committee has been exempted from the regulatory review requirements of the Executive Order by the Office of Information and Regulatory Affairs. Additionally, this final rule is not a significant regulatory action as defined in the Executive Order.

List of Subjects

41 CFR Part 51–8

Freedom of information.

41 CFR Part 51–9

Privacy.

41 CFR Part 51–10

Administrative practice and procedure, Civil rights, Equal employment opportunity, Federal buildings and facilities, Handicapped.

For the reasons set out in the preamble, Parts 51–8, 51–9 and 51–10 of Title 41, Chapter 51 of the Code of Federal Regulations are amended as follows:

PART 51–8—PUBLIC AVAILABILITY OF AGENCY MATERIALS

1. The authority citation for Part 51–8 continues to read as follows:

Authority: 5 U.S.C. 552.

§§ 51–8.4 and 51–8.5 [Amended]

2. Remove the words ''Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302'' and add, in their place, the words ''Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259'' in the following places:

a. Section 51–8.4; and

b. Section 51–8.5(a).

PART 51–9—PRIVACY ACT RULES

3. The authority citation for Part 51–9 continues to read as follows:

Authority: 5 U.S.C. 552a.

§§ 51–9.401 and 51–9.405 [Amended]

4. Remove the words ''Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302'' and add, in their place, the words ''Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259'' in the following places:

a. Section 51–9.401(a); and

b. Section 51–9.405(a).

PART 51–10—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

5. The authority citation for Part 51–10 continues to read as follows:

Authority: 29 U.S.C. 794.

§ 51–10.170 [Amended]

6. In § 51–10.170(c), remove the words ''Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302'' and add, in their place, the words ''Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259''.

Dated: May 30, 2000.

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–13859 Filed 6–1–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 385 and 390

[Docket No. FMCSA–98–3947 (Formerly Docket No. FHWA–98–3947)]

RIN 2126–AA14 (Formerly 2125–AD49)

Federal Motor Carrier Safety Regulations; General; Commercial Motor Vehicle Marking

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The FMCSA is revising its requirements concerning the marking of commercial motor vehicles (CMVs) and for the submission of a Motor Carrier Identification Report (Form MCS–150) to the agency. The FMCSA is eliminating the marking regulations of the former Interstate Commerce Commission (ICC), and requiring motor carriers to apply markings that conform to the requirements of this final rule. The agency is also amending its marking requirements to require that CMVs be marked with the legal name of the business entity that owns or controls the motor carrier operation, or the ''doing business as'' (DBA) name, as it appears on the Form MCS–150. Motor carriers will be allowed two years to comply with the requirement to affix the USDOT number to both sides of their CMVs, and five years to comply with the additional requirements to display the legal name or a single trade name on the CMVs currently in their fleet. The FMCSA is redesignating the regulation that requires motor carriers to submit the Form MCS–150, and requiring that *all* new interstate motor carriers submit a Form MCS–150 to the FMCSA before (rather than within 90 days after) commencing operations. These revisions are intended to enhance the ability of the FMCSA, the States, and the general public to identify motor carriers. The FMCSA also revises the listing for locations of motor carrier safety Service Centers to reflect recent changes to the agency organizational structure. They were originally included in the NPRM concerning safety fitness procedures [RIN 2126–AA42, formerly RIN 2125–AE56, Docket No. OMCS–99–5467 (formerly Docket No. FHWA–99–5467)] (64 FR 44460, August 16, 1999).

EFFECTIVE DATE: July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah M. Freund, Office of Bus and Truck Operations, Routing Code MC–PSV, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL):*http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communication software from the Government Printing Offices's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's web page at: *http://www.access.gpo.gov/nara.*

Background

On January 28, 1992, the FHWA published a final rule (57 FR 3142) which required interstate motor carriers to mark their interstate CMVs with specific information, including the USDOT number (see 49 CFR 390.21). The final rule, however, provided an exception for motor carriers authorized by the former ICC to conduct operations as a for-hire motor carrier. These motor carriers were required to comply only with the marking provisions in former 49 CFR part 1058, now redesignated as 49 CFR 390.401, 390.403, 390.405, and 390.407 (61 FR 54706, 54710, October 21, 1996).

The ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803) was enacted on December 29, 1995, and became effective on January 1, 1996. The ICCTA abolished the ICC, amended subtitle IV of title 49, United States Code, reformed the economic regulation of transportation, and transferred the assets, personnel, and many of the duties and functions of the ICC to the Secretary of Transportation (Secretary).

On June 16, 1998, the FHWA published a notice of proposed

rulemaking (NPRM) (63 FR 32801) to amend its regulations concerning the marking of CMVs and the submission of the Form MCS–150. The agency proposed (1) To eliminate the marking regulations of the former ICC and to require motor carriers to replace the vehicle markings specified by those requirements with markings that conform to 49 CFR 390.21; (2) to amend its current rule to require that CMVs be marked with the legal name of the business entity that owns or controls the motor carrier operation, or the ''doing business as'' name, and the city and State for the principal place of business as they appear on the Form MCS–150; (3) to allow motor carriers two years to comply with the marking requirement (*i.e.,* to display the USDOT number on both sides of their self-propelled CMVs), and five years to comply with the additional requirements to display the address of the principal place of business and the legal name, or a single trade name; (4) to amend the regulations to require all new interstate motor carriers submit a Form MCS–150 to the FMCSA before (rather than within 90 days after) commencing operations; and (5) to move the regulations that require motor carriers to submit the Form MCS–150 from 49 CFR part 385 to part 390.

Discussion of Comments to the NPRM

The FMCSA received 196 comments in response to the NPRM.

The commenters were: the American Trucking Associations (ATA) ; the New York State Motor Truck Association Inc. (NYSMTA); the National Automobile Dealers Association (NADA); the National Automobile Transporters Association (NATA); Bonanza Bus Lines; Yellow Corporation; the Association of Waste Hazardous Materials Transporters (AWHMT); ATC Leasing Company; the New Jersey Motor Truck Association; the Iowa Department of Transportation; United Parcel Service (UPS); the Missouri Division of Motor Carrier and Railroad Safety (Missouri DMCRS); Consolidated Freightways (CF); the South Carolina Trucking Association, Inc.; GROWMARK, Inc.; the Truck Renting and Leasing Association (TRALA); the Georgia Public Service Commission; Distribution & LTL Carriers Association; the National Private Truck Council (NPTC); J.B. Hunt; ConAgra Inc.; North American Van Lines, Inc. (NAVL); the Truckload Carriers Association (TCA); the National Association of Small Trucking Companies (NASTC); the Illinois State Police; the Colorado Department of Public Safety; Roadway Express; the American Moving and Storage Association (AMSA); the State of New York Department of Transportation; Peninsula Transport, Inc., and an additional 167 motor carriers. The following is a summary of the comments on some of the key items addressed in the notice.

Relationship to Unified Motor Carrier Registration System Rulemaking

Although most commenters did not oppose in principle the FMCSA's proposal to require self-propelled CMVs to be marked with a USDOT number, several of them, including the ATA, UPS, and the Distribution & LTL Carriers Association, recommended that the FMCSA delay this rulemaking pending the implementation of the congressionally mandated Unified Motor Carrier Registration System (Unified System). The Unified System is intended to provide a comprehensive foundation for registration, insurance, and safety information. The commenters asserted that the Unified System would help solve many of the problems mentioned in the NPRM, including matching the motor carrier (MC) and USDOT numbers. Commenters also suggest that the Unified System could be designed to include all of a motor carrier's DBA names and other identifying information.

The New York State DOT notes that it is participating in discussions with the U.S. DOT and others concerning the consolidation of the Unified System and the Single State Registration System (SSRS). New York believes there is conceptual agreement among the majority of SSRS States concerning assignment of USDOT numbers for both interstate and intrastate motor carriers, and asks that the FMCSA's regulation facilitate this approach. The Illinois State Police believes that many States already have the infrastructure in place to support a national motor carrier identification system.

The NASTC categorically opposes the NPRM, believing that the MC number is necessary for State and Federal officials, and the traveling public, to distinguish for-hire from private motor carriers.

FMCSA Response

Section 103 of the ICCTA, which, among other things, added 49 U.S.C. 13908, required the Secretary to initiate a rulemaking proceeding to replace the current Department of Transportation identification number system, the SSRS under 49 U.S.C. 14504, the registration/licensing system contained in 49 U.S.C. 13901–13905, and the financial responsibility information system under 49 U.S.C. 13906 with a single, online Federal system.

On August 26, 1996, the agency published an advance notice of proposed rulemaking (ANPRM) on the Motor Carrier Replacement Information/Registration System which posed several questions and requested comments on all of these issues raised by the commenters.

The FMCSA agrees there are items proposed in the Commercial Motor Vehicle Marking NPRM that are related to the Registration rulemaking. However, the FMCSA considers the requirement to mark a CMV with the USDOT number as a vehicle identification issue, not a registration issue. Therefore, the FMCSA will move forward with its requirement to mark CMVs with the USDOT number assigned to each motor carrier.

The filing of the Form MCS–150 is not considered a registration issue in the context of the Motor Carrier Replacement Information/Registration System because the agency is not changing the applicability of the regulation, only the time the document must be filed. The current requirement allows a new motor carrier to file the Form MCS-150 within 90 days after beginning operations. The FMCSA believes it is important that CMVs be properly marked before they are placed into service on the highway. Such markings will assist State officials conducting roadside inspections and accident investigations in attributing important safety data to the correct motor carrier. It will also ensure the public has an effective means to identify motor carriers operating in an unsafe manner.

The FMCSA has streamlined the process for filing the Form MCS–150 by making it available on the Internet. Motor carriers seeking a copy of Form MCS–150 may obtain it from the Internet through the Federal Motor Carrier Safety Administration web page at: *http://www.mcs.dot.gov/factsfigs/formspubs.htm* under ''DOT Number—Application Form.'' Motor carriers may download the Form MCS–150, complete it, and submit it by mail or by facsimile. Motor carriers may also obtain copies of the form from any of the four FMCSA Service Centers or the fifty-two Division Offices. A for-hire motor carrier should submit the Form MCS–150 along with its application for operating authority (Form OP–1) to the appropriate address referenced on that form or may submit it separately to the address mentioned on the web page.

The FMCSA has also made a determination that the USDOT number will be the number used to identify all motor carriers in the information/registration system of the future.

Currently, all interstate motor carriers (both for-hire and private) are assigned USDOT numbers. Also, several States require intrastate motor carriers to complete Form MCS–150 and obtain a USDOT identification number. These motor carriers are listed in the Motor Carrier Management Information System (MCMIS) as intrastate-only carriers. The addition of these motor carriers to the MCMIS enables the States to work together in determining the number of active motor carriers operating in the United States, and to monitor the safety performance of the motor carriers.

Another reason to use the USDOT number as the key identifier for all motor carriers is the role that it plays in the Performance and Registration Information Systems Management (PRISM) project. The PRISM project is a cooperative Federal/State program that makes motor carrier safety a requirement for obtaining and keeping commercial motor vehicle registration privileges. The performance of unsafe motor carriers is improved through a program of progressively more stringent sanctions leading to a possible Federal operations out-of-service order and suspension of their State issued vehicle registration privileges. The vehicle registration records contain the USDOT number as a unique identifier of the motor carrier responsible for the safety of the CMVs.

Single Trade Name

ConAgra, Inc., the ATA, the TCA, NAVL, and other commenters oppose the single trade name proposal and believe the FMCSA should allow small subsidiaries and divisions of large national carriers to maintain their own identities. They contend that local operations of national carriers want to maintain the connection to the local communities they served over the years. They claim that limiting carriers to a single trade name will dramatically impact a number of large carriers in ways that the FMCSA may not have fully considered.

FMCSA Response

The FMCSA agrees with the commenters. The FMCSA will consider requests for assignment of individual USDOT numbers to corporate divisions on a case-by-case basis. While the FMCSA does not wish to limit an organization's flexibility, or its ability to promote a trade name, we nevertheless must consider whether the assignment of multiple USDOT numbers to a single corporate entity will compromise the integrity of the collection and processing of safety data.

Principal Place of Business Address

With regard to the proposed language concerning the requirement for motor carriers to display only the location of their principal place of business, the ATA, the NPTC, UPS, CF, Roadway Express, Yellow Corporation, NAVL, the Georgia Public Service Commission, and a number of other motor carriers and associations strongly oppose any change to the existing regulation. Most argue that the principal place of business address, being the third way to identify the motor carrier (after the USDOT number and the single trade name), does not help much if the first two are correct or incorrect. While most commenters agree that some type of number is needed to help match safety records, they don't believe that the address of the principal place of business provides the same benefit. They believe the cost to the motor carrier to accomplish the change definitely outweighs any perceived advantage.

The New York State DOT opposes the proposal because it believes that motor carriers would be prohibited from displaying the location where a CMV is customarily based. The agency cited an example of a motor carrier of passengers that has acquired various New York based carriers. New York prefers to retain the location identification to aid them in tracking the performance of the individual subsidiaries.

FMCSA Response

The FMCSA agrees with the commenters; the motor carrier name and the unique USDOT number should be sufficient to properly identify the motor carrier. The FMCSA does not believe it is necessary to include in the final rule the requirement to display the city and State. As UPS noted, unless there is an error in the collection of the original data, there should be no instance in which two motor carriers have both the same name and the same USDOT number. The use of an address does not ensure the accurate collection of data and imposes an additional and unjustified burden on the industry.

As for the comments of the New York State DOT, the final rule does not require motor carriers to mark their motor vehicles with the city and State, but does not prohibit the practice either. The FMCSA believes that many motor carriers will continue to display the city and State for marketing purposes and to maintain a connection to the local communities they serve.

Periodic Update of the Form MCS–150

The ATA, Distribution and LTL Carriers Association, New York State DOT, and AWHMT have suggested the FMCSA require motor carriers to periodically update the information contained on the MCS–150. They say the information initially reported on the Form MCS–150 may change over time. Inasmuch as the FMCSA uses this information to calculate a motor carrier's accident rate for safety rating purposes, the commenters believe the FMCSA has a vested interest in requiring a periodic update of Form MCS–150 to ensure the integrity of the data.

FMCSA Response

The 1996 ANPRM on the unified information/registration system (61 FR 43816) addresses this issue. One of the questions included there was the same as that asked by the AWHMT, the ATA, and the New York DOT.

Section 217 of the Motor Carrier Safety Improvement Act of 1999 requires the FMCSA to require motor carriers to periodically update the information they provide in the form MCS–150. An initial update is required by December 2000. Periodic updates would be required not more frequently than once every two years. The FMCSA will address this provision in a separate rulemaking action.

Marking of Foreign and Intrastate Motor Carriers' Power Units

The AWHMT requested that the FMCSA consider if there is a potential for reciprocity between the CMV marking requirements of Canada and Mexico and those currently contained in and proposed for the FMCSRs.

UPS commented that motor carriers subject to the FMCSA's regulations that operate portions of their fleets within single jurisdictions are subject to the additional marking requirements of those jurisdictions. For example, State Public Utilities Commissions often impose their own marking requirements. UPS stated that it, as well as other motor carriers and the ATA, had filed comments in Docket MC 96–25 [Motor Carrier Replacement Information/Registration System, now DOT Docket 1997–2349] recommending that the USDOT's marking requirements be the sole method to identify CMVs operated by motor carriers under the FMCSA's jurisdiction.

The NYSMTA asked the FMCSA to consider preempting the marking requirements of State or local jurisdictions for vehicles bearing USDOT numbers that are not domiciled within that jurisdiction. The NYSMTA noted that a city requires the marking of a street address. The Missouri DMCRS requested that States be allowed to

continue to require display of additional information, such as the GVW or the GVWR, on power units that are registered solely for intrastate operation.

GROWMARK was concerned that States may require different timeframes from the FMCSA for implementing a marking requirement.

The AWHMT referenced the Hazardous Materials Transportation Act (Public Law 101–615, 104 Stat. 3244, November 16, 1990) safety permit provisions, not yet implemented by the FMCSA. It asked if the FMCSA might consider a requirement for displaying the USDOT number on the CMVs of motor carriers engaged in the transportation of hazardous materials in intrastate commerce as an initial step toward implementing the permit system.

FMCSA Response

Concerning reciprocal marking requirements among the United States, Canada, and Mexico, the general requirements contained in § 390.21 have been in place since 1954 for for-hire motor carriers operating in interstate commerce. They have been in place since 1988 for private motor carriers operating in interstate commerce. No other commenters raised this issue, and the FMCSA is not aware that the provisions have caused compliance difficulties for foreign-based motor carriers.

Concerning the questions raised by the NYSMTA about a local jurisdiction's requirement for listing a full street address, and the Missouri DMCSR's question about a State's requirement for the display of a GVW or GVWR on intrastate-only CMVs, any other identifying information may continue to be displayed, as long as it is not inconsistent with other § 390.21 requirements. Responding to GROWMARK's comment, the marking requirement proposed will apply only to motor carriers operating in interstate commerce. The FMCSA anticipates that States would allow these motor carriers the phase-in period established in this rulemaking action.

Finally, concerning the AWHMT's comment concerning the potential for issuing USDOT numbers to intrastate motor carriers transporting hazardous materials, the agency is continuing to address permitting in a separate rulemaking action.

Submittal of MCS–150 and Display of USDOT Number Upon Commencing Operations

The FMCSA's current regulation requires that all new motor carriers submit a Form MCS–150 to the agency within 90 days of commencing operations. The NPRM proposed that all new motor carriers submit a Form MCS–150 to the FMCSA before commencing operations. The NPRM also proposed that all CMVs added to a motor carrier's fleet on or after the effective date of the rule must display the motor carrier's USDOT number before being put into service.

The FMCSA received no adverse comments on this provision of the NPRM. The final rule will implement it as proposed.

Time to Comply With Regulations

Commenters' responses pertaining to the proposed length of time for motor carriers to comply with the marking requirements (two years for the USDOT number and five years for the principal place of business and single trade name) varied widely. Commenters suggested phase-in periods that varied from two years for some of the smaller motor carriers to seven years for those carriers having large fleets. Some commenters suggested the FMCSA consider a single date for motor carriers to meet all the requirements. Yellow Corporation, for example, suggested a conversion period of three years, claiming it would reduce the overall costs to carriers and would provide adequate time for the training of enforcement officials. Other commenters, such as the NPTC and NAVL, contended that five years was a more appropriate phase-in period because many fleets turn over their equipment over that interval. They did support the provision in the NPRM requiring vehicles added to a fleet be marked with the USDOT number when placed into service.

FMCSA Response

The FMCSA has decided to proceed with the original time frames outlined in the NPRM. The final rule requires the motor carrier to display its USDOT number within two years of the effective date of this rule and its single trade name or DBA name within five years on CMVs that are currently in service. All new CMVs entering the fleet must meet all the marking requirements before being put into service. The FMCSA believes that these time frames will allow motor carriers to meet the marking requirements without creating either an administrative or economic hardship.

As stated previously, the FMCSA will eliminate the requirement for motor carriers to display the city and State on the side of their vehicles.

Marking of Driveaway and Short-Term Rental Vehicles

The ATC Leasing Company and the NATA requested that the provisions of § 390.407, which were written specifically to recognize the unique operational needs of driveaway combinations, be left intact. These commenters claim that the elimination of this section would not provide any economic or safety benefit to the public, but would burden those carriers that operate driveaway combinations with unnecessary and costly duplication.

UPS addressed the issue of marking short-term rental CMVs. UPS noted, among other things, that § 390.21(e) does not require the use of a temporary identification device.

FMCSA Response

The FMCSA agrees with the comments submitted by ATC Leasing and the NATA on behalf of the driveaway industry. The requirements of § 390.407 concerning removable devices are being retained and incorporated into § 390.21. The FMCSA responds to UPS that the proposed language for § 390.21(e) is substantially identical to that of the current § 390.23(e), except that the agency will no longer require display of the lessor's city or community and State. Neither the current nor the proposed regulation require use of a temporary identification device on short-term rental vehicles.

Contracts and Certificates of Insurance

The ATA, the NASTC, and approximately 170 motor carriers commented that many of their written contracts and certificates of insurance made available to the shipping public identify them by their MC number. They contend the FMCSA has not estimated the cost to the shipper and broker community of changing existing contracts to use a new system so that each motor carrier can be identified by a USDOT number. They also believe it is important for public warehousing purposes that the existing ''MC number'' in their contract appear on the door of the equipment making pickups. This allows verification that the freight is being tendered to the properly licensed and insured motor carrier with whom a contract was signed. The majority of the motor carriers commenting suggested the FMCSA allow ''for hire'' carriers to continue to use the MC number as a primary identifier for all aspects of their operation and let the private carriers continue to use the USDOT number.

FMCSA Response

There is no Federal requirement that motor carriers display their MC number

on contracts or certificates of insurance. This practice was developed by the motor carrier industry for its own purposes and may be continued if the industry chooses. The regulation requires motor carriers to display the USDOT number on both sides of their power units. It does *not* require motor carriers to remove the MC number, although they are encouraged to refrain from displaying the MC number on new or repainted CMVs once the rule becomes final.

The FMCSA's use of the USDOT number for CMV identification is premised upon its use in a safety context. The MC number is used by the FMCSA, process agents, and insurance companies to track the process of a for-hire motor carrier's application for registration, status of insurance, and other requirements. The FMCSA's MCMIS includes both the MC and USDOT numbers, as do many other records used by motor carriers. Shippers and others can verify the identification of a for-hire motor carrier with the FMCSA online, or via telephone, using either number. Motor carriers should also make their clients aware of the change in the regulations. Taken together, these measures should aid them in verifying that the freight is being tendered to the properly licensed and insured motor carrier with whom a contract was signed.

States Assigning USDOT Numbers

The New York and the Iowa Departments of Transportation both commented on the States' issuance of interstate and intrastate USDOT numbers. Each State supports the use of the USDOT number as the unique identifier essential for tracking motor carrier safety performance data. In addition, both States wanted the final rule to make perfectly clear that States can issue USDOT numbers to both interstate and intrastate motor carriers. New York recommended the FMCSA provide batch filing to the States to convert intrastate carriers to a USDOT numbering system (using a unique State suffix). The NYDOT argued that the present system is too cumbersome and time consuming; it would take five years to convert all the intrastate carriers in New York to the USDOT number using the current mechanisms. New York says batch processing is an absolute must and the FMCSA should directly assist the States in converting intrastate carriers in as short a time frame as possible.

FMCSA Response

The States involved in the PRISM project have been given access to the MCMIS Census database to issue USDOT numbers to interstate carriers. As part of the project, prior to the issuance of International Registration Plan (IRP) documents, the entity registering vehicles is required to have a USDOT number and each vehicle must have a USDOT number assigned to it. If a carrier does not have a USDOT number at the time of registration, a Form MCS–150 must be provided so that the State can issue the USDOT number necessary to complete the vehicle registration process.

The FMCSA has given the States an option to issue USDOT numbers to their intrastate carriers. Currently, 11 States are adding the Form MCS–150 information for these carriers individually through direct access to the MCMIS Census database. The system issues a USDOT number as each carrier is entered into the database.

New York already has existing databases on their intrastate carriers and has requested that the FMCSA develop a process for the batch issuance of USDOT numbers. The FMCSA has developed procedures necessary to support this process and expects to begin pilot testing by mid-2000. The agency anticipates that the first test State will be New York and that the pilot test will last for several months. Assuming the pilot test is successful, other interested States will then be able to use this process.

Marking of Intermodal Container Chassis and Trailers

The South Carolina Trucking Association and the New Jersey Motor Truck Association requested the FMCSA to define an intermodal container chassis as a CMV and its owner as a motor carrier engaged in interstate commerce. They believe that intermodal chassis equipment is unique enough to require the owners to display their own USDOT number, and that this requirement would go a long way towards establishing responsibility for the care, maintenance, and condition of chassis equipment.

Bonanza Bus Lines recommends that all trailers display a USDOT number on both sides and on the rear.

FMCSA Response

Maintenance of intermodal container chassis and trailers is being addressed in a separate agency action, and will not be addressed in this final rule. In response to a petition filed by the ATA and the ATA Intermodal Conference, the agency published an ANPRM (64 FR 7849, February 17, 1999). The petitioners contended that motor carriers have minimal opportunity to maintain intermodal container chassis and that the parties who do have the opportunity often fail to do so. The FMCSA agreed to consider revisions to the requirements in parts 390 and 396 of the Federal Motor Carrier Safety Regulations (FMCSRs) that place upon motor carriers the responsibility for maintaining this equipment. As part of this process, the FMCSA held three public hearings in late 1999 to gather information on the extent of this problem and to receive feedback on the solution proposed by petitioners, *i.e.*, to mandate joint responsibility between the ''equipment provider'' and the motor carrier for maintaining this type of intermodal equipment. The FMCSA will decide these issues and others raised by the commenters in the rulemaking involving intermodal containers, chassis and trailers. Accordingly, comments of the South Carolina Trucking Association and the New Jersey Motor Truck Association will be submitted to that docket for consideration.

With respect to Bonanza Bus Lines' comment, the NPRM did not consider marking of CMVs other than power units; extending its provisions to cover them would be beyond the scope of this rulemaking. The ICC first required self-propelled CMVs to be marked in 1954. The agency has undertaken several rulemakings concerning CMV marking in the last 12 years. Although the agency has occasionally received correspondence concerning marking of trailers, the FMCSA does not believe this additional marking is necessary.

Marking of Small For-Hire Passenger Vehicles

The Georgia Public Service Commission requested the FMCSA to clarify the marking requirements applicable to smaller for-hire passenger vehicles (designed to transport 7 to 15 passengers) that are subject to the FMCSA's registration requirements, but not to the remainder of the FMCSRs.

FMCSA Response

On September 3, 1999, the agency published an NPRM (64 FR 48518) concerning the applicability of specific provisions of the FMCSRs to this class of passenger vehicles. That action responded to congressional direction contained in section 4008(a) of the Transportation Equity Act of the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107, June 9, 1999), which amended the definition of the term ''commercial motor vehicle'' found at 49 U.S.C. 31132 to cover vehicles ''designed or used to transport more than 8 passengers (including the driver) for

compensation.'' Among other things, the September 3 NPRM proposed to require that motor carriers operating CMVs designed or used to transport between 9 and 15 passengers (including the driver) for compensation file a motor carrier identification report and mark their CMVs with a USDOT number and other identifying information (*i.e.*, name or trade name and address of the principal place of business). In an interim final rule published that same day, the agency amended the statutory definition of a CMV to be consistent with the TEA–21 definition, but it exempted this class of motor carriers from the FMCSRs for six months, to allow the FMCSA time to gather additional information on this population of carriers and to complete the rulemaking action. The FMCSA is reviewing comments to that docket and plans to issue a final rule in the near future.

Marking of Pick-Up Trucks

The Colorado Department of Public Safety suggested the FMCSA adopt a rule that it has implemented. Many pick-up trucks do not meet the definition of a CMV except when pulling a trailer. Colorado allows the trailer, instead of the power unit, to be marked if the power unit has a GVWR of 10,000 pounds or less. This allows some farmers, contractors, and small businesses to use their vehicles for personal conveyance, such as vacations and errands. Many homeowner associations have covenants prohibiting commercial vehicles from parking in their residential areas. In many cases, this would include a pick-up subject to the present marking requirements in § 390.21.

FMCSA Response

The FMCSA believes that the power unit should carry the motor carrier identification. The motor carrier continues to have the responsibility for ensuring the trailer it accepts meets the safety requirements of the FMCSRs. Motor carriers who use their personal pick-ups for business purposes can affix temporary signs and remove them when necessary.

Vehicles Under Intermittent Lease and Short-Term Rental

The TRALA stated it supported the NPRM as written. The AMSA and NAVL requested the FMCSA to consider adding a new, unique rule that would address the household goods, intermittent lease issue. The main focus would mirror the concept adopted by the International Fuel Tax Agreement (IFTA) in that a vehicle leased intermittently to a household goods carrier would be allowed to display both the agent's and the motor carrier's marking information linked by the phrase ''Interleased to.''

FMCSA Response

A special provision in the marking rule for the household goods industry is not necessary. If the industry wishes to display the household goods agent's name and authority number, in conjunction with the household goods carrier's name and USDOT number, the FMCSA would not object. The rule already allows for other identifying information to be displayed on the CMV as long as it is not inconsistent with the information required in § 390.21.

FMCSA Estimates of the Costs and Benefits

The FMCSA has completed a final regulatory evaluation (FRE) comparing the projected safety benefits of a retrofitting requirement to the potential economic impact on the motor carrier industry. The following discussion summarizes the FMCSA's analysis. A copy of the complete FRE is available for review in the docket.

Cost

This rule would require all former ICC motor common and contract carriers to mark their CMVs with a ''USDOT Number'' and the legal name of the business entity that owns or controls the motor carrier operation, or the ''doing business as'' name, as they appear on the Form MCS–150. Many carriers with authority from the former ICC already include their legal, or DBA name, on the both sides of their vehicles.

The vast majority of carriers will use either stencils or decals for marking, as these are the cheapest methods. The FMCSA assumed that small carriers will use individual stencil kits, medium carriers will use larger kits, and large carriers will use individually developed decals. Price estimates are shown in table 1. We assumed that changing a name is 50 percent more expensive than changing a DOT number.

The agency estimates that the average time to affix a DOT number would be about 12 minutes. Adding a new name was also assumed to require 12 minutes.

Because this is a simple procedure, we assumed that the marking would be placed by class 3 mechanics, at an average cost of $15 per hour. Therefore, the labor cost is $3 to apply a DOT number and an additional $3 for a name change. Table 1 displays these figures, along with the total labor and material cost.

The FMCSA has determined that the opportunity cost of this rule is negligible or nonexistent, for two reasons. First, vehicles will only be placed out of service for 12 to 36 minutes, which is too brief a period to have earned any measurable amount of revenue. Second, virtually all vehicles would be available at no opportunity cost (in non-revenue producing service and not being serviced) for 12 to 36 minutes sometime in the two-year phase-in period. Therefore, the FMCSA does not believe there is an opportunity cost associated with this rule.

TABLE 1.—ESTIMATED COST OF MARKING, BY CARRIER SIZE

Carrier size, by number of power units	Material cost, per vehicle		Labor cost, per vehicle		Total cost, per vehicle
	DOT number	Name	DOT number	Name	
1–6	$8	$12	$3	$3	$26
7–20	6	9	3	3	21
21–99	4	6	3	3	16
100–999	2	3	3	3	11
1000+	1	1.50	3	3	9
Unspecified	6	9	3	3	21

There are 75,737 carriers with authority from the former ICC, but the ICC did not collect information about the number of vehicles operated per carrier. However, FMCSA's MCMIS has information on the number of power units per carrier.

Table 2 shows how the agency estimated the number of power units per carrier size class. We applied the MCMIS distribution of carriers by size to the 75,737 carriers registered by the former ICC. The first column shows the breakdown of for-hire carriers by number of power units from MCMIS. The term ''unspecified'' means that the FMCSA has no information on the number of vehicles operated by the motor carrier. The third column from the left shows the assumed number of carriers in each size group regulated by the former ICC. The last column shows the estimated number of power units in each size class. We assumed that unspecified carriers have at least three vehicles, since the FMCSA tends to have the least information about the smaller carriers.

TABLE 2.—ESTIMATED NUMBER OF FOR-HIRE CARRIERS AND VEHICLES REGULATED BY THE FORMER ICC, BY CARRIER SIZE

Carriers by number of vehicles	Percent of MCMIS carriers	Estimated number of carriers regulated by former ICC	Estimated number of vehicles regulated by former ICC
1–6	55.2	41,800	87,665
7–20	10.1	7,624	88,109
21–99	5	3,772	158,033
100+	1	778	323,636
Unspecified	28.7	21,763	65,289
Total	100	75,737	722,732

Motor carriers are currently required to place either the MC or the USDOT number on their vehicles. In addition, the majority of carriers already display either their legal names or their DBA names. We were unable to locate any information concerning the percent of vehicles regulated by the former ICC that currently display a USDOT number or a legal, or DBA, name. For our baseline analysis, we conservatively estimated that only 10 percent of eligible carriers already display a USDOT number, while 80 percent already display their legal, or DBA, names. Therefore, the FMCSA estimates that 90 percent of eligible carriers or 650,458 vehicles will require a new DOT number ($.9 \times 722{,}732$), and 20 percent of eligible carriers or 144,546 will need a new name ($.2 \times 722{,}732$). If a greater percentage of vehicles already display either a DOT number or a valid name, the cost of this rule will be lower than the FMCSA's estimate.

The total undiscounted cost of this rule is $5.7 million. With a 7 percent discount rate and assuming that 1/x of all vehicles are marked each year (where x equals the phase-in period—two years to comply with the requirement to affix the USDOT number to both sides of their CMVs, and five years to comply with the additional requirements to display the legal name or a single trade name on the CMVs currently in their fleet) the total discounted cost equals $5 million. Table 3 shows the breakdown of costs by carrier size.

TABLE 3.—UNDISCOUNTED COST OF PROPOSAL BY CARRIER SIZE

Size	Material	Labor	Total	Percent total cost	Per carrier
1–6	$841,587	$289,295	$1,130,882	19.9	$27.05
7–20	634,382	290,759	925,141	16.2	121.35
21–99	758,557	521,508	1,280,066	22.5	339.36
100+	607,416	1,067,999	1,675,4152	29.4	2,153.49
Unspecified	470,079	215,453	685,532	12.0	31.50
Total	3,312,021	2,385,014	5,697,036	100.0	2,672.75

Not surprisingly, the cost per carrier increases with carrier size. This rule would cost the smallest carriers (those with fewer than six power-units) about $27 and the largest carriers approximately $2,150. The same pattern is evident within each size class (*i.e.*, carriers with one vehicle pay less than those with six). As a result of this, small carriers, which compose 65 percent of all carriers regulated by the former ICC, bear approximately 20 percent of the total cost of this rule.

Given the relatively modest cost of this rule, only a small number of accidents would need to be prevented to make it cost beneficial. We estimate that this rule would cost carriers $5.7 million (undiscounted), with the cost spread through the five years following promulgation. The DOT guidelines mandate use of a threshold value per fatality prevented of $2.7 million. Thus, the benefits of this rule would approximately equal the costs if two fatalities were prevented over five years. Other combinations of crashes avoided (fatality, injury, and property-damage-only) could also drive the benefits of this rule above its costs, with the precise figures depending on the severity of the non-fatality accidents. The FMCSA believes that this rule is based on a reasoned determination that the benefits justify the cost. The FMCSA also believes that this rule could lead to the prevention of a small number of accidents, and thus prove cost beneficial.

Benefits

The benefits of this rule, although significant, are difficult to quantify. The primary benefit would be an improvement in the FMCSA's ability to identify problem carriers and take action to reduce the potential for harm to the public from these carriers. The action taken would depend upon the severity of the problem. Extremely dangerous carriers, such as those with a

consistently high out-of-service (OOS) rate or with a greater than expected number of accidents, could be forced to discontinue operations. Carriers with less severe problems could be targeted for educational outreach and other enforcement actions. While the FMCSA programs cannot entirely eliminate the threat from unsafe carriers, we believe they can help reduce the negligent behavior that leads to accidents. The extreme action of taking a carrier out of business would eliminate the dangerous behavior of risky carriers entirely.

The FMCSA is not aware of any alternatives which accomplish the same goals with less burden. The goal of this regulation is to improve the agency's ability to assign inspections and crashes to the correct motor carriers. To accomplish this goal, the agency must be able to correctly identify the operator of a motor vehicle during an inspection or after a crash. High tech identification methods exist, but they require vehicles to be equipped with a transponder that broadcasts a unique ''fingerprint.'' The cost of these units is significantly higher than the cost of adding a USDOT number or a new name to a power-unit. In addition, transponder readers would be needed to identify a vehicle's owner. While it would be possible (albeit expensive) to provide all inspectors with readers, this would be prohibitively expensive for accident investigators, given the large number of crashes, their geographic dispersion, and the number of police officers who report only a small number of crashes.

As an alternative to marking both sides of the CMV with the USDOT number, the agency also considered allowing a driver to maintain the required information on paper inside the vehicle. While this would be less expensive, there were several problems with this approach. First, drivers already maintain a number of documents with similar information, and they may have an incentive to provide an investigating officer with the incorrect document (or maintain that they do not have the appropriate document) under some circumstances. In addition, during crashes investigators may not have access to an onboard document due to such things as fires, jammed doors due to a crash, or a hazardous material spill.

In order to minimize the impact of this rule, the FMCSA is requiring a two-year phase-in period for the USDOT number requirement and a five-year phase-in for the legal name or single trade name requirement. This will give small carriers (and others) ample time to comply with the marking rule without significantly disrupting their operations.

The FMCSA's intention is not only to improve safety, but to achieve consistency and uniformity and lower the cost of enforcement and compliance for the government, the motor carrier industry, and the general public.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FMCSA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and significant within the meaning of the Department of Transportation's regulatory policies and procedures. The FMCSA has prepared a final regulatory evaluation of the economic impact the regulatory changes will have on the motor carrier industry. A copy of the final regulatory evaluation is included in the docket file.

Prior to the elimination of the ICC, most for-hire motor carriers were required to obtain ICC authority in order to operate in interstate commerce. Carriers which were granted ICC operating authority were also given an ICC docket number, which they were required to display on both sides of each power unit.

Carriers are also required to display their name and address (city and State) on both sides of their power units. A carrier may display any name under which it operates. The address must be the principal place of business or the terminal where the vehicle is located.

The FMCSA uses the USDOT number to track carrier performance, primarily via the MCMIS, a mainframe computer system. It contains motor carrier data from a variety of sources: roadside inspections, accident reports, safety and compliance reviews, and enforcement actions.

The MCMIS is the linchpin of a number of the FMCSA's programs. Federal and State field personnel use the MCMIS to initiate enforcement actions and educational outreach programs. By using the data, potentially unsafe carriers can be targeted for attention, often including compliance reviews. Carriers could be flagged as unsafe if a high percentage of their vehicles were placed out-of-service during a roadside safety inspection, or if they experience an above average number of accidents. The FMCSA analysts and managers use the database for analysis purposes, including monitoring overall trends and evaluating program effectiveness.

In order to connect information from disparate sources, a unique identifier is required. For MCMIS, the USDOT number serves as the unique identifier. Without this number, there is no way to assign accidents, inspections, and other events to the correct motor carrier.

The existence of two identification numbers, the ICC/MC and the USDOT numbers, combined with a lack of consistency in the names displayed on vehicles, limits the effectiveness of the FMCSA's safety programs. Identification problems (such as those listed above) could result in a failure of the FMCSA to attribute a crash, or an OOS inspection, to the correct carrier. In FY 1996, the FMCSA was unable to match 12 percent of roadside inspections to the correct motor carrier. For accidents, the non-match rate was 30 percent. This failure rate means that the FMCSA is unaware of some carriers' poor safety records, and these carriers do not receive the attention their safety record merits, such as a safety review or educational assistance. As a result, crashes occur that this oversight might have forestalled.

In order to eliminate these problems and improve safety and the well-being of the public, the FMCSA is requiring all for-hire interstate carriers formerly regulated by the ICC to display their USDOT number on their vehicles (private carriers are already subject to this requirement). This rule would require all commercial motor vehicles, new or used, added to a motor carrier's fleet to have a USDOT number displayed after the effective date of this final rule. Owners of these vehicles would also be required to place either their legal name, or a single trade name, on their vehicles.

Existing vehicles which do not undergo a change in ownership would be required to display a USDOT number within two years of the effective date of this rule. Owners of existing vehicles would have five years to comply with the name requirements.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the agency has evaluated the effects of this rule on small entities. The economic impacts of this rule are discussed in the regulatory flexibility analysis, a copy of which is in the docket. Based on its analysis, the FMCSA believes that this rule will affect a substantial number of small entities, but will not have a significant economic impact on them. In compliance with the Regulatory Flexibility Act, the FMCSA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

The FMCSA estimates that 41,800 carriers with six or fewer power units

will be covered by this regulation, as will another 7,600 with 7 to 20 power units. Our estimates indicate motor carriers with fewer than six power-units would absorb about 26 percent of all costs. This rule would cost the smallest carriers (those with fewer than six power-units) about $27 per vehicle. Those small motor carriers with 7 to 20 vehicles would incur a cost of $21 per vehicle. As a result of this, the smallest carriers, which compose 65 percent of all carriers regulated by the former ICC, bear approximately 20 percent of $5,696,036, the total cost of this proposal. The FMCSA does not see this as a substantial financial burden on small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. It has been determined that this rulemaking does not have a substantial direct effect on States, nor would it limit the policymaking discretion of the States. Nothing in this document directly preempts any State law or regulation.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (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, sponsor, or require through regulations. An analysis of this rule has been made by the FMCSA, and it has been determined that it will affect the approved form (MCS–150) associated with a currently-approved information collection covered by OMB Control No. 2126–0013 (formerly 2125–0544). The wording in the Notice section of the MCS–150 will change; burden hours and numbers of respondents will not change as a result of this Final Rule. However, a revised estimate that reflects more accurate numbers of respondents and the time to complete the MCS–150 was done and submitted to the OMB in June 1999. The OMB approved that revision to the information collection on October 4, 1999; the approval period runs through October 31, 2002.

The NPRM that was published on June 16, 1998, solicited public comments on these information collection requirements as a component of the NPRM action. A summary of the comments that addressing the MCS–150 was previously provided to the OMB. Comments were neutral to favorable; in fact, several commenters asked the FMCSA to consider requiring motor carriers to provide regular updates of information contained in the MCS–150. A single State commenter contended that the MCS–150 contains superfluous information, discouraging States from using it to identify intrastate motor carriers. However, that State did not cite specific examples of data elements or information categories it believed to be confusing or redundant.

Section 390.19(a) changes the requirement of when Form MCS–150 must be filed from ''within 90 days after beginning operations'' to ''before commencing operations.'' This change will be reflected on Form MCS–150 in the Notice section on the form; however, it will not affect the burden hours for this information collection.

The NPRM also included a proposed requirement that certain motor carriers submit an updated Form MCS–150 to the FMCSA within 90 days from the effective date of the rule. This proposed, updated form would only have been required from those motor carriers that were using a name for their business that was not one of the two names on the MCS–150 had filed with the agency. The FMCSA has eliminated this proposed requirement from the final rule, along with the additional burden hours it would have created.

Estimated Annual Reporting Burden

Number of respondents: 50,000 @ 20 minutes per respondent.

Burden Hours: 16,667.

National Environmental Policy Act

The agency has analyzed this rulemaking for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action does not have any effect on the quality of the environment.

Unfunded Mandates Reform Act of 1995

This rule does not impose a Federal mandate resulting in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. ''2 U.S.C. 1531 *et seq.*''

Executive Order 12630 (Taking of Private Property)

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

Executive Order 12988 (Civil Justice Reform)

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

Executive Order 13045 (Protection of Children)

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

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 385

Highway safety, Motor carriers, Motor vehicle safety.

49 CFR Part 390

Highway safety, Motor carriers, Motor vehicle identification and marking, Reporting and recordkeeping requirements.

Issued on: May 25, 2000.

Clyde J. Hart, Jr.,

Acting Deputy Administrator.

In consideration of the foregoing, the FMCSA amends title 49, Code of Federal Regulations, chapter III, parts 385 and 390, as follows:

PART 385—SAFETY FITNESS PROCEDURES

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

Authority: 49 U.S.C. 104, 504, 521(b)(5)(A), 5113, 31136, 31144, 31502; and 49 CFR 1.73.

§§ 385.21 and 385.23 [Removed]

2. Remove §§ 385.21 and 385.23.

Appendix A to Part 385—[Removed and Reserved]

3. Remove and reserve appendix A to part 385, Form MCS–150, Motor Carrier Identification Report.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL [AMENDED]

4. The authority citation for part 390 is revised to read as follows:

Authority: 49 U.S.C. 13301, 13902, 31132, 31133, 31136, 31502, 31504; and sec. 204, Pub. L. 104–88, 109 Stat. 803, 941 (49 U.S.C. 701 note); and 49 CFR 1.73.

§ 390.19 [Redesignated as § 390.17]

5. Redesignate § 390.19 as § 390.17.

6. A New § 390.19 reads as follows:

§ 390.19 Motor carrier identification report.

(a) All motor carriers conducting operations in interstate commerce shall file a Motor Carrier Identification Report, Form MCS–150, before commencing operations.

(b) The Motor Carrier Identification Report, Form MCS–150, with complete instructions, is available from all FMCSA Service Centers and Division offices nationwide and from the FMCSA's web site at: *http://www.mcs.dot.gov/factsfigs/formspubs.htm* or by calling 1–800–832–5660.

(c) The completed Motor Carrier Identification Report, Form MCS–150, shall be filed with the FMCSA's Office of Data Analysis and Information Systems, 400 Seventh Street, SW., Washington, DC 20590. A for-hire motor carrier should submit the Form MCS–150 along with its application for operating authority (Form OP–1) to the appropriate address referenced on that form or may submit it separately to the address mentioned in this section.

(d) Only the legal name or a single trade name of the motor carrier may be used on the motor carrier identification report (Form MCS–150).

(e) A motor carrier that fails to file a Motor Carrier Identification Report, Form MCS–150, or furnishes misleading information or makes false statements upon Form MCS–150, is subject to the penalties prescribed in 49 U.S.C. 521(b)(2)(B).

(f) Upon receipt and processing of the Motor Carrier Identification Report, Form MCS–150, the FMCSA will issue the motor carrier an identification number (USDOT number). The motor carrier must display the number on each self-propelled CMV, as defined in § 390.5, along with the additional information required by § 390.21.

[Approved by the Office of Management and Budget under control number 2126–0013]

7. Revise § 390.21 to read as follows:

§ 390.21 Marking of CMVs.

(a) *General.* Every self-propelled CMV, as defined in § 390.5, subject to subchapter B of this chapter must be marked as specified in paragraphs (b), (c), and (d) of this section.

(b) *Nature of marking.* The marking must display the following information:

(1) The legal name or a single trade name of the motor carrier operating the self-propelled CMV, as listed on the motor carrier identification report (Form MCS–150) and submitted in accordance with § 390.19.

(2) The motor carrier identification number issued by the FMCSA, preceded by the letters ''USDOT''.

(3) If the name of any person other than the operating carrier appears on the CMV, the name of the operating carrier must be followed by the information required by paragraphs (b)(1), and (2) of this section, and be preceded by the words ''operated by.''

(4) Other identifying information may be displayed on the vehicle if it is not inconsistent with the information required by this paragraph.

(5) Each motor carrier shall meet the following requirements pertaining to its operation:

(i) All CMVs that are part of a motor carrier's existing fleet on July 3, 2000, and which are marked with an ICCMC number must come into compliance with paragraph (b)(2) of this section by July 3, 2002.

(ii) All CMVs that are part of a motor carrier's existing fleet on July 3, 2000, and which are not marked with the legal name or a single trade name on both sides of their CMVs, as shown on the Motor Carrier Identification Report, Form MCS–150, must come into compliance with paragraph (b)(1) of this section by July 5, 2005.

(iii) All CMVs added to a motor carrier's fleet on or after July 3, 2000, must meet the requirements of this section before being put into service and operating on public ways.

(c) *Size, shape, location, and color of marking.* The marking must—

(1) Appear on both sides of the self-propelled CMV;

(2) Be in letters that contrast sharply in color with the background on which the letters are placed;

(3) Be readily legible, during daylight hours, from a distance of 50 feet (15.24 meters) while the CMV is stationary; and

(4) Be kept and maintained in a manner that retains the legibility required by paragraph (c)(3) of this section.

(d) *Construction and durability.* The marking may be painted on the CMV or may consist of a removable device, if that device meets the identification and legibility requirements of paragraph (c) of this section, and such marking must be maintained as required by paragraph (c)(4) of this section.

(e) *Rented CMVs.* A motor carrier operating a self-propelled CMV under a rental agreement having a term not in excess of 30 calendar days meets the requirements of this section if:

(1) The CMV is marked in accordance with the provisions of paragraphs (b) through (d) of this section; or

(2) The CMV is marked as set forth in paragraph (e)(2)(i) through (iv) of this section:

(i) The legal name or a single trade name of the lessor is displayed in accordance with paragraphs (c) and (d) of this section.

(ii) The lessor's identification number preceded by the letters ''USDOT'' is displayed in accordance with paragraphs (c) and (d) of this section; and

(iii) The rental agreement entered into by the lessor and the renting motor carrier conspicuously contains the following information:

(A) The name and complete physical address of the principal place of business of the renting motor carrier;

(B) The identification number issued the renting motor carrier by the FMCSA, preceded by the letters ''USDOT,'' if the motor carrier has been issued such a number. In lieu of the identification number required in this paragraph, the following may be shown in the rental agreement:

(*1*) Information which indicates whether the motor carrier is engaged in ''interstate'' or ''intrastate'' commerce; and

(*2*) Information which indicates whether the renting motor carrier is transporting hazardous materials in the rented CMV;

(C) The sentence: ''This lessor cooperates with all Federal, State, and local law enforcement officials nationwide to provide the identity of customers who operate this rental CMV'; and

(iv) The rental agreement entered into by the lessor and the renting motor carrier is carried on the rental CMV during the full term of the rental agreement. See the leasing regulations at 49 CFR 376 for information that should be included in all leasing documents.

(f) *Driveaway services.* In driveaway services, a removable device may be affixed on both sides or at the rear of a

single driven vehicle. In a combination driveaway operation, the device may be affixed on both sides of any one unit or at the rear of the last unit. The removable device must display the legal name or a single trade name of the motor carrier and the motor carrier's USDOT number.

8. Revise § 390.27 to read as follows:

§ 390.27 Locations of motor carrier safety service centers.

Service center	Territory included	Location of office
Eastern	CT, DC, DE, MA, MD, ME, NJ, NH, NY, PA, PR, RI, VA, VT, WV.	City Crescent Building, #10 South Howard Street, Suite 4000, Baltimore, MD 21201–2819.
Midwestern	IA, IL, IN, KS, MI, MO, MN, NE, OH, WI	19900 Governors Drive, Suite 210, Olympia Fields, IL 60461–1021.
Southern	AL, AR, FL, GA, KY, LA, MS, NC, NM, OK, SC, TN, TX	61 Forsyth Street, SW, Suite 17T75, Atlanta, GA 30303–3104.
Western	American Samoa, AK, AZ, CA, CO, Guam, HI, ID, Mariana Islands, MT, ND, NV, OR, SD, UT, WA, WY.	201 Mission Street, Suite 2100, San Francisco, CA 94105–1838.

§§ 390.401, 390.403, 390.405 and 390.407 (Subpart D) [Removed]

9. In part 390, remove subpart D, consisting of §§ 390.401, 390.403, 390.405 and 390.407.

[FR Doc. 00–13697 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–22–P

Proposed Rules

Federal Register
Vol. 65, No. 107
Friday, June 2, 2000

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1216

[FV–00–1216–PR]

Peanut Promotion, Research, and Information Order; Amendment No. 1 To Add a Public Member to the National Peanut Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would add a public member and alternate to the National Peanut Board (Board). The Board administers the Peanut Promotion, Research, and Information Order (Order) under the supervision of the U.S. Department of Agriculture (USDA or the Department). This rule would also add the authority for producers in minor peanut-producing states to conduct nominations by mail ballot, make changes related to the addition of the public member, and eliminate obsolete language. The addition of a public member is to provide for additional input from the public and increase the opportunity for diversity on the Board. The other proposed changes are intended to facilitate effective administration of the program.

DATES: August 1, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to: Docket Clerk, Research and Promotion Branch, Fruit and Vegetable Programs (FV), Agricultural Marketing Service (AMS), USDA, Stop 0244, Room 2535–S, 1400 Independence Avenue, SW, Washington, DC 20250–0244. Comments should be submitted in triplicate by August 1, 2000 and will be made available for public inspection at the above address during regular business hours or on the Internet at www.ams.usda.gov/fv/rpb.html. Comments may also be submitted electronically to: Malinda.Farmer@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register**. A copy of this rule may be found at www.ams.usda.gov/fv/rpdocketlist.htm. Pursuant to the Paperwork Reduction Act of 1995 (PRA), also send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to the above address. Comments concerning the information collection under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Daniel R. Williams II, Research and Promotion Branch, FV, AMS, USDA, Room 2535–S, Stop 0244, Washington, DC 20250–0244; toll free telephone number (888) 720–9917, or facsimile (202) 205–2800.

SUPPLEMENTARY INFORMATION: The rule is issued under the Peanut Promotion, Research, and Information Order (Order) (7 CFR part 1216). The Order is authorized under the Commodity Promotion, Research, and Information Act of 1996 (Act) (Pub. L. 104–427, 7 U.S.C. 7401–7425).

Question and Answer Overview

Why Is USDA Proposing To Add a Public Member to the National Peanut Board?

A public member and alternate could provide valuable feedback to the Board in developing its consumer programs. In addition, these non-industry positions would increase the opportunity for women, minorities, and persons with disabilities to serve on the Board.

Why Is USDA Proposing To Allow Producers in Minor Peanut-Producing States To Nominate Persons To Serve as the At-Large Member and Alternate of the Board by Mail Ballot?

Allowing producers in minor peanut-producing states to make nominations for the at-large member and alternate of the Board by mail ballot would help ensure grater participation in the nomination process, particularly in those states with a small number of producers who are not located in close proximity.

How Long Do I Have To Comment on This Proposed Rule?

You have 60 days to comment on this proposal. That means that your written comments must be received by August 1, 2000. You may mail, fax, or e-mail your comments. In addition, you have 60 days to provide written comments to OMB on the paperwork burden associated with this proposal. Those comments must be received by the same date.

Executive Orders 12866 and 12998 and the Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. Section 524 of the Act provides that the Act shall not affect or preempt any other Federal or State law authorizing promotion or research relating to an agricultural commodity.

Under Section 519 of the Act, a person subject to the Order may file a petition with the Secretary of Agriculture (Secretary) stating that the Order, any provision of the Order, or any obligation imposed in connection with the Order, is not established in accordance with the law, and requesting a modification of the Order or an exemption from the Order. Any petition filed challenging the Order, any provision of the Order or any obligation imposed in connection with the Order, shall be filed within two years after the effective date of the Order, provision or obligation subject to challenge in the petition. The petitioner will have the opportunity for a hearing on the petition. The Act provides that the district court of the United States for any district in which the petitioner resides or conducts business shall be the jurisdiction to review a final ruling on the petition, if the petitioner files a complaint for that purpose not later than 20 days after the date of the entry of the Secretary's final ruling.

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has examined the impact of the proposed rule on small entities. The purpose of the RFA is to

fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be disproportionately burdened.

There are approximately 25,000 producers and 57 handlers of peanuts who are subject to the program. Most producers would be classified as small businesses under the criteria established by the Small Business Administration (SBA) (13 CFR 121.201), and most of the handlers would not be classified as small businesses. The SBA defines small agricultural handlers as those whose annual receipts are less than $5 million, and small agricultural producers are defined as those having annual receipts of not more than $500,000 annually.

This rule would add a public member and alternate to the National Peanut Board (Board), add the authority for producers in minor peanut-producing states to conduct nominations by mail ballot, make changes related to the addition of the public member, make changes for the purpose of clarification and consistency, and eliminate obsolete language.

The information collection requirements, as discussed below, would be minimal. The addition of a public member and authorizing producers in minor peanut-producing states to conduct nominations for the at-large member and at-large alternate members to the Board by mail ballot would not impose a significant economic burden on producers. In fact, allowing producers in minor peanut-producing states to use mail balloting is expected to facilitate greater participation in the nomination process, particularly in those states with a small number of producers who are not located in close proximity.

USDA has not identified any relevant federal rules that duplicate, overlap, or conflict with this rule.

Accordingly, the Administrator of AMS has determined that this proposed rule will not have a significant economic impact on a substantial number of small business entities.

We have performed this Initial Regulatory Flexibility Analysis regarding the impact of this proposed rule on small entities, and invite comments from interested persons concerning the potential effects of the proposed rule on small entities.

Paperwork Reduction Act

In accordance with OMB regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the background information form, which represents the information collection requirements that may be imposed by this rule, were submitted to OMB and have been approved under OMB control number 0505–0001.

Title: Advisory Committee Membership Background Information.

OMB Number: 0505–0001.

Expiration Date of Approval: July 31, 2002.

Type of Request: Revision of a currently approved information collection for research and promotion programs.

Abstract: The information collection requirements in this request are essential to carry out the terms of the proposed amendment. The burden associated with the background information form is as follows:

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.50 hours per response for each nominee.

Respondents: Public member and alternate nominees.

Estimated Number of Respondents: 4.

Estimated Number of Responses per Respondent: 1 every 3 years.

Estimated Total Annual Burden on Respondents: 2 hours.

The estimated annual cost of providing the information by an estimated two nominees for public member and two nominees for alternate public member would be a total annual cost of $20.00 or $5.00 per nominee.

The additional burden of four respondents will be added to the information collections approved for use under OMB Number 0505–0001.

Comments are invited on: (a) Whether the proposed collection of information is necessary and whether it will have practical utility; (b) the accuracy of USDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection requirements contained in this action should reference OMB No. 0581–0001, the docket number, and the date and page number of this issue of the **Federal Register**. Comments should be sent to the USDA Docket Clerk and the OMB Desk Officer for Agriculture at the addresses and within the times frames specified above. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval.

OMB is required to make a decision concerning the collection of information contained in this rule between 30 and 60 days after publication. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

The paperwork reduction requirements for the use of mail ballots within the minor peanut-producing states would not increase the burden previously submitted to and approved by OMB. Therefore, no additional burden will need approval concerning the proposed change of using mail ballots for nominations in minor peanut-producing states. The estimated annual cost of providing the information by an estimated number of 35 respondents is $29.17 annually or $0.83 per respondent (35 respondents × .25 hour = 8.75 × $10.00 per hour = 87.50 dollars per hour/3 years = 29.17 dollars per year)

Background

The Order became effective on July 30, 1999, after a national referendum among all peanut producers. Under the Order, peanut producers are assessed 1 percent of the total value of all farmers stock peanuts, which generates about $10 million in annual revenues. The program is administered by the National Peanut Board (Board) under USDA supervision. The initial Board held its first meeting in Washington, DC, in March 2000.

The Board is composed of 10 members and 10 alternates, nominated by producers and appointed by the Secretary of Agriculture. There is one member and alternate for each of the nine primary peanut-producing states and one at-large member and alternate representing all other peanut-producing states.

Currently, the nine major peanut-producing states are (in descending order) Georgia, Texas, Alabama, North Carolina, Florida, Virginia, Oklahoma, New Mexico, and South Carolina. The minor peanut-producing states are Arizona, California, Louisiana, Mississippi, and Tennessee.

This rule would add the authority for the addition of a public member and alternate public member to the Board, add the authority for producers in minor peanut-producing states to conduct nominations by mail ballot, make changes related to the addition of the public member, make changes for the purpose of clarification, and eliminate obsolete language as explained below.

Section 1216.40(a) *Establishment and membership* would be amended to add the authority for a public member and alternate to be appointed by the Secretary from nominations submitted by the Board and to provide eligibility requirements for the public member and alternate.

On December 15, 1999, the Secretary of Agriculture's Task Force (Task Force) on Research and Promotion Programs issued recommendations, which covered numerous areas relating to the operation of national commodity promotion boards supervised by USDA. One of the recommendations was that all national boards should have at least one public or consumer member. Subsequently, the North Carolina Farm Bureau and the National Farmers Union requested that USDA amend the Order to add a public member and alternate to the Board.

Therefore, this rule would add a public member and alternate to the Board. The addition of the public member and alternate would carry out the recommendations of the Task Force. The goal of the public member position is to provide valuable feedback to the board in developing its consumer programs. The addition of a public member and alternate would also increase the opportunity for women, minorities, and persons with disabilities to serve on the Board. The section is rewritten to remove language concerning nominations. Such information appears in § 1216.41.

Section 1216.41(a) *Nominations* would be amended to authorize producers in minor peanut-producing states to conduct nominations for the at-large member and at-large alternate member of the Board by mail ballot. This amendment would help ensure greater participation in the nomination process, particularly in those states with a small number of producers who are not located in close proximity. The initial nomination meetings in Fall 1999 in the minor peanut-producing states for the at-large member and alternate member of the Board were not well attended. In addition, the producer associations in several of the minor peanut-producing states requested that they be allowed to conduct their nominations by mail ballot. Based on experience during the initial nominations process, the Department believes the option of conducting nominations by mail ballot in the minor peanut-producing states should be available to the producers in these states.

Paragraph (b) of § 1216.41 would be revised to eliminate obsolete language relating to the initial nominations to the Board and to correct a typographical error.

In addition, a new paragraph (f) would be added to § 1216.41 to require the Board to submit a minimum of two nominees for the public member position and a minimum of two nominees for the alternate member position by May 1 or such other date as required by the Secretary. Further, changes to § 1216.41 are made for clarity and consistency of language.

Also related to the proposed addition of a public member and alternate, a new sentence would be added at the end of § 1216.42 *Selection* which states that the Secretary shall select one public member and one alternate public member from all eligible nominations submitted by the Board.

In addition, § 1216.45 *Alternate members* would be amended to make the references to Board members more generic so that this provision would cover the public member and alternate as well as the producer members and alternates.

Further, paragraph (b) of § 1216.46 *Procedure* would be revised to provide that the public member has one vote with a zero value of production at Board meetings. This paragraph also would be revised to increase the minimum number of concurring votes for approval of a Board motion from five to six because the Board would have 11 rather than 10 members. In addition, editorial changes were made for the purpose of clarity.

All written comments received in response to this proposed rule by the date specified will be considered prior to finalizing this action.

List of Subjects in 7 CFR Part 1216

Administrative practice and procedure, Advertising, Consumer Information, Marketing agreements, Peanut promotion, Reporting and recordkeeping requirements.

PART 1216—PEANUT PROMOTION, RESEARCH, AND INFORMATION ORDER

For the reasons set forth in the preamble, 7 CFR part 1216 is proposed to be amended as follows:

1. The authority citation for part 1216 continues to read as follows:

Authority: 7 U.S.C. 7401–7425.

2. Revise § 1216.40(a) to read as follows:

§ 1216.40 Establishment and membership.

(a) Establishment of a National Peanut Board. There is hereby established a National Peanut Board, hereinafter called the Board, composed of 10 peanut producers, one public member, and their alternates appointed by the Secretary as follows:

(1) Ten producer members and alternates. One member and one alternate for each primary peanut-producing state and one at-large member and one at-large alternate representing, collectively, the minor peanut-producing states.

(2) One public member and one alternate member. The public member and alternate member shall not represent an agricultural interest and shall not have a financial interest in, or be associated with the production, processing, financing, or marketing of peanuts except as a consumer, nor shall such members be a director, officer, or employee of any firm so engaged.

* * * * *

3. Revise § 1216.41 to read as follows:

§ 1216.41 Nominations.

(a) All nominations authorized under § 1216.40 shall be submitted to the Secretary by May 1 of the year in which the terms of office expire, or such other date as provided by the Secretary. A minimum of two nominees must be submitted for each vacancy.

(b) Producer members and alternates representing the primary peanut-producing states shall be nominated by eligible peanut producer organizations within each state as certified pursuant to § 1216.70. Each organization shall select nominees at an open meeting among peanut producers eligible to serve on the Board.

(c) The at-large producer member and alternate representing minor peanut-producing states shall be nominated by eligible peanut producer organizations or other organizations that include peanut producers as part of their membership as certified pursuant to § 1216.70. Each such organization may select nominees at an open meeting among peanut producers eligible to serve on the Board or by mail ballot. Any certified peanut producer organization representing a minor peanut-producing state may nominate two eligible persons for each member and two eligible persons for each alternate member.

(d) The Board shall make the nominations for the public member and alternate member.

(e) The Board shall issue the call for nominations by March 1 of each year or such other date as provide by the Secretary.

(f) The nomination meeting shall be announced 30 days in advance:

(1) By utilizing available media or public information sources, without incurring advertising expense, to

publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as deemed advisable.

(g) At nominations meetings, Department personnel will be present to oversee and to verify eligibility and count ballots.

4. Revise § 1216.42 to read as follows:

§ 1216.42 Selection.

From the nominations, the Secretary shall select the members of the Board and alternates for each primary peanut-producing state. The Secretary shall select one member and one alternate from all nominations submitted by certified peanut producer organizations or other organizations representing minor peanut-producing states. The Secretary shall select one public member and one alternate public member from nominations submitted by the Board.

5. Revise § 1216.45 to read as follows:

§ 1216.45 Alternate members.

An alternate member of the Board, during the absence of the member shall act in the place and stead of such member and perform such duties as assigned. In the event of death, removal, resignation, or disqualification of any member, the alternate for that member shall act for the member until a successor for such member is selected and qualified. In the event that both the member and the alternate member are unable to attend a meeting, the Board may not designate any other alternate to serve in such member's or alternate's place and stead for such a meeting.

6. Revise paragraph (b) of § 1216.46 to read as follows:

§ 1216.46 Procedure.

* * * * *

(b) At assembled meetings, all votes shall be cast in person. Producer member votes shall be weighted by value of production. The vote of producer members from primary peanut-producing states shall be weighted by the primary peanut-producing state's three-year running average of total gross farm income derived from all peanut sales. The at-large producer member's vote shall be weighted by the collective value of production from the three-year running average of total gross farm income derived from all peanut sales in all minor peanut-producing states. The public member shall have one vote. Any Board action shall require the concurring votes of members or alternates from states representing more than 50 percent of total U.S. gross farm income derived from all peanut sales, plus an additional two votes from any other Board members, provided a minimum of six votes concur.

* * * * *

Dated: May 26, 2000.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 00–13783 Filed 6–1–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–21]

Proposed Establishment of Class E Airspace; Columbia, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Columbia, KY. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Westlake Regional Hospital. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Comments must be received on or before July 3, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–21, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–21.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Columbia, KY. A GPS SIAP, helicopter point in space approach, has been developed for Westlake Regional Hospital. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9G, dated September 1, 1999, and effective September 16, 1999,

which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12886; (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, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO KY E5 Columbia, KY [New]

Westlake Regional Hospital
Point In Space Coordinates
(Lat. 37°05′30″ N, long. 85°17′01″ W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 37°05′30″ N, long. 85°17′01″ W) serving Westlake Regional Hospital.

* * * * *

Issued in College Park, Georgia, May 22, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–13831 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ASO–20]

Proposed Establishment of Class E Airspace: Albany, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Albany, KY. A Global Positioning System (GSP) Standard Instrument Approach Procedure (SIAP), helicopter point in space approach, has been developed for Clinton County Hospital. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP.

DATES: Comments must be received on or before July 3, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 00–ASO–20, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ASO–20.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing data for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace at Albany, KY. A GPS SIAP, helicopter point in space approach, has been developed for Clinton County Hospital. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA order 7400.9G, dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation

listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth

* * * * *

ASO KY E5 Albany, KY [New]

Clinton County Hospital
Point In Space Coordinates
(Lat. 36°41′55″ N, long. 85°07′57″ W)

That airspace extending upward from 700 feet or more above the surface within a 6-mile radius of the point in space (lat. 36°41′55″ N, long. 85°07′57″ W) serving Clinton County Hospital.

* * * * *

Issued in College Park, Georgia, May 22, 2000.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 00–13832 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–05]

Proposed Establishment of Jet Route J–713

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Jet Route 713 (J–713) through Utah, Montana, and Wyoming. The FAA is proposing this action to improve the management of air traffic operations at the Salt Lake City International Airport and to enhance safety.

DATES: Comments must be received on or before July 17, 2000.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANM–500, Docket No. 00–ANM–05, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington, 98055–4056.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, 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:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 00–ANM–05.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339) or the **Federal Register**'s electronic bulletin board service (telephone: 202–512–1661).

Internet users may reach the FAA's web page at http://www.faa.gov or the Superintendent of Document's web page at http://www.access.gpo.gov/nara for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the docket number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 (part 71) to establish J–713 between Utah, Montana, and Wyoming. The FAA is proposing to

establish J–713 for the following reasons: (1) The need for high altitude arrival and departure routing to and from the north of Salt Lake City; (2) to assist in the balancing of traffic flow between Brigham City One arrivals into Salt Lake City International Airport; and (3) the addition of this route would improve the overall management of air traffic operations and thereby enhance safety.

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

Jet routes are published in paragraph 2004 of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document would be published subsequently in the order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 2004 Jet Routes

* * * * *

J–713 [New]

From Billings, MT, via Boysen Reservoir, WY; Big Piney, WY; to Salt Lake City, UT.

* * * * *

Issued in Washington, DC, on May 18, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–13749 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AB54

Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers; Amendments to the Provisions Governing Subordination Agreements Included in the Net Capital of a Futures Commission Merchant or Independent Introducing Broker

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to amend certain provisions of Regulation 1.17(h) which governs the net capital treatment of subordination agreements. Currently, futures commission merchants (''FCMs'') and independent introducing brokers (''IBIs'') that are members of a self-regulatory organization (''SRO''—*i.e.*, a contract market or the National Futures Association) and that are securities brokers or dealers registered with the Securities and Exchange Commission (''SEC'') are required to obtain the approval of both a futures SRO and a securities designated examining authority (''DEA'') for any proposed subordination agreement, proposed prepayment of a subordinated loan, or proposed reduction in the outstanding principal balance of a secured demand note. The proposed amendments would ease the regulatory burden imposed upon SROs, FCMs, and IBIs by allowing SROs, subject to the conditions set forth below, to rely on a DEA's review and approval of a proposed subordination agreement, a proposed prepayment of a subordinated loan, or a proposed reduction in the outstanding principal balance of a secured demand note submitted to the DEA by an FCM or IBI.

DATES: Comments must be received on or before July 3, 2000.

ADDRESSES: Comments should be mailed 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 to (202) 418–5521, or by electronic mail to *secretary@cftc.gov*. Reference should be made to ''Minimum Financial Requirements for Futures Commission Merchants and Introducing Brokers—Subordination Agreements.''

FOR FURTHER INFORMATION CONTACT: Thomas J. Smith, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; telephone (202) 418–5495; electronic mail *tsmith@cftc.gov;* or Henry J. Matecki, Financial Audit and Review Branch, Commodity Futures Trading Commission, 300 S. Riverside Plaza, Room 1600–N, Chicago, IL 60606; telephone (312) 886–3217; electronic mail *hmatecki@cftc.gov.*

SUPPLEMENTARY INFORMATION:

I. Subordination Agreements Included in the Net Capital of a Futures Commission Merchant or Independent Introducing Broker

A. Background

Commission Regulation 1.17 [1] requires FCMs and IBIs to maintain minimum levels of adjusted net capital. [2] In computing adjusted net capital, FCMs and IBIs are permitted to

[1] Commission regulations cited herein may be found at 17 CFR Ch. I (1999).

[2] Adjusted net capital is generally defined as current assets less liabilities. *See* Regulation 1.17(c)(5).

Regulation 1.17(a)(1)(i) requires FCMs to maintain minimum adjusted net capital of the greatest of: (1) $250,000; (2) four percent of the customer funds required to be segregated and set aside pursuant to the Act and the regulations, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade for which the full premiums have been paid provided that the deduction for each customer is limited to the amount of customer funds in such customer's account(s); (3) the amount of adjusted net capital required by a registered futures association of which the FCM is a member; or (4) for securities brokers and dealers, the amount of net capital required by SEC Rule 15c3–1(a) (17 CFR 240.15c3–1(a)).

Regulation 1.17(a)(1)(ii) requires IBIs to maintain minimum adjusted net capital of the greatest of: (A) $30,000; (B) the amount of adjusted net capital required by a registered futures association of which the IBI is a member; or (C) for securities brokers and dealers, the amount of net capital required by SEC Rule 15c3–1(a).

exclude from liabilities funds received which are subordinated to the claims of all general creditors of the FCM or IBI pursuant to a ''satisfactory subordination agreement,'' as defined in Regulation 1.17(h).[3]

Subordination agreements may take the form of either subordinated loan agreements or secured demand notes. Subordinated loan agreements are agreements evidencing a subordinated borrowing of cash by the FCM or IBI. Secured demand notes are agreements evidencing or governing the contribution of a secured demand note to an FCM or IBI and the pledge of securities and/or cash as collateral to secure payment of such note. The outstanding principal balances of a subordinated loan and a secured demand note are recorded as liabilities of an FCM or IBI.[4]

Regulation 1.17(h) sets forth several minimum requirements for the subordination agreements and other conditions that must be met in order for the agreements to qualify as ''satisfactory'' subordination agreements.[5] One condition, set forth in Regulation 1.17(h)(3)(vi), provides that an FCM or IBI may not treat any subordination agreement as a ''satisfactory'' subordination agreement for net capital purposes until the FCM's or the IBI's designated-self regulatory organization (''DSRO''), or the Commission if the FCM or the IBI is not a member of a DSRO, has reviewed the agreement and determined that it satisfies the minimum requirements set forth in Regulation 1.17(h).

Commission regulations also impose restrictions on an FCM's or IBI's ability to make a payment on a subordinated loan prior to the scheduled maturity date of such loan or to effect a full or partial reduction in the outstanding principal balance of a secured demand note. In this regard, Regulation 1.17(h)(2)(vii)(C) requires an FCM or IBI to obtain the written approval of its DSRO, or the Commission if the FCM or IBI is not a member of a SRO, prior to making a prepayment on a subordinated loan or prior to effecting a full or partial reduction in the outstanding principal balance of a secured demand note.

The Joint Audit Committee (''JAC'') has requested that the Commission amend Regulations 1.17(h)(3)(vi) and 1.17(h)(2)(vii)(C).[6] The JAC states that the Commission's regulations governing subordination agreements, including the provisions cited above, are consistent with requirements imposed by the SEC on registered securities brokers or dealers. Therefore, registered FCMs and IBIs that are also registered as securities brokers or dealers with the SEC (hereinafter referred to as ''dually-registered'' FCMs or IBIs) are required to obtain the approvals of a futures market SRO and a securities market DEA prior to excluding subordination agreements from liabilities in computing net capital or prior to making a prepayment on a subordinated loan or effecting a reduction in the outstanding principal balance of a secured demand note.[7]

The JAC requests that the Commission amend Regulations 1.17(h)(3)(vi) and 1.17(h)(2)(vii)(C) to allow DSROs to adopt procedures that would permit a DSRO to rely on a DEA's review and approval of a proposed subordination agreement, a proposed prepayment of a subordinated loan, or a proposed reduction in the outstanding principal balance of a secured demand note submitted by a dually-registered FCM or IBI. In support of its position, the JAC states that since the Commission's and SEC's regulations are consistent with respect to subordination agreements, permitting the DSRO to rely on the review performed by a DEA will reduce the regulatory burden imposed upon dually-registered FCMs and IBIs without increasing the risk of noncompliance with Commission regulations. The JAC also states that the amendments would allow a DSRO to more efficiently use its financial surveillance resources.

B. Proposed Rule Amendments

The Commission is proposing to amend Regulations 1.17(h)(2)(vii)(C) and 1.17(h)(3)(vi) to allow a DSRO to rely on a review performed by a DEA with respect to a proposed subordination agreement, a proposed prepayment of a subordinated loan, or a proposed reduction of the outstanding principal balance of a secured demand note submitted by a dually-registered FCM or IBI. As noted above, the Commission's regulations regarding subordination agreements are consistent in all material respects with the rules of the SEC for brokers or dealers. In this regard, SEC Rule 15c3–1d(c)(6)(i) (17 CFR 240.15c3–1d(c)(6)(i)) is consistent with CFTC Regulation 1.17(h)(3)(vi) in that it requires a registered securities broker or dealer to file copies of any proposed subordination agreement with its DEA prior to the effective date of the agreement. The rule further provides that no subordination agreement shall be deemed a ''satisfactory'' subordination agreement for capital purposes until the DEA has determined that the agreement satisfies the minimum requirements for a satisfactory subordination agreement as set forth in the SEC's rules.[8]

Furthermore, SEC Rule 15c3–1d(b)(7) (17 CFR 240.15c3–1d(b)(7)) is consistent with CFTC Regulation 1.17(h)(2)(vii)(C) in that it requires a broker or dealer to obtain the written approval of its DEA prior to making a prepayment of a subordinated loan before the scheduled maturity date of the payment and prior to effecting a reduction in the outstanding principal balance of a secured demand note. Therefore, as noted above, subordination agreements of dually-registered FCMs and IBIs are currently subject to review and approval by two separate regulatory authorities applying consistent standards.

The proposed amendments would provide that a DSRO may rely on a DEA's review of a proposed subordination agreement or a request to make a prepayment on a subordinated loan or to reduce the outstanding principal balance of a secured demand note, provided that the dually-registered FCM or IBI files signed copies of the proposals with its applicable DEA, in the manner and form provided by the DEA, prior to the proposed effective dates. The proposal would also direct the FCM or IBI to file copies of the proposals with its DSRO prior to the respective effective dates and to file copies of the DEA's approval of the transactions with the DSRO immediately upon receipt of such approval.

The requirement that the FCM or IBI file copies of the proposals with its DSRO provides the DSRO with an opportunity to review the transactions to ensure compliance with Commission regulations prior to the effective dates. The proposed amendments would

[3] Regulation 1.17(c)(4)(i).

[4] *See* Regulation 1.17(h)(1).

[5] A contract market may impose, or an FCM or IBI may require, conditions or restrictions in addition to those established by the Commission provided that such conditions or restrictions do not cause the subordination agreement to fail to meet the minimum requirements of Regulation 1.17(h).

[6] The JAC is comprised of representatives of the audit and compliance departments of the self-regulatory organizations (''SROs'') and National Futures Association. The JAC coordinates the industry's audit and ongoing surveillance activities to promote a uniform framework of self-regulation.

[7] Rule 15c3–1(c)(12) of the SEC, 17 CFR 240.15c3–1(c)(12), defines DEA as the national securities exchange or the national securities association of which the broker or dealer is a member, or if the broker or dealer is member of more than one such exchange or association, the exchange or association designated by the SEC as the examining authority of the broker or dealer.

[8] The SEC's minimum requirements for a satisfactory subordination agreement are set forth in Rule 15c3–1d(2) (17 CFR 240.15c3–1d(2)) and are comparable to the minimum requirements established by the Commission in Regulation 1.17(h)(2).

further provide that the DEA's review and approval of the proposals would be deemed, absent objection by the DSRO, a finding by the DSRO that the proposals meet the minimum requirements and conditions set forth in Commission Regulation 1.17(h). The final responsibility for ensuring that the proposals satisfy the minimum Commission requirements, however, would remain with the DSROs.

II. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The proposed rule amendments discussed herein would affect FCMs and IBIs. The Commission has previously determined that, based upon the fiduciary nature of FCM/customer relationships, as well as the requirement that FCMs meet minimum financial requirements, FCMs should be excluded from the definition of small entity.[9]

With respect to IBIs, the Commission stated that it is appropriate to evaluate within the context of a particular rule whether some or all introducing brokers should be considered to be small entities and, if so, to analyze the economic impact on such entities at that time.[10] The proposed amendments to Regulations 1.17(h)(2)(vii)(C) and 1.17(h)(3)(vi) do not impose additional requirements on an IBI. Thus, on behalf of the Commission, the Chairman certifies that the proposed rule amendments will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* (Supp. I 1995), imposes certain requirements on federal agencies (including the Commission) to review rules and rule amendments to evaluate the information collection burden that they impose on the public. The Commission believes that the proposed amendments to Regulation 1.17(h) do not impose an information collection burden on the public.

List of Subjects in 17 CFR Part 1

Brokers, Commodity futures.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4f, 4g and 8a(5) thereof, 7 U.S.C. 6d, 6g and 12a(5), the Commission hereby proposes to amend chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24.

2. Section 1.17 is proposed to be amended by revising paragraphs (h)(2)(vii)(C) and (h)(3)(vi) to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

* * * * *

(h) * * *

(2) * * *

(vii) * * *

(C)(*1*) Notwithstanding the provisions of paragraphs (h)(2)(vii)(A) and (h)(2)(vii)(B) of this section, in the case of an applicant, no prepayment or special prepayment shall occur without the prior written approval of the National Futures Association; in the case of a registrant, no prepayment or special prepayment shall occur without the prior written approval of the designated self-regulatory organization, if any, or of the Commission if the registrant is not a member of a self-regulatory organization.

(*2*) A registrant may make a prepayment or special prepayment without the prior written approval of the designated self-regulatory organization: Provided, That the registrant: is a securities broker or dealer registered with the Securities and Exchange Commission; files a request to make a prepayment or special prepayment with its applicable securities designated examining authority, as defined in Rule 15c3–1(c)(12) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(12)), in the form and manner prescribed by the designated examining authority; files a copy of the prepayment request or special prepayment request with the designated self-regulatory organization at the time it files such request with the designated examining authority in the form and manner prescribed by the designated self-regulatory organization; and files a copy of the designated examining authority's approval of the prepayment or special prepayment with the designated self-regulatory organization immediately upon receipt of such approval. The approval of the prepayment or special prepayment by the designated examining authority will be deemed approval by the designated self-regulatory organization, unless the designated self-regulatory organization notifies the registrant that the designated examining authority's approval shall not constitute designated self-regulatory organization approval.

(*3*) The designated self-regulatory organization shall immediately provide the Commission with a copy of any notice of approval issued where the requested prepayment or special prepayment will result in the reduction of the registrant's net capital by 20 percent or more or the registrant's excess adjusted net capital by 30 percent or more.

(3) * * *

(vi) Filing. An applicant shall file a signed copy of any proposed subordination agreement (including nonconforming subordination agreements) with the National Futures Association at least ten days prior to the proposed effective date of the agreement or at such other time as the National Futures Association for good cause shall accept such filing. A registrant that is not a member of any designated self-regulatory organization shall file two signed copies of any proposed subordination agreement (including nonconforming subordination agreements) with the regional office of the Commission nearest the principal place of business of the registrant (except that a registrant under the jurisdiction of the Commission's Western Regional Office shall file such copies with the Commission's Southwestern Regional Office) at least ten days prior to the proposed effective date of the agreement or at such other time as the Commission for good cause shall accept such filing. A registrant that is a member of a designated self-regulatory organization shall file signed copies of any proposed subordination agreement (including nonconforming subordination agreements) with the designated self-regulatory organization in such quantities and at such time as the designated self-regulatory organization may require prior to the effective date. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. A proposed agreement filed by an applicant with the National Futures

[9] 47 FR 18618, 18619–18620 (April 30, 1982).

[10] 48 FR 35248, 35275–78 (August 3, 1983).

Association shall be reviewed by the National Futures Association, and no such agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the National Futures Association has found the agreement acceptable and such agreement has become effective in the form found acceptable. A proposed agreement filed by a registrant shall be reviewed by the designated self-regulatory organization with whom such an agreement is required to be filed prior to its becoming effective or, if the registrant is not a member of any designated self-regulatory organization, by the regional office of the Commission where the agreement is required to be filed prior to its becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the designated self-regulatory organization or, if a registrant is not a member of any designated self-regulatory organization, the Commission, has found the agreement acceptable and such agreement has become effective in the form found acceptable: Provided, however, That a proposed agreement shall be a satisfactory subordination agreement for purpose of this section if the registrant: is a securities broker or dealer registered with the Securities and Exchange Commission; files signed copies of the proposed subordination agreement with the applicable securities designated examining authority, as defined in Rule 15c3–1(c)(12) of the Securities and Exchange Commission (17 CFR 240.15c3–1(c)(12)), in the form and manner prescribed by the designated examining authority; files signed copies of the proposed subordination agreement with the designated self-regulatory organization at the time it files such copies with the designated examining authority in the form and manner prescribed by the designated self-regulatory organization; and files a copy of the designated examining authority's approval of the proposed subordination agreement with the designated self-regulatory organization immediately upon receipt of such approval. The designated examining authority's determination that the proposed subordination agreement satisfies the requirements for a satisfactory subordination agreement will be deemed a like finding by the designated self-regulatory organization, unless the designated self-regulatory organization notifies the registrant that the designated examining authority's determination shall not constitute a like finding by the designated self-regulatory organization.

* * * * *

Issued in Washington D.C. on May 25, 2000 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–13606 Filed 6–1–00; 8:45 am]

BILLING CODE 6351–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180

[OPP–300976; FRL–6491–9]

RIN 2070–AB78

Methyl Parathion; Notice of Proposed Tolerance Revocations and Channels of Trade Provision Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke the tolerances for the insecticide methyl parathion on the following commodities: apples, artichokes, beets (greens alone), beets (with or without tops), birdsfoot trefoil forage, birdsfoot trefoil hay, broccoli, Brussels sprouts, carrots, cauliflower, celery, cherries, collards, grapes, kale, lentils, kohlrabi, lettuce, mustard greens, nectarines, peaches, pears, plums (fresh prunes), rutabagas (with or without tops), rutabaga tops, spinach, tomatoes, turnips (with or without tops), turnip greens, vegetables leafy Brassica (cole), and vetch. Additionally, EPA proposes to amend the following tolerances: beans (amend to beans, dried), peas (amend to peas, dried) so that methyl parathion is not used on succulent beans and peas. Note that methyl parathion may still be used on lentils; however, residues on lentils are covered by the tolerance for peas, dried. Foods legally treated with methyl parathion may continue to be marketed under the provisions of the Federal Food, Drug, and Cosmetic Act (FFDCA). The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the FFDCA. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. These tolerances were established under section 408 of the FFDCA, 21 U.S.C. 346a. EPA is proposing to revoke these tolerances because the Agency has canceled the pesticide registrations under FIFRA, 7 U.S.C. 136 *et seq.*, associated with them. EPA encourages you to comment on the tolerance revocations and on the proposed time frame for tolerance revocation.

The Food and Drug Administration (FDA) in a related notice published elsewhere in this issue of the **Federal Register** is announcing the availability of a proposed guidance document presenting FDA's policy on its planned enforcement approach for foods containing methyl parathion residues. This guidance will assist firms in understanding the types of showing under 408(1)(5) of the FFDCA (hereinafter referred to as the ''channels of trade provision'') that FDA may find satisfactory in accordance with its planned enforcement approach for such section. EPA and FDA are cooperating on this effort. FDA will be asking for comment on this proposed guidance and EPA also encourages you to comment on this guidance.

DATES: Comments, identified by the docket control number [OPP–300976], must be received on or before August 1, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION** section of this proposed rule. Be sure to identify docket number OPP–300976.

FOR FURTHER INFORMATION CONTACT: Laura Parsons, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Office location: CM #2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA, telephone: (703) 305–5776; e-mail: parsons.laura@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you sell, distribute, manufacture, or use pesticides for agricultural applications, process food, distribute or sell food, or implement governmental pesticide regulations. Potentially affected categories and entities may include, but are not limited to the following:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing
Agricultural Stakeholders		Growers/Agricultural Workers, Contractors (Certified/Commercial Applicators, Handlers, Advisors, etc.), Commercial Processors, Pesticide Manufacturers, User Groups, Food Consumers
Food Distributors		Wholesale Contractors, Retail Vendors, Commercial Traders/Importers
Inter governmental Stakeholders		State, Local, and/or Tribal Government Agencies
Foreign Entities		Governments, Growers, Trade Groups, Exporters

This listing is not exhaustive, but is a guide to entities likely to be affected by this action. The North American Industrial Classification System (NAICS) codes will assist you in determining whether this action applies to you. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under FOR FURTHER INFORMATION CONTACT.

B. How Can I Get 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 OPP–300976. 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 Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–300976 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 Hwy., 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 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–300976. 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 listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the proposed rule or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket 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. Background

A. General

In August 1999, the methyl parathion registrants submitted requests to voluntarily cancel registration of products containing methyl parathion for certain uses as the result of an agreement reached between EPA and

the registrants. Given the risks associated with use of methyl parathion under the existing terms and conditions of use, EPA granted the requests for voluntary cancellation. In the **Federal Register** of October 27, 1999 (64 FR 57877) (FRL–6387–8), EPA published a notice announcing the cancellation of all methyl parathion uses on fruits and most uses on vegetables. The notice of voluntary cancellation, the date of allowable use, and the intent to revoke the methyl parathion tolerances were widely publicized. The U.S. Department of Agriculture (USDA) sent notification to our trading partners through the World Trade Organization notification procedures. EPA also notified the regulatory authorities in over 145 countries as per FIFRA 17(b). For the canceled crops, use of existing stocks of methyl parathion was allowed until December 31, 1999.

On August 2, 1999, the EPA Administrator stated that while the current food supply is safe, the cancellation of certain uses of methyl parathion makes the food supply safer. This action is part of EPA's overall effort to reduce risks to the food supply under the Congressional mandate imposed by the Food Quality Protection Act (FQPA).

B. What Action Is The Agency Taking?

After consultation with FDA, USDA and stakeholders, EPA is proposing to revoke the tolerances for the insecticide methyl parathion on the following commodities: apples, artichokes, beets (greens alone), beets (with or without tops), birdsfoot trefoil forage, birdsfoot trefoil hay, broccoli, Brussels sprouts, carrots, cauliflower, celery, cherries, collards, grapes, kale, kohlrabi, lentils, lettuce, mustard greens, nectarines, peaches, pears, plums (fresh prunes), rutabagas (with or without tops), rutabaga tops, spinach, tomatoes, turnips (with or without tops), turnip greens, vegetables leafy *Brassica* (cole), and vetch. Additionally, EPA proposes to amend the following tolerances: beans (amend to beans, dried), peas (amend to peas, dried) so that methyl parathion is not used on succulent beans and peas. Note that methyl parathion may still be used on lentils; however, residues on lentils are covered by the tolerance for peas, dried, and therefore, the tolerance on lentils is proposed for revocation because it is unnecessary.

C. Why Is This Action Being Proposed?

Under FFDCA section 408(l)(2), if EPA cancels each FIFRA registration for the use of a pesticide on a food ''due in whole or in part to dietary risks to humans posed by residues of that pesticide chemical on food,'' EPA is required to revoke any tolerance or exemption that in connection with the canceled use allows residues of the pesticide on food. This provision imposes a mandatory duty on EPA. Once EPA cancels a FIFRA use due to dietary risks, EPA must revoke the associated tolerances and exemptions. Under 408(l)(5), foods legally treated prior to the use cancellation may continue to be marketed.

On August 2, 1999, EPA completed a refined risk assessment of methyl parathion as part of the tolerance reassessment program under section 408(q) of the FFDCA. This dietary risk assessment was based on residues of methyl parathion detected in some foods from USDA's Pesticide Data Program which monitors for pesticides in certain foods at the distribution points just before release to supermarkets and grocery stores. The assessment was conducted applying an additional 10-fold safety factor to increase the margin of safety as mandated by FQPA. That refined risk assessment showed acute dietary risks from methyl parathion in food above the EPA's level of concern (Revised Human Health Risk Assessment for Methyl Parathion, August 1999). The registrants' request for cancellation was in response to potential Agency action to revoke the tolerances and cancel the registrations because of dietary risk, and thus the cancellation action was ''due in whole or part to dietary risks to humans posed by residues of that pesticide chemical on food.'' Accordingly, under section 408(l)(2), the above-described tolerances must be revoked.

On October 27, 1999, EPA published a notice in the **Federal Register** (64 FR 57877) announcing the cancellation of multiple FIFRA registered uses including those commodities for which tolerance revocation has been proposed in the document.

Although this cancellation notice was requested by the methyl parathion registrants, the cancellation closely followed, and in EPA's view, was precipitated by EPA's determination that aggregate exposure to methyl parathion exceeded the revised, more stringent safety standard under the FQPA.

D. What Is the Agency's Authority for Taking This Action?

A ''tolerance'' represents the maximum level for residues of pesticide chemicals legally allowed in or on raw agricultural commodities and processed foods. Section 408 of FFDCA, 21 U.S.C. 346a, as amended by the FQPA of 1996, Public Law 104–170, authorizes the establishment of tolerances, exemptions from tolerance requirements, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on raw agricultural commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA. 21 U.S.C. 342(a). FFDCA section 301 prohibits, among other things, introduction or delivery for introduction into interstate commerce of any adulterated food. 21 U.S.C. 331(a). For a food-use pesticide to be sold and distributed, the pesticide must be registered under section 3, section 5, or section 18 of FIFRA (7 U.S.C. *et seq.*) Food-use pesticides not registered in the United States may have tolerances for residues of such pesticides in or on commodities imported into the United States.

Monitoring and enforcement of pesticide tolerances and exemptions are carried out by the FDA and the USDA. This includes monitoring for pesticide residues in or on commodities imported into the United States.

E. When Do These Actions Become Effective?

Under FFDCA section 408(l)(2), revocations required by that provision must take place not later than 180 days after the date such cancellation takes effect or the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later. The date for the cancellation of the FIFRA registrations for the affected methyl parathion uses is October 27, 1999. Use of methyl parathion on the affected crops became unlawful on December 31, 1999.

EPA intends to finalize this action as quickly as possible after consideration of comments. The tolerance revocation is proposed to be effective on the date of final publication.

F. Will Food Treated Prior to the Last Lawful Date of Application Be Permitted to Clear the Channels of Trade?

Any commodities listed in the regulatory text of this document that are treated with the methyl parathion, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(l)(5), as established by the FQPA. Under this section, any residue of methyl parathion in or on such commodities shall not render the commodities adulterated so long as it is shown to the satisfaction of FDA that:

1. The residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA.

2. The residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. The channels of trade provision allows for the orderly marketing of foods that may currently contain legal residues resulting from lawful applications of methyl parathion.

Use of methyl parathion as to the canceled uses became unlawful under FIFRA on December 31, 1999, the last date on which use of existing stocks was permitted. Although application of methyl parathion outside the United States is outside the scope of the limitation on use of existing stocks and thus is not per se prohibited after December 31, 1999, EPA considers commodities with residues resulting from application outside the U.S. after that date not to be subject to the channels of trade provision in 408(l)(5). Therefore, both domestic and foreign commodities treated subsequent to December 31, 1999, would not be present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and thus, would not comply with the channels of trade provision.

FDA is announcing, elsewhere in this issue of the **Federal Register**, the availability of proposed guidance document on how it plans to enforce FFDCA section 408(l)(5) for both domestic and imported commodities. FDA will invite comment on this draft guidance before issuing any final guidance. EPA encourages all interested parties to comment on FDA's draft guidance.

G. May Interested Persons Comment on This Proposal?

Yes. EPA is requesting comment on this proposal. In particular, EPA requests comment on the following issues:

1. Under FQPA, EPA indentified dietary risk from certain uses of methyl parathion. In light of this risk, the methyl parathion registrants proposed voluntary cancellation of certain uses under the August 2, 1999 Memorandum of Agreement. EPA interprets 408(l)(2) of the FFDCA which calls for tolerance revocation within 180 days of final use to apply to both cancellations effected through FIFRA 6(f) (voluntary action by a registrant) and those effected through FIFRA 6(b) (an Agency initiated cancellation action). The Agency seeks comment on the application of 408(l)(2) to voluntarily initiated cancellations.

2. Are there any alternate approaches within the legal confines of the FFDCA for avoiding any potential problems to commerce or trade caused by revocation of these tolerances subject to the channels of trade provision?

3. EPA is also providing the opportunity to comment on the methyl parathion registrants requests to cancel various methyl parathion uses. See Unit IV.

H. What Can I Do If I Wish the Agency to Maintain a Tolerance That the Agency Is Proposing to Revoke?

Given the language of section 408(l)(2) and the dietary risks posed by these uses and tolerances for methyl parathion, EPA does not believe that these tolerances can be maintained in compliance with FFDCA. However, any person may petition EPA to establish new tolerances. Petitioners should consult EPA regulations and guidance on the necessary data and information to support tolerance petitions.

I. What Is the Contribution to Tolerance Reassessment?

By law, EPA is required to reassess 66% or about 6,400 of the tolerances in existence on August 2, 1996, by August 2002. EPA is also required to assess the remaining tolerances by August 2006. As of April 25, 2000, EPA has assessed over 3,471 tolerances. This document proposes to revoke 30 methyl parathion tolerances; however, 27 of these 30 tolerances are expressed as parathion which may be either ethyl parathion or methyl parathion and 3 of the 30 tolerances are methyl parathion alone. Therefore, 3 tolerances will be counted among reassessments made toward the August 2002 review deadline of FFDCA section 408(q), as amended by FQPA in 1996.

III. Are the Proposed Actions Consistent With International Obligations?

The tolerance revocations in this proposal are not discriminatory and are designed to ensure that both domestically-produced and imported foods meet the food safety standards established by the FFDCA. The same food safety standards apply to domestically-produced and imported foods. In addition, EPA is proposing to revoke these tolerances because it received voluntary requests to cancel the related methyl parathion registrations which was precipitated by EPA's risk assessment showing dietary risks from methyl parathion.

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. It is EPA's policy to harmonize U.S. tolerances with Codex MRLs to the extent possible, provided that the MRLs achieve the level of protection required under FFDCA. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual Reregistration Eligibility Decision documents. The U.S. EPA has developed guidance concerning submissions for import tolerance support. This guidance will be made available to interested persons.

IV. Request for Comment on the Request for Cancellation of the Methyl Parathion Registrations

In a Memorandum of Agreement effective August 2, 1999, all registrants of products containing methyl parathion agreed to request cancellation of their registrations for use of methyl parathion on all fruits, many vegetables, and all non-food and non-feed uses. Those requests for cancellation were received shortly thereafter, and EPA published a notice in the **Federal Register** announcing those requests and accepting them (64 FR 57877). That notice informed the public of how it could comment on the request for cancellation but also stated that EPA was waiving the comment period and approving the cancellation request upon the date of publication of the notice.

Several parties have filed an action against the Agency claiming that EPA unlawfully did not allow comment on the request for cancellation of methyl parathion. Actually, EPA provided several opportunities for comment concerning methyl parathion. Comments on the risk assessment were provided by several parties. After considering these comments and reaching agreement with the methyl parathion registrants, EPA released its revised risk assessment of methyl parathion to the public on August 3, 1999. A small number of comments were received on this revised assessment which did not alter the risk conclusions. Additionally, no comments were submitted on the **Federal Register** notice announcing receipt and acceptance of the cancellation requests.

Nonetheless, to assure that all affected parties have an opportunity to comment on the methyl parathion cancellations,

EPA is allowing further comments on the registrants' requests for cancellation of the above-referenced methyl parathion uses. Although these cancellation requests have already been accepted, such comments would still be relevant to Agency decision making. First, such comments may influence EPA regarding whether it is appropriate to press forward with the proposed tolerance revocation. If it can be shown that EPA erred in accepting these cancellation requests, EPA will need to consider whether revocation of associated tolerances is the proper course. Second, EPA believes that one of the primary purposes of the comment period on cancellation requests is to allow other parties to come forward and seek a registration for the affected pesticide. That opportunity still exists and any interested party can so notify EPA by filing a registration application. EPA would note, however, that such applicant would have to overcome the risk concerns that EPA has identified regarding methyl parathion.

V. How Do the Regulatory Assessment Requirements Apply to This Proposed Action?

This action is proposing to revoke tolerances established under FFDCA section 408. The Office of Management and Budget (OMB) has exempted this type of action, i.e., a tolerance revocation for which extraordinary circumstances do not exist, from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998); 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 or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency previously assessed whether revocations of tolerances might significantly impact a substantial number of small entities and concluded that, as a general matter, these actions do not impose a significant economic impact on a substantial number of small entities. The factual basis and the Agency's certification under section 605(b) for tolerance revocations published on December 17, 1997 (62 FR 66020), and was provided to the Chief Counsel for Advocacy of the Small Business Administration. Since no extraordinary circumstances exist as to the present revocation that would change EPA's previous analysis, the Agency is able to reference the general certification. Any comments about the Agency's determination should be submitted to EPA along with comments on the proposal, and will be addressed prior to issuing a final rule.

In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

List of Subjects in 40 CFR Part 180

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

Dated: May 19, 2000.

Jack E. Housenger,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.121 is revised to read as follows:

§ 180.121 Parathion or its methyl homolog; tolerances for residues.

(a) General. (1) Tolerances are established for residues of the insecticide parathion (*O,O*-Diethyl-*O-p*-nitrophenyl thiophosphate) or its methyl homolog in or on the following raw agricultural commodities:

Commodity	Parts per million
Alfalfa (fresh)	1.25
Alfalfa (hay)	5
Almonds	0.1
Almond hulls	3
Apricots	1
Avocados	1
Barley	1
Beans, dried	1
Beets, sugar	0.1
Beets, sugar, (tops)	0.1
Blackberries	1
Blueberries (huckleberries)	1
Boysenberries	1
Cabbage	1
Clover	1
Corn	1
Corn, forage	1
Cotton, seed	0.75
Cranberries	1
Cucumbers	1
Currants	1
Dates	1
Dewberries	1
Eggplants	1
Endive (escarole)	1
Figs	1
Filberts	0.1
Garlic	1
Gooseberries	1
Grass (forage)	1
Guavas	1
Hops	1
Mangos	1
Melons	1
Mustard seed	0.2
Oats	1
Okra	1
Olives	1
Onions	1
Parsnips (with or without tops)	1
Parsnip greens (alone)	1
Peanuts	1
Peas, dried	1
Pea, forage	1
Pecans	0.1
Peppers	1

Commodity	Parts per million
Pineapples	1
Potatoes	0.1
Pumpkins	1
Quinces	1
Radish (with or without tops)	1
Radish (tops)	1
Rape, seed	0.2
Raspberries	1
Rice	1
Safflower seed	0.1
Sorghum	0.1
Sorghum, fodder	3
Sorghum forage	3
Soybeans	0.1
Soybean hay	1
Squash	1
Strawberries	1
Summer squash	1
Sunflower seed	0.2
Sweet potatoes	0.1
Swiss chard	1
Walnuts	0.1
Wheat	1
Youngberries	1

(2) Tolerances are established for residues of the insecticide parathion (*O,O*-Dimethyl-*O*-*p*-nitrophenyl thiophosphate) the methyl homolog of parathion in or on the following raw agricultural commodities:

Commodity	Parts per million
Guar beans	0.2
Parsley	1

(3) Tolerances are established for residues of the insecticide parathion (*O,O*-Dimethyl-*O*-*p*-nitrophenyl thiophosphate) (ethyl parathion) in or on the following raw agricultural commodities:

Commodity	Parts per million
Apples	1
Artichokes	1
Beet greens (alone)	1
Beets (with or without tops)	1
Broccoli	1
Brussels sprouts	1
Carrots	1
Cauliflower	1
Celery	1
Cherries	1
Collards	1
Grapes	1
Kale	1
Kohlrabi	1
Lettuce	1
Mustard greens	1
Nectarines	1
Peaches	1
Pears	1
Plums (fresh prunes)	1
Rutabagas (with or without tops)	1
Rutabaga tops	1
Spinach	1
Tomatoes	1
Turnips (with or without tops)	1
Turnip greens	1
Vetch	1

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

(e) *Revoked tolerances subject to the channel of trade provisions.* The following table lists commodities for which methyl parathion use was unlawful after December 31, 1999, and the revoked tolerances. Commodities with residues of methyl parathion resulting from lawful use are subject to the channels of trade provisions of section 408(1)(5) of the FFDCA.

Commodity	Parts per million
Apples	1
Artichokes	1
Beet greens (alone)	1
Beets (with or without tops)	1
Birdsfoot trefoil (forage)	1.25
Birdsfoot trefoil (hay)	5
Broccoli	1
Brussels sprouts	1
Carrots	1
Cauliflower	1
Celery	1
Cherries	1
Collards	1
Grapes	1
Kale	1
Kohlrabi	1
Lettuce	1
Mustard greens	1
Nectarines	1
Peaches	1
Pears	1
Plums (fresh prunes)	1
Rutabagas (with or without tops)	1
Rutabaga tops	1
Spinach	1
Tomatoes	1
Turnips (with or without tops)	1
Turnip greens	1
Vegetables leafy Brassica (cole)	1
Vetch	1

[FR Doc. 00–13311 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 00–99; FCC 00–186]

Availability of INTELSAT Space Segment Capacity To Direct Access Users

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission requests information and comment on whether users or service providers of telecommunications services have sufficient opportunity to access INTELSAT space segment capacity directly from INTELSAT to meet their service and capacity requirements. The Notice of Proposed Rulemaking also seeks comment on potential Commission action should it conclude that sufficient opportunity does not exist for users and service providers to access INTELSAT directly.

DATES: Submit comments on or before June 23, 2000; submit reply comments on or before July 6, 2000; and submit responses to reply comments on July 11, 2000.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW, Washington, DC 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption proceeding, however, commentors must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commentors should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commentors should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form<your e-mail address>.'' A sample form and directions will be sent in reply.

FOR FURTHER INFORMATION CONTACT: James Ball, 202–418–0427

Michael McCoin, 202–418–0774
Alexandria Field, 202–418–2064

SUPPLEMENTARY INFORMATION:

1. The Commission is required to conduct this rulemaking pursuant to the recently enacted Open-Market Reorganization for the Betterment of International Telecommunications Act (the ORBIT Act). Section 641(b) of the ORBIT Act requires the Commission to determine whether ''sufficient opportunity'' exists for users and service providers ''to access INTELSAT space segment capacity directly from INTELSAT to meet their service and capacity requirements.'' If the Commission finds that ''sufficient opportunity'' does not exist, the Commission is required to ''take appropriate action to facilitate direct access,'' and otherwise ''to take such steps as may be necessary to prevent circumvention of the intent'' of the section. Section 641(c) of the Act states that ''nothing in this section shall be construed to permit the modification or abrogation of any contract.''

2. In 1999, the Commission permitted users and service providers in the United States to obtain Level 3 direct access to INTELSAT space segment capacity. Direct Access to the INTELSAT System (Report and Order), 64 FR 54561 (October 7, 1999), 14 FCC Rcd 15703 (1999). Level 3 access permits non-signatory users and service providers to enter into contractual agreements with INTELSAT for space segment capacity at the same rates that INTELSAT charges its Signatories. The subsequently enacted ORBIT Act mandates that users and providers of telecommunications services shall be permitted to obtain Level 3 direct access to INTELSAT and requires the Commission to conduct this rulemaking.

3. The Notice requests comment on whether users and service providers have sufficient opportunity to access INTELSAT capacity directly to meet their service or capacity requirements. There are two parts to this issue: (1) The impact of INTELSAT's current distribution procedures on users and service providers seeking direct access, and (2) the availability of INTELSAT existing and planned space segment capacity to satisfy the needs of users and service providers. The Notice reviews INTELSAT's current distribution arrangements and tentatively concludes that these arrangements could disadvantage new direct access users in obtaining capacity. The Notice also seeks comment on the effect of post-privatization distribution arrangements on the ability of U.S. users and service providers to access INTELSAT directly.

4. Additionally, the Notice identifies those existing and planned satellites capable of serving the United States. It requires Comsat Corporation, the U.S. Signatory to INTELSAT, to provide information both as to what capacity on these satellites is uncommitted and what capacity has been committed, either to Comsat or other Signatories under INTELSAT's current distribution arrangements. The Notice requests users and service providers to comment on whether uncommitted capacity on existing and planned satellites will give them sufficient opportunity to access INTELSAT directly to meet their service and capacity requirements.

5. The Notice also requests comment on what alternatives exist for taking ''appropriate action'' if the Commission finds that ''sufficient opportunity'' does not exist for users and service providers to access INTELSAT directly. The Notice tentatively concludes that the first option for resolving capacity shortage problems should be commercial solutions between Comsat and users or service providers. The Notice further requests comment on regulatory actions that may be appropriate if commercial solutions appear unattainable. It requests comment on whether such actions may be necessary. Comsat has tied up future capacity on planned and yet-to-be launched satellites that is unique to the needs of a particular user or service provider because of operational requirements of its foreign correspondent or other operational, commercial, technical or economic considerations. The burden would be on the user or service provider to demonstrate that capacity is unique and regulatory action required.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA),[1] the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this Notice of Proposed Rulemaking (Notice). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice provided in paragraphs 34 through 38. The Commission will send a copy of the Notice, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. 5 U.S.C. 603(a). In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

I. Need for, and Objectives of, the Proposed Rules

The purpose of the Notice is to comply with the Orbit Act requirement that the Commission initiate a notice and comment proceeding to determine whether sufficient opportunity exists for users and service providers to access INTELSAT space segment capacity directly to meet their service or capacity requirements. If commentors believe that the proposals discussed in the Notice require additional RFA analysis, they should include a discussion of this in their comments.

II. Legal Basis

The authority for the Notice is pursuant to the authority contained in sections 1, 4(i), 4(j), 201, 202, 214 and Title III and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i) and (j), 201, 202, 214, 301 *et seq.* and 403, and sections 102(c), 201(c)(2), and c(11), of the Communications Satellite Act of 1962, as amended, 47 U.S.C. 721(c), 741(c)(12) and (11), section 641 of the Open-Market Reorganization for the Betterment of International Telecommunications Act, Public Law 106–180, 114 Stat. 48 (2000) 641, the applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, and 5 U.S.C. 553 of the Administrative Procedures Act.

III. Description and Estimate of the Number of Small Entities to Which Proposed Rule Will Apply

The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. 5 U.S.C. 603(b)(3). The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization'' and ''small business concern'' under Section 3 of the Small Business Act. A ''small business concern'' is one which is (1) independently owned and operated; (2) not dominant in its field of operation; (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). 15 U.S.C. 632.

The Commission has not developed a definition of small entities applicable to satellite service licensees. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (''SBA'') rules applicable to Communications Services

[1] 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et seq.,* has been amended by the Contract with America Advancement Act of 1996, Public Law. 104–121, 110 Stat. 847 (1996) (''CWAAA''). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (''SBREFA'').

''Not Elsewhere Classified.'' This definition provides that a small entity is one with $11 million or less in annual receipts. 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899. According to the SBA, the Census Bureau estimates that there are approximately 631 entities providing communications services, not elsewhere classified. Of those, between 401 and 631 reported annual receipts of less than $9.999 million or less and would qualify as small entities subject to the proposed rules.[2] More precise data is not available.

The proposed Notice requires Comsat Corporation (''Comsat'') to provide information concerning existing and future capacity in the INTELSAT system necessary for us to make the determination required by the ORBIT Act. The Commission also may seek information directly from INTELSAT if necessary and appropriate. Comsat's 1999 revenues were in excess of $11 million. Thus, Comsat does not qualify as a small entity under the SBA's definition. U.S. carriers and users, including any small entities, that may be affected indirectly, would likely benefit from the proposed action.

IV. Description of Projected Reporting, Recordkeeping or Other Compliance Requirements

The proposals in the Notice are not expected to result in any additional reporting, recordkeeping and other compliance.

V. Steps Taken To Minimize Significant Economic Burden on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

Without prejudgment as to whether it will determine that ''sufficient opportunity'' exists, the Commission is seeking comment on alternatives for ''appropriate action'' should it determine that sufficient opportunity does not exist for users and service providers to access INTELSAT directly. The Commission tentatively concludes that the first option for resolving this problem should be commercial solutions between Comsat and users and service providers. It also seeks comment on possible regulatory action should commercial negotiations fail to yield a solution. The intent of any regulatory action would be to permit users and service providers, including small entities, to benefit from the availability of direct access to INTELSAT space segment capacity to meet service or capacity requirements. We do not expect the proposals to cause any economic burden to small entities, and seek comment on any issues pertinent to this.

VI. Federal Rules That Overlap, Duplicate, or Conflict With These Proposed Rules

None.

List of Subjects in 47 CFR Part 25

Satellites.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–13759 Filed 6–1–00; 8:45 am]

BILLING CODE 6712–01–P

[2] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and utilities, UC92–S–1, Subject Series, Establishment and Firm Size, Table D, Employment size of Firms: 1992, SIC Code 4899 (May 1995).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 16

Injurious Wildlife; Review of Information Concerning Black Carp (Mylopharyngodon piceus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The U.S. Fish and Wildlife Service is reviewing available economic and biological information on the black carp (*Mylopharyngodon piceus*) for possible addition to the list of injurious wildlife under the Lacey Act. The importation and introduction of *M. piceus* into the natural ecosystem of the United States may pose a threat to native mollusk and fish populations. Listing *M. piceus* as injurious would prohibit its importation into, or transportation between, the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States, with limited exceptions. This notice seeks comments from the public to aid in determining if a proposed rule is warranted.

DATES: Comments must be submitted on or before August 1, 2000.

ADDRESSES: Comments may be mailed or sent by fax to the Chief, Division of Fish and Wildlife Management Assistance, U.S. Fish and Wildlife Service, 1849 C Street, NW, Mail Stop 840 ARLSQ, Washington, DC 20240, of FAX (703) 358–2044.

FOR FURTHER INFORMATION CONTACT: Susan Mangin, Division of Fish and Wildlife Management Assistance at (703) 358–1718.

SUPPLEMENTARY INFORMATION: In a February 24, 2000, letter to the Director of the U.S. Fish and Wildlife Service, the Mississippi Interstate Cooperative Resource Association (MICRA) expressed concern that *Mylopharyngodon piceus* posed a threat to native fish and mollusk populations. MICRA requested that the Director take the necessary steps to list *M. piceus* as an injurious species of wildlife.

M. piceus is a freshwater fish that inhabits lakes and lower reaches of rivers. It is native to most major Pacific drainages of eastern Asia and highly esteemed as a food fish in China. *M. piceus* was introduced into the United States in the early 1970s as a ''contaminant'' in imported grass carp stocks. A second introduction occurred in the 1980s for yellow grub control and as a food fish.

M. piceus larvae and fingerlings feed on zooplankton, while larger *M. piceus* feed on benthic organisms with shells. Because the species commonly feeds on mollusks, *M. piceus* is considered an effective method of biological control of snails.

M. piceus spawn in rivers, and their eggs are pelagic or semipelagic and drift downstream. They are annual spawners, with spawning triggered by water temperature, rising water levels, and availability of food. Research has indicated that pond-cultured females can produce an average of 65,000 eggs per kg (29,000 per lb.) of body weight.

The Lacey Act (18 U.S.C. 42) and implementing regulation in 50 CFR part 16 restrict the importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States of any nonindigenous species of wildlife determined to be injurious or potentially injurious to certain interests, including those of agriculture, horticulture, forestry, the health and

welfare of human beings, and the welfare and survival of wildlife and wildlife resources in the United States. However, injurious wildlife may be imported by permit for zoological, educational, medical, or scientific purposes in accordance with permit regulations at 50 CFR 16.22, or by Federal agencies without a permit solely for their own use. If the process initiated by this notice results in the addition of *M. piceus* to the list of injurious wildlife contained in 50 CFR part 16, their importation into the United States would be prohibited except under the conditions, and for the purposes, described above.

This notice solicits economic, biologic, or other information concerning *M. piceus*. The information will be used to determine if the species is a threat, or potential threat, to those interests of the United States delineated above, and thus warrants addition to the list of injurious wildlife in 50 CFR 16.13. The information will also assist us in preparing impact analyses and examining alternative protective measures under the Regulatory Flexibility Act (5 U.S.C. 601).

Authority: This notice is issued under the authority of the Lacey Act (18 U.S.C. 42).

Dated: May 16, 2000.

Jamie Rappaport-Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–13557 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF45

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period and Notice of Public Hearing on Proposed Rule To List the Southwestern Washington/Columbia River Coastal Cutthroat Trout in Washington and Oregon as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period and notice of public hearing.

SUMMARY: The U.S. Fish and Wildlife Service (FWS) gives notice of a public hearing on the proposed rule to list the southwestern Washington/Columbia River coastal cutthroat trout in Washington and Oregon. In addition, the comment period which originally closed on May 15, 2000, will be reopened. The new comment period and hearing will allow all interested parties to submit oral or written comments on the proposal.

DATES: The comment period for this proposal now closes on July 3, 2000. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing will be held from 1 p.m. until 3 p.m. and from 6 p.m. until 8 p.m. on June 20, 2000, in Ilwaco, Washington.

ADDRESSES: The public hearing will be held at the Ilwaco Heritage Museum, 115 SE Lake Street, Ilwaco, Washington. Written comments and materials should be sent to Kemper McMaster, State Supervisor, Oregon Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2600 SE 98th Avenue, Suite 100, Portland, Oregon 97266. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above FWS address.

FOR FURTHER INFORMATION CONTACT: Kemper McMaster, at the above Portland, Oregon address, phone 503–231–6179, facsimile 503–231–6195, for written comments or Gerry Jackson, State Supervisor, Western Washington Fish and Wildlife Office, 510 Desmond Dr., Suite 102, Lacey, Washington, phone 360–753–9440, facsimile 503–231–9008 for information on the public hearing.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1999, the National Marine Fisheries Service (NMFS) and the Fish and Wildlife Service (FWS) published a notice in the **Federal Register** (64 FR 16397) proposing to list the coastal cutthroat trout (*Oncorhynchus clarki clarki*) population in southwestern Washington and the Columbia River, excluding the Willamette River above Willamette Falls, as threatened pursuant to the Endangered Species Act of 1973, as amended (Act). The FWS published a notice in the **Federal Register** (65 FR 20123) on April 14, 2000, to extend the deadline from April 5, 2000, to October 5, 2000 for the final action on the proposed rule to list this population in Washington and Oregon; and to provide a 30-day comment period. The 6-month extension was necessary to obtain and review new information needed to resolve substantial scientific disagreement about the status of this population.

In response to a request for a public hearing during the public comment period for the 6-month extension, the FWS will hold a public hearing on the date and address described in the **DATES** and **ADDRESSES** sections above.

Anyone wishing to make an oral statement for the record is encouraged to provide a written copy of their statement and present it to the FWS at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits to the length of written comments presented at the hearing or mailed to the FWS. Legal notices announcing the date, time, and location of the hearing will be published in newspapers concurrently with the **Federal Register** notice.

Comments from the public regarding the accuracy of this proposed rule are sought, especially regarding: (1) Biological or other relevant data concerning any threat to cutthroat trout; (2) The range, distribution, and population size of coastal cutthroat trout in southwestern Washington and the Columbia River; (3) Current or planned activities in the subject area and their possible impacts on the species; (4) Cutthroat trout escapement, particularly escapement data partitioned into natural and hatchery components; (5) The proportion of naturally reproducing fish that were reared as juveniles in a hatchery; (6) Homing and straying of natural and hatchery fish; (7) The reproductive success of naturally reproducing hatchery fish and their relationship to southwestern Washington and the Columbia River coastal cutthroat trout populations; and (8) Efforts being made to protect native, naturally reproducing populations of coastal cutthroat trout.

Reopening of the comment period will enable the FWS to respond to the request for a public hearing on the proposed action. The comment period on this proposal closes on July 3, 2000. Written comments should be submitted to the FWS office listed in the **ADDRESSES** section.

Author

The primary author of this notice is Jim Muck (Fish and Wildlife Service, Western Washington Office, 510 Desmond Dr. SE, Suite 102, Lacey, Washington, 98503).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

Dated: May 12, 2000.

Thomas J. Dwyer,

Acting Regional Director.

[FR Doc. 00–12494 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 051700B]

South Atlantic Fishery Management Council; Public Hearing

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

ACTION: Notice of public hearing.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene a public hearing regarding draft options for Amendment 3 to the Golden Crab Fishery Management Plan (FMP). The amendment addresses gear restrictions, permitting processes, limits on vessel size, crew safety and zoning/participation conflicts.

The Council will take action on its proposed Amendment 3 during the full Council session at its June 2000 meeting.

DATES: The hearing will be held in June. See **SUPPLEMENTARY INFORMATION** for specific date and time of the public hearing.

ADDRESSES: Copies of the draft amendment are available from Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366. The draft options paper will also be available at the public hearing. The public hearing will be held in Florida. See **SUPPLEMENTARY INFORMATION** for specific hearing location.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366; fax: 843–769–4520; E-mail address: kim.iverson@safmc.noaa.gov.

SUPPLEMENTARY INFORMATION:

The Council is considering gear modifications that would extend the use of wire cable for main lines through December 31, 2002, and adjust the size of the escape panel or door; allow vessel size to increase by 20 percent; and remove the 5000–pound harvest requirement for the biannual permit. To address zoning and participation conflicts, the Council is considering creating a sub-zone for smaller vessels in the southern zone that would be reviewed on an annual basis. The Council is also considering allowing vessels from the middle and southern zones to fish in the northern zone for a limited time.

Time and Location of Public Hearing

The public hearing regarding draft options for Amendment 3 to the Golden Crab Fishery Management Plan will be held at the following location, date, and time.

June 12, 2000, 6:00 p.m., Cheeca Lodge, Mile Marker 82, U.S. Highway 1, Islamorada, FL 33036, Telephone: 800–327–2888 or 305–664–4651.

Copies of the draft options paper can be obtained from the Council (see **ADDRESSES**).

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by June 5, 2000.

Dated: May 26, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–13751 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 65, No. 107
Friday, June 2, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[TM–00–05]

Nominations for Members of the National Organic Standards Board

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Organic Foods Production Act (OFPA) of 1990, as amended, requires the establishment of a National Organic Standards Board (NOSB). The NOSB is a 15 member board that advises the Secretary on all aspects of the National Organic Program, and has responsibility for development of a proposed National List of Approved and Prohibited Substances. The U.S. Department of Agriculture (USDA) is requesting nominations to fill five upcoming vacancies on the NOSB. The Secretary of Agriculture will appoint nominees to serve 5-year terms of office scheduled to commence in January 2001. USDA encourages eligible minorities, women, and persons with disabilities to apply.

DATES: Written nominations, with resumes, must be postmarked on or before August 30, 2000.

ADDRESSES: Nominations should be sent to Mr. Keith Jones, Program Manager, National Organic Program, USDA–AMS–TMP–NOP, Room 2510–So., Ag Stop 0268, P.O. Box 96456, Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Mr. Keith Jones, Telephone: (202) 720–3252; Fax: (202) 690–3924; e-mail: keith.jones@usda.gov.

SUPPLEMENTARY INFORMATION: The OFPA of 1990, as amended (7 U.S.C. Section 6501 *et seq.*), requires the Secretary to establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods. In developing this program, the Secretary is required to establish a NOSB. The purpose of the NOSB is to assist in the development of a proposed National List of Approved and Prohibited Substances and to advise the Secretary on other aspects of the National Organic program.

The current NOSB has made recommendations to the Secretary regarding the establishment of the initial organic program. It is anticipated that the NOSB will continue to make recommendations on various matters including recommendations on substances it believes should be permitted to be used or prohibited for use in organic production and handling.

The NOSB is required to be composed of various individuals including owners or operators of an organic production organization, persons who represent public interest or consumer interest groups, and an individual who is a certifying agent. Nominations are sought for two positions for organic producer and two positions for consumer/public interest representatives. Additionally, nominations are being sought for the certifying agent position who will represent State and private certifiers. Individuals desiring to be appointed to the NOSB at this time must be either an owner or operator of an organic production operation, a person who represents public or consumer interest groups, or a State or private organic certifying agent. Selection criteria will include such factors as: demonstrated experience and interest in organics; diverse commodity and geographic representation; support of consumer and public interest organizations; demonstrated experience with environmental matters; and other factors as may be appropriate for specific positions.

After applications have been reviewed, individuals receiving nominations will be contacted and supplied with biographical forms. The biographical information must be completed and returned to USDA within 10 working days of its receipt to expedite the clearance process that is required by the Secretary.

Equal opportunity practices will be followed in all appointments to the NOSB in accordance with USDA policies. To ensure that the recommendations for the NOSB have taken into account the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

The information collection requirements concerning the nomination process have been previously cleared by the Office of Management and Budget (OMB) under OMB Control No. 0505–0001.

Dated: May 26, 2000.

Sharon Bomer Lauritsen,

Acting Deputy Administrator, Transportation and Marketing.

[FR Doc. 00–13784 Filed 6–1–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Management Direction for the John Muir, Ansel Adams, Dinkey Lakes and Monarch Wilderness; Inyo, Sierra and Sequoia National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to prepare a Revised Environmental Impact Statement.

SUMMARY: Notice is hereby given that the USDA, Forest Service will prepare a revised draft environmental impact statement (EIS) to establish management direction for the John Muir, Ansel Adams, Dinkey Lakes and Monarch Wilderness areas. The Sierra and Inyo National Forests administer the John Muir and Ansel Adams Wildernesses; the Sierra National Forest administers the Dinkey Lakes Wilderness; and the Sierra and Sequois National Forests administer the Monarch Wilderness. These Wildernesses are located in Fresno, Inyo, Madera, and Mono, California. The decision to revise the draft EIS was based on the high level of interest and concern apparent from the public comments to the original draft. The proposed action has been more clearly defined, otherwise it remains unchanged from that described in the original NOI published in the August 12, 1992 issue of the **Federal Register** (57 FR 36061).

FOR FURTHER INFORMATION CONTACT: Direct questions regarding the proposed action and revised EIS to Mary Beth Hennessy, Wilderness Specialist, Inyo

National Forest (760) 873–2400; or Teri Drivas, Recreation & Lands Officer, Sierra National Forest, (559) 297–0706.

SUPPLEMENTARY INFORMATION: The Inyo, Sierra, and Sequoia National Forests propose to amend their respective Forest Land and Resource Management Plans (LRMPs) to incorporate new management direction for the John Muir, Ansel Adams, Dinkey Lakes, and Monarch Wilderness areas. The National Environmental Policy Act will guide the planning process with implementation scheduled for summer, 2001. The revised draft EIS address three topics associated with overall forest level management direction for the three wildernesses: (1) Visitor Use; (2) Commercial Services and; (3) Recreational Packstock Management.

The analysis will consider a range of alternatives including no-action, which is the current management direction contained in each national forest's LRMP. The new management direction will be programmatic and would provide direction for the implementation of wilderness area decisions for the next 10 to 15 years. The management changes reflect Forest Service directives, changing social values, agency emphasis on ecosystem sustainability, new information, and research findings.

The draft EIS will be filed with the Environmental Protection Agency (EPA) and is expected to be available for public review by July 2000. The comment period on the draft EIS will be 90 days from the date the EPA publishes the notice of availability in the **Federal Register.** The final EIS is expected to be completed March 2001.

The Forest Service believes, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS 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 GN versus NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft stage maybe waived or dismissed by the court if not raised until after completion of the final EIS. *City of Angoon* versus *Hodel,* 803 F.2d. 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* versus *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in the proposed action participate by the close of the 90-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully be considered and responded to in the final EIS. To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. 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.

In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding the proposal. Forest Supervisors of the Inyo, Sierra, and Sequoia National Forests are the Responsible Officials. As Responsible Officials they will decide whether to implement the proposal or a different alternative. The Responsible Officials will document the decision and the reasons for the decision in the Record of Decision (ROD). The decision will be subject to Forest Service Appeal Regulations (36 CFR part 217).

Jeffery E. Bailey,

Forest Supervisor, Inyo National Forest.

Alan M. Quan,

Acting Forest Supervisor, Sierra National Forest.

Arthur L. Gaffery,

Forest Supervisor, Sequoia National Forest.

[FR Doc. 00–13797 Filed 6–1–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on June 21, 2000, at the Vahalla Building, Tallac Historic Site, Highway 89, South Lake Tahoe, CA. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held June 21, 2000, beginning at 9:00 a.m. and ending at 4:30 p.m.

ADDRESSES: The meeting will be held at Vahalla, Tallac Historic Site, Highway 89, South Lake Tahoe, CA.

FOR FURTHER INFORMATION CONTACT: Maribeth Gustafson or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Basin Executives Committees. Items to be covered on the agenda include: [1] Budget Subcommittee Report; [2] HUD Update; [3] Summer Event Update; [4] Washoe Cultural Center; [5] Public Comment; and [6] Field Trip to Review Federal Projects. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: May 26, 2000.

Maribeth Gustafson,

Acting Deputy Forest Supervisor.

[FR Doc. 00–13872 Filed 6–1–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA Forest Service .

ACTION: Action of Meeting.

SUMMARY: The first Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Salem, Oregon on Saturday, June 24, 2000. The meeting is scheduled to begin at 10:00 a.m., and will conclude at approximately 3:00 p.m. The meeting will be held in the Anderson Room A at the Salem Public Library; 585 Liberty St. SE; Salem, Oregon; (503) 588–6071.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (P.L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The

Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. The tentative agenda includes:

(1) Forest Supervisor's opening comments, and introduction of Council Members and Forest Service Staff, (2) determine future meeting location and times, (3) overview of Advisory Council Charter and determine terms of appointment; (4) overview of the Opal Creek Act, (5) overview of the Federal Advisory Committee Act (FACA); (6) overview of the roles of the Advisory Council, Designated Forest Official, and chairperson, (7) overview of the planning and decision making process, and critical benchmarks, and (8) identify preliminary issues within the Scenic Recreation Area

The Public Forum is tentatively scheduled to begin at 2:00 p.m. Time allotted for individual presentations will be limited to 3–4 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits for the Public Forum. Written comments may be submitted prior to the June meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: May 26, 2000.

Darrel Kenops,

Forest Supervisor.

[FR Doc. 00–13800 Filed 6–1–00; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List commodities to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: July 3, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot, (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 24, 2000, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (65 FR 15897) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Accordingly, the following commodities are hereby added to the Procurement List:

Tape, Electronic Data
7045–01–391–0947
7045–01–438–7086

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–13857 Filed 6–1–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on or Before: July 3, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3529.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement

List for production by the nonprofit agencies listed:

Administrative Services

Office of the Provost Marshal, Building 23020, Fort Hood, Texas
NPA: Physically Challenged Service Industries, Inc., San Antonio, Texas

Janitorial/Custodial

U.S. Army Space & Missile Defense Command, Arlington, Virginia
NPA: Fairfax Opportunities Unlimited, Inc., Alexandria, Virginia

Operation of Central Issue Facility

Building 9640, Fort Lewis, Washington
NPA: AtWork!, Issaquah, Washington

Operation of Self Service Supply Store

U.S. Army Space & Missile Defense Command, Arlington, Virginia
NPA: Fairfax Opportunities Unlimited, Inc., Alexandria, Virginia

Leon A. Wilson, Jr.,

Executive Director.

[FR Doc. 00–13858 Filed 6–1–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: June 2, 2000.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (1999), for administrative reviews of various antidumping and countervailing duty orders and findings with April anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than April 30, 2001.

	Period to be reviewed
Antidumping Duty Proceedings	
France: Sorbitol, A–427–001	4/1/99–3/31/00
Amylum France	
Amylum SPI Europe	
Greece: Electrolytic Manganese Dioxide, A–484–801	4/1/99–12/31/99
Tosoh Hellas A.I.C.	
Japan: Electrolytic Manganese Dioxide, A–588–806	4/1/99–12/31/99
Tosoh Corporation	
Taiwan: Static Random Access Memory Semiconductors, A–583–827	4/1/99–3/31/00
Integrated Silicon Solution, Inc./Integrated Silicon Solution (Taiwan), Inc.	
Galvantech, Inc., G-Link Technology Corporation, GSI Technology, Winbond Electronics Corporation	
The People's Republic of China: Brake Rotors * A–570–846	4/1/99–3/31/00
China National Automotive Industry Import & Export Co. (only as to merchandise produced by a firm other than Shandong Laizhou CAPCO Industry)	
Shandong Laizhou CAPCO Industry (only as to merchandise produced by a firm other than Shandong Laizhou CAPCO Industry)	
Shenyang Honbase Machinery Co., Ltd. (only as to merchandise produced by a firm other than either Shenyang Honbase Machinery Co., Ltd. or Laizhou Luyuan Automobile Fitting Co., Ltd.)	
Laizhou Luyuan Automobile Fitting Co., Ltd. (only as to merchandise produced by a firm other than either Shenyang Honbase Machinery Co., Ltd. or Laizhou Luyuan Automobile Fitting Co., Ltd.)	
China National Machinery and Equipment Import & Export (Xinjiang) Corporation, Ltd. (only as to merchandise produced by a firm other than Zibo Botai Manufacturing Co., Ltd.)	
The People's Republic of China: Coumarin * A–570–830	2/1/99–1/31/00
Netchem, Inc.	
Turkey: Certain Steel Concrete Reinforcing Bars A–489–807	4/1/99–3/31/00
Ekinciler Holding, A.S./Ekinciler Demir Celik A.S.	
Colakoglu Metalurji A.S./Colakoglu Dis Ticaret	
Icdas Celik Enerji Tersane ve Ulasim Sanayi, A.S	
Countervailing Duty Proceedings	
None.	
Suspension Agreements	
None.	

* If one of the named companies does not qualify for a separate rate, all other exporters of brake rotors from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

* If one of the named companies does not qualify for a separate rate, all other exporters of coumarin from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 USC 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: May 26, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 00–13883 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803, A–570–803]

Final Results of Full Sunset Reviews: Bars and Wedges and Hammers and Sledges From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Full Sunset Reviews: Bars and Wedges and Hammers and Sledges from the People's Republic of China.

SUMMARY: On January 24, 2000, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset reviews of antidumping duty orders on bars and wedges and hammers and sledges from the People's Republic of China (65 FR 3658) [1] pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We did not receive comments from either domestic or respondent interested parties. As a result of these reviews, the Department finds that revocation of these orders would be likely to lead to continuation or recurrence of dumping at the rates indicated in the *Final Results of Review* section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Carole Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–3217, respectively.

EFFECTIVE DATE: June 2, 2000.

Statute and Regulations

Unless otherwise indicated, all citations to 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 citations to the Department regulations are to 19 CFR part 351 (1999). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (Sunset Policy Bulletin).

Background

On January 24, 2000, the Department published a notice of preliminary results of the full sunset reviews of the antidumping duty orders on bars and wedges and hammers and sledges from the People's Republic of China (''PRC'') (65 FR 3658) [2] pursuant to section 751(c) of the Act. In our preliminary results, we determined that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. In addition, we preliminarily determined that the following weighted-average dumping margins are likely to prevail if the orders were revoked: PRC-wide rate of 31.76 percent ad valorem for bars/wedges and 45.42 percent ad valorem for hammers/sledges.

Neither domestic nor respondent interested parties submitted case briefs within the deadline specified in 19 CFR 351.309(c)(1)(i).

Scope of Review

The products covered by these orders include bars/wedges and hammers/sledges from the PRC. Although we provide the full scope language for the order on heavy forged hand tools (''HFHTs'') below, this determination applies only to the types of HFHTs which fall under the orders (A–570–803) on bars/wedges and hammers/sledges from the PRC. HFHTs include heads for drilling, hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wood splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to the required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing, and painting, and the insertion of handles for handled products. HFHTs are currently classifiable under the following Harmonized Tariff Schedule (''HTS'') item numbers 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kilograms (3.33 pounds) in weight and under, and hoes and rakes, and bars 18 inches in length and under. The HTS item numbers are provided for convenience and customs purposes only. The written description of the scope remains dispositive.

There has been one scope ruling with respect to the orders on HFHTs from the PRC in which the Forrest Tool Company's Max Multipurpose Tool was determined to be within the scope of the order (58 FR 59991, (November 12, 1993)).

Analysis of Comments Received

The Department did not receive a case brief from either domestic or respondent interested parties. We have not made any changes to our preliminary results of January 24, 2000 (65 FR 3658).[3]

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or

[1] See also Bars and Wedges and Hammers and Sledges from the People's Republic of China: Corrected Preliminary Results of Full Sunset Reviews, 65 FR 16167 (March 27, 2000).

[2] See footnote 1, supra.

[3] See footnote 1, supra.

recurrence of dumping at the rates listed below:

PRC wide	Margin (percent)
Bars/Wedges	31.76
Hammers/Sledges	45.42

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 26, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13880 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–846]

Brake Rotors From the People's Republic of China: Initiation of New Shipper Antidumping Duty Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce has received requests to conduct new shipper reviews of the antidumping duty order on brake rotors from the People's Republic of China. In accordance with 19 CFR 351.214(d), we are initiating reviews for Hongfa Machinery (Dalian) Co., Ltd. and Luoyang Haoxiang Brake Disc Factory. We are not initiating a review of Shenyang Jinde Machinery Co., Ltd.

EFFECTIVE DATE: June 2, 2000.

FOR FURTHER INFORMATION CONTACT: Terre Keaton or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–1280 or 482–1766, respectively.

Applicable Statute and Regulations

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, unless otherwise indicated, all citations to the Department of Commerce (''the Department'') regulations are to 19 CFR Part 351 (April 2000).

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests from Neotek Corporation (''Neotek''), Hongfa Machinery (Dalian) Co., Ltd. (''Hongfa''), and Luoyang Haoxiang Brake Disc Factory (''Luoyang''), in accordance with 19 CFR 351.214(c), for new shipper reviews of the antidumping duty order on brake rotors from the People's Republic of China (''PRC''), which has an April anniversary date. Neotek originally claimed that it was an exporter, as well as an importer. However, on May 17, 2000, Neotek clarified that it was not the PRC exporter/producer of the subject merchandise. Therefore, Neotek sought to amend its request by filing on behalf of its affiliated PRC producer/exporter of the subject merchandise, Shenyang Jinde Machinery Co., Ltd. (''Shenyang Jinde'').

As required by 19 CFR 351.214(b)(2)(i) and (iii)(A), each of the three companies identified above has certified that it did not export brake rotors to the United States during the period of investigation (''POI''), and that it has never been affiliated with any exporter or producer which did export brake rotors during the POI. Each company has further certified that its export activities are not controlled by the central government of the PRC, satisfying the requirements of 19 CFR 351.214(b)(2)(iii)(B). Pursuant to the Department's regulations at 19 CFR 351.214(b)(2)(iv), Hongfa, Luoyang and Shenyang Jinde each submitted documentation establishing the date on which it first shipped the subject merchandise to the United States, the volume of that first shipment, and the date of the first sale to an unaffiliated customer in the United States.

We are not initiating a review with respect to Shenyang Jinde for two reasons. First, no request was made during the relevant anniversary month for review of entries exported by Shenyang Jinde (*i.e.*, because Sheyang Jinde's request was untimely). Second, the date on which Shenyang Jinde reportedly first sold and shipped subject merchandise to the United States was after the end of the period for which brake rotor can be reviewed at this time (*i.e.,* the period April 1, 1999, through March 31, 2000).

In accordance with section 751(a)(2)(B) of the Act, as amended, and 19 CFR 351.214(b), and based on information on the record, we are initiating the new shipper reviews for Hongfa and Luoyang.

It is the Department's usual practice in cases involving non-market economies to require that a company seeking to establish eligibility for an antidumping duty rate separate from the country-wide rate provide *de jure* and *de facto* evidence of an absence of government control over the company's export activities. Accordingly we will issue a questionnaire to Hongfa and Luoyang (including a complete separate rates section), allowing approximately 37 days for response. If the response from each respondent provides sufficient indication that it is not subject to either *de jure* or *de facto* government control with respect to its exports of brake rotors, each review will proceed. If, on the other hand, a respondent does not demonstrate its eligibility for a separate rate, then it will be deemed to be affiliated with other companies that exported during the POI and that it did not establish entitlement to a separate rate, and the review of that respondent will be rescinded.

Initiation of Review

In accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1), we are initiating new shipper reviews of the antidumping duty order on brake rotors from the PRC. Therefore, we intend to issue the preliminary results of these reviews not later than 180 days after the date on which the reviews are initiated.

Antidumping duty proceeding	Period to be reviewed
PRC: Brake Rotors, A–570–846: Hongfa Machinery (Dalian) Co., Ltd., Luoyang Haoxiang Brake Disc Factory	04/01/99–03/31/00

We will instruct the Customs Service to allow, at the option of the importer, the posting, until the completion of the review, a bond or security in lieu of a cash deposit for each entry of the merchandise exported by the above-listed companies. This action is in accordance with 19 CFR 351.214(e).

Interested parties that need access to proprietary information in these new shipper reviews should submit

applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305 and 351.306.

This initiation and notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.214(d).

Dated: May 26, 2000.

Richard W. Moreland,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 00–13882 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–703]

Continuation of Antidumping Duty Order: Internal Combustion Forklift Trucks From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Continuation of Antidumping Duty Order: Internal Combustion Forklift Trucks from Japan.

SUMMARY: On August 5, 1999, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty order on internal combustion forklift trucks from Japan is likely to lead to continuation or recurrence of dumping (64 FR 42662). On April 10, 2000, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on internal combustion forklift trucks from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 19022). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing notice of the continuation of the antidumping duty order on internal combustion forklift trucks from Japan.

EFFECTIVE DATE: April 17, 2000.

FOR FURTHER INFORMATION CONTACT: Kathryn B. McCormick or James Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–1930 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1999, the Department initiated, and the Commission instituted, a sunset review (64 FR 15727 and 64 FR 15786, respectively) of the antidumping duty order on internal combustion forklift trucks from Japan, pursuant to section 751(c) of the Act. As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the order to be revoked (*see Final Results of Expedited Sunset Review: Internal Combustion Forklift Trucks from Japan,* August 5, 1999 (65 FR 42662)).

On April 10, 2000, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on internal combustion forklift trucks from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (*see Final Results of Expedited Sunset Review: Internal Combustion Forklift Trucks from Japan,* 65 FR 19022 (April 10, 2000) and USITC Publication 3287, Investigation No. 731–TA–377 (Review) (April 2000)).

Scope

The merchandise subject to this antidumping duty order is internal combustion industrial forklift trucks, with lifting capacity of 2,000 to 5,000 pounds, from Japan. The products covered are described as follows: assembled, not assembled, and less than complete, finished and not finished, operator-riding forklift trucks powered by gasoline, propane, or diesel fuel internal-combustion engines of off-the-highway types used in factories, warehouses, or transportation terminals for short-distance transport, towing, or handling of articles (*see Certain Internal Combustion Industrial Forklift Trucks from Japan; Final Results of Antidumping Duty Administrative Review,* 62 FR 5592 (February 6, 1997)). Less than complete forklift trucks are defined as imports which include a frame by itself or a frame assembled with one or more component parts. Component parts of the subject forklift trucks which are not assembled with a frame are not covered by this order. Imports of these products were previously classified under items numbers 692.4025, 692.4030 and 692.4070 of the Tariff Schedules of the United States Annotated; currently, they classifiable under Harmonized Tariff Schedule of the United States (''HTSUS'') item numbers 8427.20.00, 8427.90.00, and 8431.20.00. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description remains dispositive.

Determination

As a result of the determination by the Department and the Commission that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on internal combustion forklift trucks from Japan. The Department will instruct the U.S. Customs Service to continue to collect antidumping duty deposits at the rates in effect at the time of entry for all imports of subject merchandise.

Normally, the effective date of continuation of a finding, order, or suspension agreement will be the date of publication in the **Federal Register** of the Notice of Continuation. As provided in 19 CFR 351.218(f)(4), the Department normally will issue its determination to continue a finding, order, or suspended investigation not later than seven days after the date of publication in the **Federal Register** of the Commission's determination concluding the sunset review and, immediately thereafter, will publish its notice of continuation in the **Federal Register**. In the instant case, however, the Department's publication of the Notice of Continuation was delayed. Therefore, the Department has explicitly indicated that the effective date of continuation of this order is April 17, 2000, seven days after the date of publication in the **Federal Register** of the Commission's determination. As a result, pursuant to sections 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than March 2005.

Dated: May 26, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13879 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

November 1999 Sunset Review: Final Results and Revocation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Sunset Review and Revocation of Antidumping Duty Order: Professional Electric Cutting Tools from Japan (A–588–823).

SUMMARY: On November 2, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on professional electric cutting tools from Japan (64 FR 59160). Because the domestic interested parties have withdrawn, in full, their participation in the ongoing sunset review, the Department is revoking this order.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Martha Douthit or Lynn Barden, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3173, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department issued an antidumping duty order on professional electric cutting tools from Japan (58 FR 37461, July 12, 1993). On November 2, 1999, the Department initiated a sunset review of this order by publishing a notice of the initiation in the **Federal Register** (64 FR 59160). In addition, as a courtesy to interested parties, the Department sent letters, via certified and registered mail, to each party listed on the Department's most current service list for this proceeding to inform them of the automatic initiation of a sunset review of this order. In the sunset review of the antidumping duty order on professional electric cutting tools from Japan, we received a notice of intent to participate from Black & Decker (U.S.) Inc., and S–B Power Tool Company (collectively ''the domestic interested parties'') by the November 17, 1999, deadline. We also received a complete substantive response from the domestic interested parties within the applicable deadline (*see* section 351.218(d)(1)(i) of the Department's regulations).

On May 15, 2000, we received a notice from the domestic interested parties withdrawing in full their participation in the five-year (sunset) review of the antidumping duty order on professional electric cutting tools from Japan. The domestic interested parties further stated that they no longer have an interest in maintaining the antidumping duty order. As a result, the Department determined that no domestic party intends to participate in the sunset review and, on May 24, 2000, we notified the International Trade Commission that we intended to issue a final determination revoking this antidumping duty order.[1]

Determination To Revoke

Pursuant to section 751(c)(3)(A) of the Act and section 351.218(d)(1)(iii)(B)(3) of the Department's regulations, if no domestic interested party responds to the notice of initiation, the Department shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or order or terminating the suspended investigation. Because the domestic interested parties withdrew both their notice of intent to participate and their complete substantive response from the review process, and no other domestic interested party filed a substantive response (*see* sections 351.218(d)(1)(i) and 351.218(d)(3) of the Department's regulations), we are revoking this antidumping duty order.

Effective Date of Revocation and Termination

Pursuant to section 751(c)(6)(A)(iv) of the Act, the Department will instruct the United States Customs Service to terminate the suspension of liquidation of the merchandise subject to this order entered, or withdrawn from warehouse, on or after January 1, 2000. Entries of subject merchandise prior to the effective date of revocation will continue to be subject to suspension of liquidation and antidumping duty deposit requirements. The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

[1] See May 23, 2000, Letter from Jeffrey A. May, Director, Office of Policy, Import Administration, to Lynn Featherstone, Director, Office of Investigations, International Trade Commission, RE: Sunset Review of Antidumping Duty Order on Professional Electric Cutting Tools from Japan (A–588–823).

Dated: May 26, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13878 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–828; A–351–824]

Silicomanganese From the People's Republic of China and Brazil; Final Results of Antidumping Duty Expedited Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Antidumping Duty Expedited Sunset Reviews: Silicomanganese from the People's Republic of China and Brazil.

SUMMARY: On November 2, 1999, the Department of Commerce (''the Department'') published the notice of initiation of sunset reviews of the antidumping duty orders on silicomanganese from the People's Republic of China (''China'') and Brazil. The products covered by these orders are silicomanganese, which is sometimes called ferrosilicon manganese. On the basis of notices of intent to participate and adequate substantive comments filed on behalf of a domestic interested party and inadequate response (in these cases, no response) from respondent interested parties, we determined to conduct expedited reviews. Based on our analysis of the comments received, we find that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled ''Final Results of Reviews.''

EFFECTIVE DATE: June 2, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''). The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR

13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Background

On November 2, 1999, the Department published the notice of initiation of sunset reviews of the antidumping duty orders on silicomanganese from China and Brazil (64 FR 59160). We received a Notice of Intent to Participate on behalf of Eramet Marietta Inc. (''Eramet''), in each of the two sunset reviews, by November 17, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Eramet claimed interested-party status under section 771(9)(C) of the Act as a domestic producer of silicomanganese.[1]

We received a complete substantive response, in each of the two sunset reviews, on behalf of Eramet within the 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i). In its substantive response, Eramet indicated that Elkem, now Eramet, was the petitioner in the original investigation and participated actively in these proceedings since their inception. We did not receive a substantive response from any respondent interested party to these proceedings. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct expedited, 120-day, reviews of these orders.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.,* an order in effect on January 1, 1995). The reviews at issue concern transition orders within the meaning of section 751(c)(6)(C)(ii) of the Act. Therefore, the Department determined that the sunset reviews of the antidumping duty orders on silicomanganese from China and Brazil are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than May 30, 2000, in accordance with section 751(c)(5)(B) of the Act.[2]

Scope of Review

The merchandise covered by these antidumping duty orders is silicomanganese. Silicomanganese, which is sometimes called ferrosilicon manganese, is a ferroalloy composed principally of manganese, silicon, and iron, and normally containing much smaller proportions of minor elements, such as carbon, phosphorous, and sulfur. Silicomanganese generally contains by weight not less than four percent iron, more than 30 percent manganese, more than eight percent silicon, and not more than three percent phosphorous. All compositions, forms, and sizes of silicomanganese are included within the scope of these reviews, including silicomanganese slag, fines, and briquettes. Silicomanganese is used primarily in steel production as a source of both silicon and manganese. These reviews cover all silicomanganese, regardless of its tariff classification. Most silicomanganese is currently classifiable under subheading 7202.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Some silicomanganese may also currently be classifiable under HTSUS subheading 7202.99.5040. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these reviews remain dispositive.

These reviews cover all imports from all manufacturers and exporters of silicomanganese from China and Brazil.

Analysis of Comments Received

All issues raised in this case by parties to these sunset reviews are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Troy H. Cribb, Acting Assistant Secretary for Import Administration, dated May 30, 2000, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margin likely to prevail were the orders to be revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum which is on file in room B–099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at www.ita.doc.gov/import_admin/records/frn/. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Reviews

We determine that revocation of the antidumping duty orders on silicomanganese from China and Brazil would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

CHINA

Manufacturer/exporter	Margin (percent)
All Manufacturers/Producers/Exporters	150.00

BRAZIL

Manufacturer/exporter	Margin (percent)
Companhia Paulista de Ferro-Ligas and Sibra Electro-Siderurgia Brasileria S.A.	64.93
All Others	17.60

This notice also serves as the only reminder to parties subject to administrative protective orders (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these determinations and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: May 17, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–13881 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 053000A]

Submission for OMB Review; Proposed Information Collection; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of

[1] Eramet asserts that on June 30, 1999, Elkem Metals Company (''Elkem''), the original petitioner, sold its silicomanganese operations to Eramet SA. As a result, Eramet, a subsidiary of Eramet SA, now owns these operations.

[2] See Extension of Time Limit for Final Results of Five-Year Reviews, 65 FR 11761 (March 6, 2000).

information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Reporting Requirements for Commercial Fisheries Authorization under Section 118 of the Marine Mammal Protection Act.

Agency Form Number(s): None.

OMB Approval Number: 0648–0292.

Type of Request: Regular submission.

Burden Hours: 1,500.

Number of Respondents: 10,000.

Average Hours Per Response: 9 minutes.

Needs and Uses: Under provisions of the Marine Mammal Protection Act (MMPA), owners or operators of commercial fishing vessels must report all incidental mortality or serious injury of marine mammals in the course of commercial fishing operations.

Affected Public: Business or other for-profit institutions, and individuals.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 6066, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 25, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–13852 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 053000B]

Submission for OMB Review; Proposed Information Collection; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Atlantic Highly Migratory Species Vessel Permits.

Agency Form Number(s): None.

OMB Approval Number: 0648–0327.

Type of Request: Regular submission.

Burden Hours: 4,700.

Number of Respondents: 25,000.

Average Hours Per Response: 30 minutes for initial applications, 6 minutes for renewal applications.

Needs and Uses: Persons wishing to participate in the Federal Atlantic Highly Migratory Species Fishery (Atlantic tunas, sharks, swordfish, and billfish) must apply for an annual fishing permit. The information in the applications is necessary for managing the fishery and complying with international obligations.

Affected Public: Business or other for-profit institutions, and, individuals.

Frequency: Annual.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 6066, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at lengelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: May 26, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–13853 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 000526158–0158–01]

RIN 0648–XA52

Guidelines for Research, Exploration and Salvage of RMS Titanic

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Proposed guidelines; notice of hearing; request for comments.

SUMMARY: These proposed guidelines have been developed for future research on, exploration of, and if appropriate, salvage of RMS Titanic. As mandated by the RMS Titanic Maritime Memorial Act of 1986 (Act), the proposed guidelines were developed in consultation with the United Kingdom, France, Canada and others. The broad and diverse public interest in RMS Titanic was also considered in developing the proposed guidelines. While the proposed guidelines set forth a preferred policy of in situ preservation of RMS Titanic, they also set forth the parameters for the research, recovery and conservation of RMS Titanic artifacts for the benefit of the public. Comments are requested on these proposed guidelines. NOAA also specifically requests comments from interested members of academia and research institutions.

DATES: Comments on this proposal must be received at the appropriate address (See **ADDRESSES**) by 5:00 P.M. on July 3, 2000; public hearing, June 15, 2000, 9:30 A.M.; requests to present oral testimony must be received on or before June 13, 2000.

ADDRESSES: Comments on these proposed guidelines and requests to present oral testimony at the hearing should be sent to NOAA, 1305 East-West Highway, SSMC IV, Suite 11515, Silver Spring, MD 20910; attention Titanic guidelines comments. Comments may also be sent via a facsimile (fax) to (301) 713–0404. The hearing will be held in Room 4830 of the Department of Commerce Hoover Building, 1401 Constitution Avenue, N.W., Washington D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Craig McLean, (301) 713–3125 ext. 151, or Ole Varmer, (301) 713–2967 ext 211.

SUPPLEMENTARY INFORMATION: These proposed guidelines are issued under the authority of the RMS Titanic Maritime Memorial Act of 1986 (Act). Section 5(a) of the Act directs the National Oceanic and Atmospheric Administration (NOAA) to enter into consultations with the United Kingdom, France, Canada and others to develop international guidelines for research on, exploration of, and if appropriate, salvage of RMS Titanic. The guidelines are to (1) be consistent with the national and international scientific, cultural, and historical significance of RMS Titanic and the purposes of the Act, and (2) promote the safety of individuals involved in such operations.

The purposes of the Act are to: (1) Encourage international efforts to designate RMS Titanic as an international maritime memorial to those who lost their lives aboard the ship in 1912; (2) direct the United States to enter into negotiations with other

interested nations to establish an international agreement that provides for designation of RMS Titanic as an international maritime memorial, and protects the scientific, cultural, and historical significance of RMS Titanic; (3) encourage, in those negotiations or in other fora, the development and implementation of international guidelines for conducting research on, exploration of, and if appropriate, salvage of RMS Titanic; and (4) express the sense of the United States Congress that, pending such international agreement or guidelines, no person should physically alter, disturb, or salvage RMS Titanic.

The Act directs NOAA to consult with the Secretary of State (DOS) and promote full participation by other interested Federal agencies, academic and research institutions, and members of the public with respect to how exploration and research should be conducted, and whether and under what conditions salvage of RMS Titanic should occur. NOAA and DOS have consulted with representatives of these interested groups in the course of developing these proposed guidelines. Public comment on the proposed guidelines should prove helpful in developing the final guidelines.

Section 6 of the Act directs DOS to enter into negotiations with the United Kingdom, France, Canada and other nations to develop an international agreement that provides for: (1) Designation of RMS Titanic as an international maritime memorial; and (2) research on, exploration of, and if appropriate, salvage of RMS Titanic consistent with the international guidelines developed pursuant to the purposes of the Act. The proposed guidelines are based primarily on the rules annexed to the January 5, 2000 draft international agreement that has been negotiated by the U.S., Canada, France and the United Kingdom.

Preparation of the Guidelines

The primary objective in developing the proposed guidelines has been to further the ongoing efforts to protect RMS Titanic as a maritime memorial and as an internationally significant resource of science, culture, and history. More than 1500 men, women and children lost their lives when RMS Titanic sank on April 15, 1912 and many of those were trapped in the ship's hull. This tragic loss of life and the encasement of the remains of many passengers and crew in RMS Titanic have caused many people around the world, including descendants of RMS Titanic's passengers and crew to view the shipwreck as a grave site. In addition, RMS Titanic is of great interest to scientists, archaeologists, historians, naval architects, educators, lawyers, salvors, the media, and the public. Accordingly, representatives of many diverse groups were consulted and their interests were considered in preparing these proposed guidelines.

The wreckage of RMS Titanic was discovered on September 1, 1985, during a joint French/U.S. expedition lead by Jean Luc Michel and Dr. Robert Ballard. Shortly thereafter, Dr. Ballard testified before Congress to encourage the enactment of legislation to designate RMS Titanic as a maritime memorial. On his second expedition in July 1986, Dr. Ballard placed a plaque on RMS Titanic providing notice to the world that it was discovered by a U.S./French expedition and that it should be left undisturbed as a memorial. Meanwhile, the U.S. Congress enacted and the President signed into law the RMS Titanic Maritime Memorial Act of 1986 to protect this unique shipwreck from potential harm caused by misguided salvage. To this end, the Act mandates that NOAA develop these guidelines.

In 1986, DOS contacted the referenced nations regarding the development of international guidelines and an international agreement. Despite the continued international interest in RMS Titanic, other countries exhibited little interest in developing international guidelines or an agreement as envisioned by the U.S. Congress. In 1995, the United Kingdom, France, Canada and the U.S initiated talks on negotiating guidelines and an agreement. The initiation of international discussion on the guidelines and agreement, at least in part, was based on information about the commercial salvage of RMS Titanic and the exhibition of recovered artifacts in the British National Maritime Museum.

In February 1995, the British National Maritime Museum sponsored a conference of experts in the fields of law, archaeology, history, science, and salvage in Greenwich, England to discuss the protection and management of RMS Titanic and other historic shipwrecks. Participants presented papers and discussions were held regarding the differences in approach between archaeologists and salvors, the Law of the Sea, the draft convention on underwater cultural heritage (UCH) prepared by the International Law Association, and the practices of various nations with respect to the protection and management of UCH.

In January 1996, the British National Maritime Museum held a second conference at the International Maritime Organization in London, England. The conference resulted in a statement of principle, called the Greenwich Declaration, concerning the management of UCH. The significance of UCH to humankind was recognized, as was the threat of its irrevocable loss unless its disturbance or removal is conducted in accordance with best archaeological practices and under the supervision of national authorities having jurisdiction over such activities. While Titanic was an impetus for the conferences, the focus was to provide protection for all UCH. The preparation of an international instrument by UNESCO for the protection of UCH was discussed as was the International Council of Monuments and Sites (ICOMOS) International Charter on the Protection and Management of Underwater Cultural Heritage. At both conferences there were also informal discussions on the international agreement and guidelines for research on, exploration of, and if determined appropriate, salvage of RMS Titanic.

Delegations representing the Governments of Canada, France, the United Kingdom of Great Britain and Northern Ireland, and the U.S. conducted negotiations between 1997 and 2000 in London and by video-conference to develop the text of an international agreement to protect RMS Titanic. Negotiations were held on September 29 and December 1, 1997; February 12, 1998; January 12, June 18, and December 2, 1999; and January 5, 2000. During the negotiation process, various experts in law, science, history, archaeology and salvage, including representatives of RMS Titanic Inc., were periodically consulted. While the Act directed the U.S. to develop guidelines and an international agreement, early in the process, there was a consensus that the guidelines should be incorporated into the international agreement. NOAA then drafted these proposed guidelines based primarily on the January 5 draft of the international agreement, particularly the annexed rules for activities aimed at RMS Titanic.

These proposed guidelines are based primarily on the rules annexed to the January 5, 2000 draft agreement resulting from the above-referenced negotiations. They are also based on widely accepted international and domestic professional archaeological standards, including the ICOMOS International Charter on the Protection and Management of Underwater Cultural Heritage, the UNESCO draft rules annexed to the draft Convention on the Protection of the Underwater Cultural Heritage, the Secretary of the

Interior's Standards and Guidelines for Archeology and Historic Preservation, the National Park Service's Abandoned Shipwreck Act Guidelines, and NOAA's guidelines for archaeological research and recovery.

Scope and Definitions

These proposed guidelines are intended to guide the planning and conduct of activities aimed at RMS Titanic, including exploration, research, and if appropriate, salvage. As guidelines, they are advisory in nature. They are not enforceable by NOAA unless and until there is authorizing legislation enacted by Congress. As RMS Titanic is a British flagged vessel that lies well outside of the U.S. territorial sea and contiguous zone, the U.S. is not asserting jurisdiction over RMS Titanic in proposing these guidelines or otherwise. However, Congress has the authority to enact legislation regulating activities aimed at RMS Titanic. The U.S. enforcement regime in such legislation could rely on U.S. jurisdiction over its nationals, U.S. flagged vessels, port state jurisdiction, in personam jurisdiction and other jurisdiction consistent with international law.

For the purposes of the proposed guidelines, ''RMS Titanic'' means the shipwrecked vessel RMS Titanic; ''Artifacts'' means the cargo of RMS Titanic and other contents, including those associated objects that are scattered in its vicinity and any portion of the hull; ''Project'' means all activities aimed at RMS Titanic and/or its artifacts carried out in accordance with these guidelines; ''Collection'' means artifacts and records pertaining to a project.

Recent Salvage History of RMS Titanic

In 1987, Titanic Ventures, Inc. and the Institut Francais de Recherche pour l'Exploration de Mers (IFREMER) conducted a salvage expedition in which some 1,800 artifacts were recovered from the wreck site. In 1992, Titanic Ventures, Inc. filed an in rem action in the U.S. District Court for the Eastern District of Virginia. In 1993, RMS Titanic Inc. (RMST) acquired all of the assets and liabilities of Titanic Ventures, Inc. and conducted a second expedition with IFREMER. RMST and IFREMER conducted a third expedition in 1994 and a fourth expedition in 1998. Some 5,000 artifacts have been recovered to date.

Sale of Artifacts

The preferred policy is to preserve the artifacts at the site of RMS Titanic. If it is determined to be in the public interest to recover artifacts, the proposed guidelines provide that all artifacts recovered from RMS Titanic should be kept together and intact as project collections. Although not expressly delineated, following these guidelines would mean that individual artifacts would not be sold. However, this would not necessarily preclude the sale or transfer of an entire collection to a museum or other qualified institution, provided the collection is kept together and maintained for the benefit of the public consistent with these guidelines and the Act.

There are differences of opinion among professional scientists and others on whether the coal that was used to power RMS Titanic is a natural resource or a cultural artifact. Even if coal were determined not to come within the meaning of an artifact, such coal may still be useful for archaeological and scientific research. On the other hand, if the coal were determined to come within the meaning of an artifact, and, thus, covered by these guidelines, there are differences of opinion among professional scientists and others on whether all of the coal should be curated in perpetuity, or if it would be appropriate to keep only a representative sample following scientific analysis and study of all the coal. Current professional curation practices and standards provide museums or administrators with sufficient discretionary authority to include or exclude objects from the collection or to subsequently allow some of the objects to be deaccessioned from the collection. Deaccessioned objects can be disposed of in accordance with the museum's or administrator's deaccessioning policies and may include transfer to another institution, deposit as waste, or sale.

In Situ Preservation and Salvage

The proposed guidelines provide that in situ (or in-place) preservation is the preferred policy approach for memorializing RMS Titanic. This approach is consistent with widely accepted international and domestic professional archaeological standards and embodies the broader public interest in conservation of RMS Titanic. Under this policy, non-intrusive research and exploration of RMS Titanic is encouraged in order to protect the wrecksite for future research and access. The public interest in RMS Titanic is diverse. Congress and others view the site as a maritime memorial, a grave site and an underwater museum and laboratory. The hull and cargo are like a time capsule of that tragic event. Because intrusive activities may damage or destroy RMS Titanic, these proposed guidelines support the presumption that such activities should not be conducted unless justified by scientific, cultural or educational interests. This in situ preservation policy is compatible with non-destructive uses of the site, such as non-intrusive research, education, public viewing and even commercial use. This policy is also consistent with the treatment of RMS Titanic as the final resting place for many people, and the conservation of the surrounding natural environment.

The public interest in the recovery of shipwrecks and cargo under salvage law, in general, should now be reconciled with the public interest in the in situ preservation of RMS Titanic. However, in situ preservation does not preclude intrusive research, exploration or appropriate salvage in certain circumstances. Consistent with a precautionary management approach, once there is scientific, cultural or educational justification, then research, exploration or appropriate salvage activities could be permitted. However, to fulfill the public interest in RMS Titanic under salvage law and the Act, such salvage should only be conducted in accordance with the scientific and conservation standards set forth in the proposed guidelines.

Professional Scientific Approach

As noted above, these proposed guidelines are based on widely accepted international and domestic standards for professional scientific research. Most of those standards have already been subjected to professional scrutiny and public processes. In this case, those standards were revisited and specifically tailored for research, exploration and salvage of RMS Titanic and its artifacts. Among other interested parties, RMST and IFREMER were consulted in developing these proposed guidelines because they have had the most experience working at the wreck site.

Miscellaneous Requirements

Executive Order 12866

In deciding whether and how to regulate, federal agencies assess the costs and benefits of proposed regulations upon society, including individuals and business. While the proposed guidelines are non-binding, NOAA has considered the costs and benefits upon society arising from compliance with them. For those already applying the professional scientific approach to research, recovery and conservation of artifacts, NOAA does not expect that there will be any

additional significant costs from complying with these proposed guidelines. However, for those explorers or salvors who do not as a matter of practice follow professional scientific standards and policies, then compliance with these proposed guidelines may result in additional costs. These costs could result in the expenditure of tens of thousands of dollars. Since an RMS Titanic salvage expedition can costs hundreds of thousands of dollars per day for ships, equipment and personnel, the additional costs for following the proposed guidelines are not expected to be significant. Although compliance with the guidelines may result in additional costs in the careful planning of the expedition, the application of the scientific approach generally results in a more efficient execution of the project and thus may save money in the end. The costs for compliance with the guidelines should also be weighed against the potential benefits to the society from protecting RMS Titanic and preserving the artifacts and research for present and future generations. Adherence to proper scientific methodology and approach is in the interest of the public because it preserves the integrity of the site, the artifacts recovered and the story contained at the wrecksite. Compliance with the proposed guidelines may also be viewed as an investment by those that have not followed the scientific standards in the past. The proper recording of information and conservation of artifacts increases the value of the collection to the salvors, researchers, museums and the general public. As a result, the additional costs involved in following the scientific approach are often offset by increased revenue from documentaries, films, and museum receipts. RMST has reported millions of dollars in annual revenues from the display of artifacts in museums. Some argue that keeping the collection together and intact is not as profitable as selling individual artifacts. However, it is difficult, if not impossible, to quantify the cost to society if the artifacts are sold such that the collection is no longer kept together for public use for research, education and viewing by the general public.

Executive Order 12630

Under this Order, federal agencies assess the takings implications of proposed policies and actions on private property protected by the Fifth Amendment. The goal is to better inform the agency decision makers about the potential agency activities. To the extent permitted by law, consistent with their statutory obligations, agencies are then better informed on how to minimize the impacts of such activities on constitutionally protected property rights. As these guidelines are non-binding in nature, they should not raise any regulatory takings implications under the Just Compensation Clause of the Fifth Amendment to the U.S. Constitution.

Executive Order 12114

The purpose of this Order is to enable responsible officials to be informed of pertinent environmental considerations and to take such consideration into account in agency decision making with regard to major federal actions significantly affecting the environment outside the United States, its territories and possessions. While based on independent authority, this Order furthers the National Environmental Policy Act (''NEPA'') and other laws consistent with the foreign policy and national security policy of the United States. The proposed guidelines are not a ''major federal action'' as defined in DOC DAO 216–12 (Environmental Effects Abroad of Major Federal Actions). Since they are advisory in nature, they are not a ''major federal action''. In addition, compliance with the proposed guidelines would not have any significant adverse effects on the environment. However, compliance with the proposed guidelines would further the purposes of NEPA and other laws. Conservation of the environment was carefully considered in developing the proposed guidelines. Compliance with the proposed guidelines would preserve RMS Titanic and would correspondingly further preservation of the surrounding natural environment.

A primary objective of the proposed guidelines is in situ preservation of RMS Titanic and its surrounding natural environment. In addition, activities that would harm or destroy RMS Titanic would be discouraged by the proposed guidelines. Since intrusive archaeological research, recovery or salvage can often harm the natural environment, compliance with the in-situ preservation principles would correspondingly preserve the surrounding natural environment. The proposed guidelines encourage non-destructive and non-intrusive research. Since non-intrusive research inherently avoids destruction of the surrounding natural environment, this proposed guideline would also protect the natural environment. In the event that activities to be conducted may harm RMS Titanic and the surrounding natural environment, the proposed guidelines provide for an assessment of environmental consequences. Thus, the proposed guidelines would further the purposes of NEPA, other laws and Executive Order 12114 by conserving RMS Titanic and the surrounding natural environment.

National Historic Preservation Act

Under this law, agencies are to take into account the effect of any federal undertaking outside the United States which may directly and adversely affect a historic property. Compliance with the proposed guidelines will not adversely affect RMS Titanic. To the contrary, compliance with the proposed guidelines will fulfill the public's interest in conserving the national and international historical significance of RMS Titanic. The Advisory Council on Historic Preservation was consulted in developing the proposed guidelines. NOAA plans to consult further with the Advisory Council prior to issuing any final guidelines.

Paperwork Reduction Act (PRA)

These guidelines contain voluntary collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the PRA. These requirements have been submitted to OMB for approval. Public reporting burden for these collections of information is estimated to average 12 hours to submit a project design and 12 hours to submit a report. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; 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, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NOAA, 1305 East-West Highway, SSMC IV, Suite 11515, Silver Spring, MD 20910 (attention Titanic guidelines comments); and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Wash., DC 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply

with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. James Baker,

Under Secretary for Oceans and Atmosphere and Administrator.

Guidelines for Research, Recovery and Salvage of RMS Titanic

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Authority: 16 U.S.C. 450rr to 450rr–6.

Introduction: It is the sense of Congress that research and limited exploration activities concerning the RMS Titanic should continue for the purpose of enhancing public knowledge of its scientific, cultural, and historical significance, Provided, That, pending the adoption of the international agreement or implementation of international guidelines, no person should conduct any such research or exploration activity which would physically alter, disturb, or salvage the RMS Titanic.

I. General Principles

1. The preferred policy for the preservation of RMS Titanic and its artifacts is in situ preservation. Recovery or excavation aimed at RMS Titanic and/or its artifacts should be granted only when justified by educational, scientific, or cultural interests, including the need to protect the integrity of RMS Titanic and/or its artifacts from a significant threat. All artifacts recovered from RMS Titanic shall be conserved and curated consistent with these guidelines and kept together and intact as project collections.

2. Activities shall avoid disturbance of human remains. In particular, entry into the hull sections of RMS Titanic shall be avoided so that they, other artifacts and any human remains are not disturbed.

3. Activities utilizing non-destructive techniques and non-intrusive surveys and sampling shall be preferred to those involving recovery or excavation aimed at RMS Titanic and/or its artifacts.

4. Activities shall have the minimum adverse impact on RMS Titanic and its artifacts.

5. Activities shall ensure proper recording and dissemination to the public of historical, cultural and archaeological information.

II. Project Design

6. Activities shall be the object of a project design that shall include:

(a) The objectives of the project;

(b) A general description of the methodology and techniques to be employed;

(c) A description of the anticipated funding;

(d) A provisional timetable for completion of the project;

(e) The composition, qualifications and responsibilities of the anticipated team;

(f) The proposal for or results of all preliminary work;

(g) If applicable, plans for post-fieldwork;

(h) If applicable, a conservation and curation plan;

(i) A documentation program;

(j) A safety policy;

(k) If applicable, arrangements for collaboration with museums and other institutions;

(l) Report preparation, contents, and dissemination;

(m) If applicable, the anticipated disposition of archives, including artifacts; and (n) if applicable, a program for publication.

7. If unexpected discoveries are made or circumstances change, the project design shall be reviewed and amended.

8. Each project shall be carried out in accordance with its project design.

III. Funding

9. Projects shall be designed to ensure adequate funding in advance to complete all stages of the project including the curation, conservation and documentation of any recovered artifacts, and the preparation and dissemination of the report.

10. The project design shall include contingency plans that will ensure conservation of recovered artifacts and supporting documentation in the event of any interruption of anticipated funding.

11. The project design shall demonstrate an ability to fund the project through completion.

12. Project funding shall not require the sale of artifacts or other material recovered or the use of any strategy that will cause artifacts and supporting documentation to be irretrievably dispersed.

IV. Duration—Timetable

13. Adequate time shall be assured in advance to complete all stages of the project, including the curation, conservation and documentation of any recovered artifacts, and the preparation and dissemination of the report.

14. The project design shall include contingency plans that will ensure conservation of artifacts and supporting documentation in the event of any interruption in the anticipated timetable.

V. Objectives, Methodology and Techniques

15. The project design shall include the objectives, proposed methodology and techniques.

16. The methodology shall comply with the project objectives and with the general principles in section I.

VI. Professional Qualifications

17. Projects shall only be undertaken under the guidance of and in the presence of qualified technical and/or professional experts with experience appropriate to the objectives. The project shall not commence until the identity, qualifications, experience and responsibilities of the team members have been notified to and approved by the relevant national authorities.

18. All persons on the project team shall be:

(a) qualified and have demonstrated experience appropriate to their project roles; and

(b) fully briefed and understand the work required.

VII. Preliminary Work

19. The project design shall include:

(a) An assessment that evaluates the vulnerability of RMS Titanic and artifacts to damage by the proposed activities; and

(b) A determination that the benefits of the project outweigh the potential risk of damage.

20. The assessment shall also include background studies and relevant bibliography of available historical and archaeological evidence, and environmental consequences of the proposed project for the long-term stability of RMS Titanic and artifacts.

VIII. Documentation

21. Projects shall be thoroughly documented in accordance with professional archaeological standards current at the time the project is to be undertaken.

22. Documentation shall include, at a minimum, the systematic and complete recording of the provenance of artifacts moved or removed in the course of the

project, field notes, plans, sections, photographs and recording in other media.

IX. Artifact Conservation

23. The project design shall include a conservation plan that provides for treatment of the artifacts in transit and in the long term.

24. Conservation shall be carried out in accordance with professional standards current at the time the project is to be undertaken.

X. Safety

25. All persons on the team shall work according to a safety policy prepared according to professional requirements and set out in the project design.

XI. Reporting

26. Interim reports shall be made available according to a timetable set out in the project design, and provided to relevant national authorities.

27. Reports shall include:

(a) An account of the objectives;

(b) An account of the methodology and techniques employed;

(c) An account of the results achieved; and

(d) Recommendations concerning conservation of any artifacts removed during the course of the project.

XII. Curation of Project Collection

28. The project collection, including any artifacts recovered during the course of the project and a copy of all supporting documentation, shall be kept together and intact in a manner that provides for public access, curation and its availability for educational, scientific, cultural and other public purposes.

29. Arrangements for curation of the project collection shall be agreed before any project commences, and shall be set out in the project design.

30. The project collection shall be curated according to professional standards current at the time the project is to be undertaken.

XIII. Dissemination

31. Projects shall provide for public education and popular presentation of the results.

32. A final synthesis shall be provided to relevant national authorities and made available to the public as soon as possible, having regard to the complexity of the project.

[FR Doc. 00–13791 Filed 6–1–00; 8:45 am]

BILLING CODE 3510–08–U

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m.–4:00 p.m., Tuesday, June 27, 2000.

PLACE: 1155 21st St., NW., Washington, DC, Lobby Level Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Public Hearing on Regulatory Framework/ Trading Facilities.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–14033 Filed 5–31–00; 3:47 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m.–4:00 p.m., Wednesday, June 28, 2000.

PLACE: 1155 21st St., NW., Washington, DC, Lobby Level Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Public Hearing on Regulatory Framework/ Intermediaries and Clearing.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–14034 Filed 5–31–00; 3:47 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m.–4:00 p.m., Thursday, June 29, 2000.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 00–14035 Filed 5–31–00; 3:47 pm]

BILLING CODE 6351–01–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: 10 June 2000 (900 a.m. to 1200 p.m.).

ADDRESSES: Defense Intelligence Agency, 7400 Defense Pentagon, Washington, DC 20301.

DATES: 19 June 2000 (1:00 pm to 5:00).

ADDRESSES: Defense Advanced Research Projects Agency (DARPA), 3701 North Fairfax Drive, Arlington, VA 22203.

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)(l), 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: May 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–13762 Filed 6–1–00; 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: 19 June 2000 (900 a.m. to 1400 p.m.).

ADDRESSES: Thomas, Ramo, Wooldridge (TRW), 12900 Federal Systems Park Drive, Fairfax, VA 22033.

FOR FURTHER INFORMATION CONTACT: Maj Donald R. Culp, Jr., USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, DC 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(l), 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: May 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 00–13763 Filed 6–1–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Change in Meeting Date of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a change to a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, June 20, 2000.

ADDRESSES: The meeting will be held Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: May 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–13764 Filed 6–1–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices.

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Friday, June 7, 2000.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc. 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDE&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. this microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended (5 U.S.C. App. 10(d)(1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1994), and that accordingly, this meeting will be closed to the public.

Dated: May 26, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–13765 Filed 6–1–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 3, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New

Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 26, 2000.

William Burrow,

Leader Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Extension.

Title: Fulbright-Hays Seminars Abroad Program.

Frequency: One time.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 500.

Burden Hours: 2,000.

Abstract: Forms to be used by applicants under the Fulbright-Hays Seminars Abroad Program which provides opportunities for U.S. educators to participate in short-term study seminars abroad in the subject areas of the social sciences, social studies and the humanities.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request. Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–13766 Filed 6–1–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 3, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 26, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Revision.

Title: Comprehensive Program Annual Performance Report.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 140.

Burden Hours: 2,800.

Abstract: The Comprehensive Program is a discretionary grant program that makes competitive awards to support reform and innovations through projects that improve educational practice at the postsecndary level. Grantees annually submit a performance report to demonstrate that substantial progress is being made toward meeting the objectives of their projects. Reporting requirements are currently based on broad criteria from the Education Department General Administrative Regulations (EDGAR). This request is to use a reporting format that elicits needed information on program-specific outcomes within the annual report without posing additional burden to the grantee.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–13767 Filed 6–1–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 3, 2000.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: May 26, 2000.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: The Program for North American Mobility in Higher Education.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 20.

Burden Hours: 400.

Abstract: The Program for North American Mobility In Higher Education is a competition grant program which supports institutional cooperation and student exchange among the countries of the U.S., Mexico, and Canada. Funding supports the participation of U.S. institutions and students in trilateral consortia of institutions of higher education. Funding will be multi-year, with projects lasting up to four years.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at (202) 708–9266 or via his internet address Joe_Schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–13768 Filed 6–1–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.235K]

Special Demonstration Programs; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2000

Purpose of Program: To provide financial assistance to support projects or programs that expand and improve the provision of rehabilitation and other services for individuals with disabilities, including technical assistance that meets the needs of underserved populations.

Eligible Applicants: State vocational rehabilitation agencies; community rehabilitation programs; Indian tribes or tribal organizations; and public or nonprofit agencies or organizations, including institutions of higher education.

Deadline for Transmittal of Applications: August 1, 2000.

Deadline for Intergovernmental Review: September 30, 2000.

Applications Available: June 2, 2000.

Available Funds: $500,000.

Estimated Range of Award: $400,000 to $500,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months. The Assistant Secretary believes that a period of at least 36 months is necessary to accomplish the project objectives. The Assistant Secretary will assess, during the third year of the project period, whether there is a continuing need for the project and whether to provide funding beyond 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, 86, 97, 98, and 99.

Priority

Background

According to section 21 of the Rehabilitation Act of 1973, as amended (Act), Native Americans have a rate of work-related disability that is about one and one-half times that of the general population. Patterns of inequitable treatment of minorities, including Native Americans, have been documented at all stages of the vocational rehabilitation process.

Priority

Under 34 CFR 75.105(c)(3) and section 303(b)(4)(C) and (5)(B)(vi) of the Act, the Assistant Secretary gives an absolute preference to applications that meet the following priority. The Assistant Secretary funds only an application that meets this absolute priority.

A project must create a National Technical Assistance Center that would provide technical assistance to tribes and tribal agencies, State vocational rehabilitation agencies, and other service agencies to increase employment opportunities and vocational outcomes for Native Americans with disabilities.

Allowable Activities

Activities that may be supported under this competition include, but are not limited to—

- Assisting tribes and other agencies to conduct market analyses and providing information on self-employment and business ownership for Native Americans with disabilities;
- Providing culturally relevant training to tribes on the provisions of the Americans with Disabilities Act;
- Identifying solutions related to the lack of infrastructure when developing employment opportunities for Native Americans with disabilities;
- Assisting tribes and other agencies to better understand other issues affecting Native Americans with disabilities, including, but not limited to—housing, transportation, current legislative initiatives such as the Workforce Investment Act and the Workforce Investment Improvement Act, the Individuals with Disabilities Education Act, Disability and Business Technical Assistance Centers, and relevant higher education initiatives, coordination of services available through the Bureau of Indian Affairs and the Indian Health Service, long-term care, independent living, and assistive technology.

Selection Criteria: In evaluating an application for a new grant under this competition, the Secretary uses selection criteria chosen from the general selection criteria in 34 CFR 75.210 of EDGAR. The selection criteria to be used for this competition will be provided in the application package for this competition.

For Applications Contact: Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. FAX: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734. You may also contact ED Pubs via its Web site (http://www.ed.gov/pubs/edpubs.html) or its E-mail address (ed pubs@inet.ed.gov). If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.235K.

Individuals with disabilities may obtain a copy of the application package in an alternate format by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 3317, Switzer Building, Washington, DC 20202–2550. Telephone: (202) 205–8351. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Services (FIRS) at 1–800–877–8339. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

For Further Information Contact: Thomas E. Finch, U.S. Department of Education, 400 Maryland Avenue, SW., room 3314, Switzer Building, Washington, DC. 20202–2650. Telephone: (202) 205–8292. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.html
http://www.ed.gov/news.html

To use the PDF you must have the Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 29 U.S.C. 773(b).

Dated: May 26, 2000.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 00–13682 Filed 6–1–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–298–000]

Kern River Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 26, 2000.

Take notice that on May 24, 2000, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Pro Forma Sheet No. 5
Pro Forma Sheet No. 6
First Revised Sheet No. 15
First Revised Sheet No. 71
First Revised Sheet No. 171
Original Sheet No. 186
Sheet Nos. 187–299 (Reserved)
Original Sheet Nos. 423–426
Sheet Nos. 427–499 (Reserved)
First Revised Sheet No. 501
First Revised Sheet No. 601
First Revised Sheet No. 701
First Revised Sheet No. 901

Kern River states that the purpose of this filing is to establish provisions in Kern River's tariff that will enable Kern River to offer transportation service under its existing firm rate schedules using different rate options that coincide with the length of contract terms and investment recovery periods underlying the capacity commitments of different groups of shippers. These proposed extended-term rates will be available under certain conditions to any firm shipper that extends the term of an existing transportation service agreement.

Kern River states that a copy of this filing has been served upon Kern River's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13778 Filed 6–1–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–14–007]

Midwestern Gas Transmission Company; Notice of Negotiated Rate Filing

May 26, 2000.

Take notice that on May 18, 2000, Midwestern Gas Transmission Company (Midwestern), tendered for filing and acceptance a copy of an executed firm gas transportation service agreement pursuant to Midwestern's Rate Schedule FT–A between Midwestern and Dynegy Marketing and Trade (Dynegy) (Contract No. 33395); and a copy of an April 18, 2000 Firm Transportation Negotiated Rate Letter Agreement entered into by Midwestern and Dynegy for Contract No. 33395 (Letter Agreement). The filed Contract No. 33395 and the Letter Agreement reflect a negotiated rate arrangement between Midwestern and Dynegy (Negotiated Rate Arrangement). Midwestern seeks a June 1, 2000 effective date for the Negotiated Rate Arrangement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 1, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13776 Filed 6–1–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–297–000]

Mississippi River Transmission Corporation; Notice of Filing of Refund Report

May 26, 2000.

Take notice that on May 23, 2000, Mississippi River Transmission Corporation (MRT) filed a refund report allocating to MRT's former firm sales customers an Account No. 858 refund amount MRT received from CMS Trunkline Gas Co. and Trunkline LNG Co., related the sale of these companies to an unaffiliated entity, CMS, and further related to the settlement in Docket Nos. RP87–15–036, RP92–122, *et al.*

MRT states that pursuant to 16.2 of the General Terms and Conditions of MRT's Tariff and based on established Account No. 191 and 858 allocations to its former jurisdictional sales customers, MRT is allocating to each customer its pro-rata share of the $174,657 refund.

MRT states that a copy of this filing is being mailed to each of MRT's customers and to the state commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before June 1, 2000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–13777 Filed 6–1–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6607–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 15, 2000 Through May 19, 2000 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–AFS–L65344–AK Rating EC2, Emerald Bay Timber Sale, Implementation, Ketchikan-Misty Fiords Ranger District, Tongass National Forest, U.S. Cost Guard Bridge Permit, NPDES Permit, and COE Section 10 and 404 Permits, Cleveland Peninsula, AK.

Summary: EPA expressed concerns about the lack of detailed information in the Environment and Effects chapter, the limited range of options covered in alternatives and that the alternatives were not completely developed and analyzed in the EIS. EPA recommends these issues be addressed in the final EIS.

ERP No. D–AFS–L65346–ID Rating EC2, Middle Fork Weiser River Watershed Project, Implementation of Vegetation Restoration, Landscape Fire Pattern and Watershed Restoration Objectives, Payette National Forest, Council Ranger District, Adams County, ID.

Summary: EPA expressed environmental concerns with potential impacts to water quality as well as the need for additional information on sediment delivery and other water quality related data.

ERP No. D–IBR–K39055–CA Rating, Salton Sea Restoration Project, Implementation, COE Section 404 Permit, Riverside and Imperial Counties, CA.

Summary: EPA concluded that the DEIS is inadequate and should be formally revised and reissued for public comment as a Supplemental Draft Environmental Impact Statement (SDEIS). On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the Council on Environmental Quality (CEQ). The basis for EPA's

position is: (1) There are significant deficiencies in the environmental analysis, (2) the DEIS does not demonstrate that the project alternatives are feasible or sustainable or that they will achieve project objectives, (3) Salton Sea restoration should be evaluated within the context of the Lower Colorado River watershed, and (4) the project scope is too narrow.

Final EISs

ERP No. F–BLM–J02037–WY South Baggs Natural Gas Development Area, Proposal to Drill and Develop 50 Natural Gas Wells, Application for Permit to Drill and COE Section 404 Permit, Carbon County, WY.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–DOE–E06018–SC, Savannah River Site Spent Nuclear Fuel Management Plan, Implementation, Aiken County, SC.

Summary: EPA noted that the EIS provided a good explanation of the complex issues associated with this project, but the Agency has concerns about the project's cumulative environmental impacts.

Dated: May 30, 2000.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 00–13887 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6607–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements Filed May 22, 2000 Through May 26, 2000 Pursuant to 40 CFR 1506.9.

EIS No. 000157, DRAFT EIS, AFS, MT, Rocky Mountain Front Mineral Withdrawal, Implementation, Helena and Lewis and Clark National Forests, Great Falls, MT, Due: July 17, 2000, Contact: Rick Prausa (406) 791–7720.

EIS No. 000158, FINAL EIS, HUD, CA, City of Monterey Park Project, Construction and Operation of the Monterey Park Towne Plaza, North of the Pomona Freeway and west of Paramount Boulevard, Los Angeles County, CA, Due: July 03, 2000, Contact: Ray Hanada (626) 307–1463.

EIS No. 000159, FINAL EIS, BLM, WY, Pinedale Anticline Oil and Gas Exploration and Development Natural Gas Wells Project, Implementation, Sublette County, WY, Due: July 05, 2000, Contact: Joe Patti (307) 775–6101.

EIS No. 000160, DRAFT EIS, FHW, WV, Shawnee Highway Project, Construction between the Ghent Interchange of I–787 in the North and McDowell County 14 or McDowell County 17 in the South, Funding, McDowell, Raleigh and Wyoming Counties, WV, Due: July 28, 2000, Contact: Thomas J. Smith (304) 347–5928.

EIS No. 000161, DRAFT EIS, NPS, MA, Boston Harbor Islands National Recreation Area, Implementation, General Management Plan, Boston, MA, Due: August 01, 2000, Contact: George Price (617) 223–8666.

EIS No. 000162, FINAL EIS, BLM, CA, Soledad Canyon Sand and Gravel Mining Project, Proposal to Mine, Produce and Sell, ''Split Estate'' Private Owned and Federally Owned Lands, Transit Mixed Concrete, Los Angeles County, CA, Due: July 03, 2000, Contact: Elena Misquez (460) 251–4810.

EIS No. 000163, DRAFT EIS, COE, MS, Destination Broadwater Project, Proposed Redevelopment and Construction of a large-scale Casino Destination Resort in Biloxi, Approval of Permits for Section 10 of the River and Harbor Act and Section 404 of the CWA, Harrison County, MS, Due: July 17, 2000, Contact: Susan Ivester Rees (334) 694–4141.

EIS No. 000164, FINAL EIS, FAA, CT, Tweed-New Haven Airport Runway Safety Area and Taxiway Improvements, Safety Improvements to Runway 2/20 and Taxiways 'B' and 'E', Funding, COE Section 10 and 404 Permits, New Haven County, CT, Due: July 03, 2000, Contact: John Silva (781) 238–7602.

EIS No. 000165, DRAFT EIS, USN, HI, North Pacific Acoustic Laboratory Project, Reuse of Low Frequency Sound Source and Cable for Use in Acoustic Thermometry of Ocean Climate (ATOC) Research, Kauai, HI, Due: July 17, 2000, Contact: Dr. Jeff Simmen (703) 696–4204.

EIS No. 000166, DRAFT EIS, FTA, PA, North Shore Connector, Extending existing Light Rail Transit (LRT) System from Golden Triangle of downtown Pittsburgh to the North Shore, Funding, USCG Bridge Permit, NPDES Permit, and COE Section 10 and 404 Permits, Allegheny County, PA, Due: July 17, 2000, Contact: Robin Mayhew (215) 656–7100.

EIS No. 000167, FINAL EIS, FHW, NY, Albany Shaker Road and Watervliet Shakey Road Improvement Project, Construction and Reconstruction, Funding and COE Section 404 Permit, Town of Colonie, Albany County, NY, Due: July 03, 2000, Contact: Harold J. Brown (518) 431–4127.

EIS No. 000168, DRAFT EIS, AFS, ID, Starbucky Restoration Project, Implementation of Vegetative Treatment, Road Construction and Watershed Improvements, Nez Perce National Forest, Red River Ranger District, Idaho County, ID, Due: July 17, 2000, Contact: Kevin Martin (202) 842–2245.

EIS No. 000169, DRAFT EIS, AFS, NV, CA, Northern Sierra Amendment to the Toiyabe Land and Resource Management, To Unify and Revise Management Direction, Humboldt-Toiyabe National Forest, Carson Ranger District, Stanislaus National Forest, Lake Tahoe Basin Management Unit, Douglas and Washoe Counties, NV and Alpine and Toulomne Counties, CA, Due: August 31, 2000, Contact: Dave Loomis (775) 882–2766.

Dated: May 30, 2000.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 00–13888 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6708–3]

Investigator-Initiated Grants: Request for Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of request for applications.

SUMMARY: This notice provides information on the availability of fiscal year 2000 investigator-initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research area within the solicitation and are listed below.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research (8703R), 1200 Pennsylvania Avenue, N.W., Washington DC 20460, telephone (800) 490–9194. The complete announcement can be accessed on the Internet from the EPA

home page: http://www.epa.gov/ncerqa under ''announcements.''

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications in the following areas of special interest to its mission: (1) Corporate Environmental Performance and the Effectiveness of Government Interventions; (2) Complex Chemical Mixtures (joint with NIOSH and NIEHS); and (3) Drinking Water. Applications must be received as follows: July 24, 2000, for topic (1); July 10, 2000, for topic (2); and July 31, 2000, for topic (3).

The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact persons for the Corporate Environmental Performance RFA are Matthew Clark (clark.matthew@epa.gov), telephone 202–564–6842, and Robert Menzer (menzer.robert@epa.gov), telephone 202–564–6849. Contact persons for the Complex Chemical Mixtures RFA are Chris Saint (saint.chris@epa.gov), telephone 202–564–6909, Thomas Veirs (veirs.thomas@epa.gov), telephone 202–564–6831, Michael Galvin (mtg3@cdc.gov), telephone 404–639–1533, and Claudia Thompson (thompso1@niehs.nih.gov), telephone 919–541–4638. Contact person for the Drinking Water RFA is Cynthia Nolt-Helms (nolt-helms.cynthia@epa.gov), telephone 202–564–6763.

Dated: May 19, 2000.

Peter Durant,

Acting Assistant Administrator for Research and Development.

[FR Doc. 00–13843 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6707–8]

Meeting of the Small Community Advisory Subcommittee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Small Community Advisory Subcommittee will meet on June 19—20, 2000, in Washington, DC.

The Small Community Advisory Subcommittee was established by the U.S. Environmental Protection Agency as a standing subcommittee of the Local Government Advisory Committee. The June meeting will focus on Community Based Environmental Protection, Drinking Water Regulations and EPA's Regional Offices.

The Committee will hear comments from the public between 9:00 a.m. and 9:15 a.m. on June 19, 2000. Each individual or organization wishing to address the Committee will be allowed a minimum of three minutes. Please contact the Designated Federal Officer (DFO) at the number listed below to schedule agenda time. Time will be allotted on a first come, first serve basis.

This is an open meeting and all interested persons are invited to attend. Meeting minutes will be available after the meeting and can be obtained by written request from the DFO. Members of the public are requested to call the DFO at the number listed below if planning to attend so that arrangements can be made to comfortably accommodate attendees as much as possible. However, seating will be on a first come, first serve basis.

DATES: The meeting will begin at 8:30 a.m. on Monday, June 19th and conclude at 5:00 p.m. on the 20th.

ADDRESSES: The meetings will be held at the EPA Office located at 1200 Pennsylvania Ave. NW., Washington, DC in room 5530 Ariel Rios North.

Requests for Minutes and other information can be obtained by writing the DFO at 1200 Pennsylvania Ave., NW. (1306A), Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The DFO for this Subcommittee is Steven Wilson. He is the point of contact for information concerning any Subcommittee matters and can be reached by calling (202) 564–3646.

Dated: May 18, 2000.

Steven Wilson,

Designated Federal Officer, Small Community Advisory Subcommittee.

[FR Doc. 00–13844 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6707–9]

Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that a committee of the US EPA Science Advisory Board (SAB) will meet on the dates and times noted. All times noted are Eastern Standard Time. The meeting is open to the public, however, seating is limited and available on a first come basis.

Environmental Engineering Committee (EEC)—June 28, 2000

The Environmental Engineering Committee of the US EPA Science Advisory Board (SAB), will hold a consultative Workshop on the Diffusion and Adoption of Innovations in Environmental Protection on June 28, 2000 in conference room 5530, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW., Washington, DC 20004. The meeting will begin by 9:00 a.m. and adjourn no later than 5:30 p.m.. The purpose of the meeting and availability of review materials were described in the **Federal Register** on May 22, 2000 (65 FR 32089–32090) when a public teleconference call to plan the workshop was announced.

For Further Information

Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (10 minutes or less) must contact Dr. Angela Nugent, Designated Federal Officer, Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; telephone (202) 564–4562; FAX (202) 501–0582; or via e-mail at *nugent.angela@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Dr. Nugent by noon Eastern Standard Time on Wednesday, June 21, 2000.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes. For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written

comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Access

Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact the DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: May 26, 2000.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 00–13847 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6708–8]

Guidance on Exercising CERCLA Enforcement Discretion in Anticipation of Full Cost Accounting Consistent With the ''Statement of Federal Financial Accounting Standards No. 4''

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Office of Enforcement and Compliance Assurance, Office of Site Remediation Enforcement is providing guidance to its regional components on the exercise of enforcement discretion, from May 30, 2000 through October 2, 2000, in anticipation of EPA's implementation of full cost accounting.

Attachments 1 and 2 were prepared by the Office of the Chief Financial Officer. They describe the reasons for full cost accounting and the methodology being used to implement full cost accounting.

EFFECTIVE DATE: May 30, 2000.

FOR FURTHER INFORMATION CONTACT: Chad Littleton, Office of Enforcement and Compliance Assurance, Office of Site Remediation Enforcement, U.S. EPA, 1200 Pennsylvania Ave., NW, Washington, DC 20460 (MC 2273A); e-mail: littleton.chad@epa.gov; phone: (202) 564–6064.

SUPPLEMENTARY INFORMATION:

Memorandum

Subject: Guidance on Exercising CERCLA Enforcement Discretion In Anticipation of Full Cost Accounting Consistent with the *Statement of Federal Financial Accounting Standards No. 4*

From: Steven A. Herman, Assistant Administrator, Office of Enforcement and Compliance Assurance

To:

Regional Administrators, Regions I–X
Deputy Regional Administrators, Regions I–X
Regional Counsel, Regions I–X
Superfund Division Directors, Regions I–X

This memorandum provides guidance to EPA personnel on how to exercise enforcement discretion as it relates to upcoming changes in EPA's indirect cost accounting methodology.

A. Upcoming Revisions to Indirect Cost Accounting

EPA's Office of the Chief Financial Officer (OCFO) recently announced that it is revising the Agency's methodology for allocating indirect costs to Superfund sites. These steps will bring Superfund into compliance with cost accounting standards issued by the Federal Accounting Standards Advisory Board (FASAB) on July 31, 1995, (*Statement of Federal Financial Accounting Standards No. 4 (SFFAS No. 4)*).[1] The principal goal of those standards is to make it possible for Federal agencies to determine and report the true costs of their programs and activities. The Federal Financial Management Improvement Act of 1996 (Title VIII, Public Law 104–208)[2] requires all Federal agencies to develop and use cost accounting methodologies that are consistent with the SFFAS No. 4 and other applicable standards.[3]

A copy of the OCFO memorandum announcing and describing EPA's implementation of an accounting methodology complying with the SFFAS No. 4 is attached for your reference (Attachment 1). That memorandum describes important background events and EPA's approach to implementing the revised methodology, defines many important accounting terms as they apply to EPA, lists preliminary estimated regional indirect rates based on the revised methodology, and states that OCFO will calculate actual indirect costs rates using the revised methodology (hereinafter ''revised rates'' or ''revised indirect rates'') for all fiscal years after 1989. The OCFO expects the revised rates to be completed and issued by October 2, 2000, at which time EPA will begin using the revised rates.

B. The Revised Rates and Superfund Site Costs

As described more fully in the attached OCFO memorandum, direct costs are costs an organization incurs when it produces a specific result. Most of the other costs of running the organization are indirect costs. EPA's current indirect cost accounting methodology allocates to Superfund sites only about one-third of the indirect costs that are incurred by EPA and properly allocable to sites. SFFAS No. 4 requires ''full cost accounting,'' which means that Superfund indirect costs must be allocated to sites. For that reason, implementing an indirect cost methodology based on SFFAS No. 4 will increase the aggregate amount of indirect costs allocated to sites.

The effect of applying the revised rates will vary from site to site because the SFFAS-compliant methodology and the current methodology use different techniques for allocating indirect costs to individual sites. The SFFAS-compliant methodology allocates

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[1] Available as *SFFAS 4* at www.financenet.gov/financenet/fed/fasab/concepts.htm.

[2] Available from the 104th Congress catalog at www.access.gpo.gov/nara/publaw/104publ.html.

[3] ''(5) To rebuild the accountability and credibility of the Federal Government, and restore public confidence in the Federal Government, agencies must incorporate accounting standards and reporting objectives established for the Federal Government into their financial management systems so that all the assets and liabilities, revenues, and expenditures or expenses, and the full costs of programs and activities of the Federal Government can be consistently and accurately recorded, monitored, and uniformly reported throughout the Federal Government.

(6) Since its establishment in October 1990, the Federal Accounting Standards Advisory Board (hereinafter referred to as the ''FASAB'') has made substantial progress toward developing and recommending a comprehensive set of accounting concepts and standards for the Federal Government. When the accounting concepts and standards developed by FASAB are incorporated into Federal financial management systems, agencies will be able to provide cost and financial information that will assist the Congress and financial managers to evaluate the cost and performance of Federal programs and activities, and will therefore provide important information that has been lacking, but is needed for improved decision making by financial managers and the Congress.'' (*Public Law 104–208*, 110 STAT 3009–389–390).

''Each agency shall implement and maintain financial management systems that comply substantially with Federal financial management systems requirements, applicable Federal accounting standards, and the United States Government Standard General Ledger at the transaction level.'' (*Id.*)

indirect costs in proportion to direct costs, whereas the current methodology uses the number of Superfund staff hours charged to a site. As a result, sites with large direct Federal expenditures compared to the number of Superfund staff hours will generally see the largest indirect cost increases, and few if any decreases. Sites with smaller Federal expenditures compared to the number of Superfund staff hours, such as sites cleaned up by potentially responsible parties (PRPs) where EPA's costs are largely for oversight performed by EPA staff, will generally see smaller indirect cost increases, and are also more likely to see decreases.

C. Enforcement Discretion as It Relates to the Revised Indirect Rates

As noted above, the OCFO expects the revised rates to be available on October 2, 2000, and will begin using them as soon as they are issued. In general this means that after October 2, 2000, site costs, including oversight costs, will be calculated using the revised rates. The following sections address areas of particular enforcement interest and describe how the Agency intends to exercise its enforcement discretion in individual cases to provide a fair and efficient transition to the revised accounting methodology.

1. Concluded Matters

EPA has previously settled or litigated numerous claims for past response costs. The costs EPA sought in those cases included indirect costs based on the current rates. EPA recognizes the importance of repose and finality in those cases and therefore the Agency has no plans to re-open any concluded matters to apply the revised rates to claims for past costs that were presented and resolved in those matters. This includes consent decrees, litigated judgments and administrative orders on consent. It also includes ceilings established in settlements and judgments for oversight or other response costs that the Agency can bill to PRPs under those existing settlements or judgments.

2. Oversight Billings

The Agency has no plans to recompute oversight bills that were prepared and sent to PRPs before the revised rates are issued.

3. Claims in Litigation Prior to October 2, 2000

When EPA issues the revised indirect rates there will be a number of cost recovery cases pending in Federal courts. The past costs EPA is seeking in those cases will have been calculated using the current indirect rates. There may be special circumstances in those cases, especially if the litigation is at an advanced stage, that cause the case team to decide not to seek to amend the claim by applying the revised indirect rates. An example might be certain cases in which costs have already been presented to the court and the parties are awaiting the court's decision. These decisions will be made by the EPA/Department of Justice (DOJ) case team on a case-by-case basis. This approach is intended to be consistent with prior practice (*See*, Policy on Recovering Indirect Costs in CERCLA Section 107 Cost Recovery Actions, OSWER Directive 9832.5, June 27, 1986) (superseded by this guidance).

4. Interim Settlement Policy in Anticipation of the Revised Rates

This memorandum gives advance notice of the revised rates. One purpose of the advance notice is to provide PRPs who have unresolved cost recovery liabilities an opportunity to settle with the United States at the current rates. For sites where the revised rates would result in higher indirect costs, it may be advantageous for the PRPs to settle with the United States under the current rates. Therefore, until the revised rates are issued, which the OCFO expects to occur on October 2, 2000, the Agency will entertain settlement offers resolving the claims of the United States for CERCLA response costs based on the current indirect rates.

Generally, the Agency will consider a settlement offer based on site costs computed using the current indirect cost rates, if: (1) The offer is made prior to October 1, 2000; (2) the Agency determines, in its sole discretion, that there is sufficient information available on which to base a settlement decision; and (3) it appears to the Agency that the offer is likely to lead to an executed final settlement by March 30, 2001. For cases in litigation or that have been referred to DOJ, the DOJ/EPA case teams will determine the appropriate response to any settlement offer. For all other matters, regional case teams will determine the appropriate response to any settlement offer. Case teams may set alternative milestone dates for any individual PRP or site, if appropriate, based on PRP-specific or site-specific circumstances after consultation with the Regional Support Division (RSD) in the Office of Site Remediation Enforcement (OSRE).

After such an offer has been received, if settlement negotiations are unproductive or it becomes evident that the applicable milestone dates have not been met, or are not likely to be met, the Agency may, at its sole discretion, withdraw the opportunity to enter a settlement based on the current rates.

D. Proving Indirect Costs

Implementing the SFFAS accounting methodology will not alter the burden of proof that the Agency must meet when seeking recovery of indirect costs. EPA will continue to provide evidence acceptable in a court of law to prove that the indirect costs sought are allocable to the site that is the subject of the enforcement action.

E. National Consistency/Coordination

Except for the specific transition related adjustments noted above, existing policy and guidance applicable to considering or accepting settlement offers is unchanged. Implementing the revised indirect rates will not affect the discretion of the Agency or DOJ to settle or compromise cost recovery claims, including those cases where costs are based on the revised rates. Litigation risk, equitable considerations, and other factors that are considered in determining whether to settle or compromise claims may still be taken into account. As always, EPA will exercise its discretion to ensure that any resulting settlements are fair, reasonable, and consistent with CERCLA.

When EPA begins using the revised rates, we expect that the Agency will face questions about matters associated with the transition to the revised rates. EPA has a substantial interest in promoting a nationally consistent approach during this transition period. Therefore, I have asked the RSD to monitor EPA's implementation of the revised indirect rates. I also ask each regional office to designate a point of contact to assist RSD in our effort to quickly resolve key questions about EPA's use of the revised rates, and to promote national consistency among the regional offices. Please send the name and telephone number of your workgroup member to Maria Cintron-Silva, RSD, no later than three weeks after the date of this memorandum. Workgroup contacts will be expected to provide information regarding each of the offers received and their dispositions. For questions about this memorandum and OECA's implementation of the revised rates, please contact Chad Littleton, in the Office of Site Remediation Enforcement, at 202–564–6064.

Attachments

Dated: May 26, 2000.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

Memorandum

Subject: Accounting for Indirect Costs Associated with Superfund Site-Specific Activities

From: Joseph Dillon, Acting Comptroller (2731)

To: Senior Resource Officials

This Policy Announcement provides the policies and procedures for implementing Statement of Federal Financial Accounting Standards (SFFAS) No. 4, Managerial Cost Accounting Standards for the Federal Government, for the Superfund Site Cleanup Program by providing a revised indirect cost methodology. This methodology along with existing policies and procedures regarding direct costs results in accounting for the ''full costs'' of actions taken at or in connection with Superfund Sites.

Background

The Office of Management and Budget (OMB) issued SFFAS No. 4 on July 31, 1995, with an effective date of October 1, 1997. SFFAS No. 4 requires federal agencies to determine the full cost of their outputs (programs). The full cost of programs includes both those costs specifically identifiable with each particular program, or direct costs, and those costs which collectively support the many programs, or indirect costs.

Since 1985, EPA has been identifying the indirect costs associated with Superfund site-specific activities for all fiscal years after 1982. However, the indirect cost methodology developed at that time was conservative and did not result in allocating all indirect costs to sites. As a result, the General Accounting Office, the EPA Office of Inspector General, OMB and Congress have repeatedly criticized EPA's methodology. The Office of the Chief Financial Officer (OCFO) has developed an indirect cost methodology to compute indirect cost rates for Superfund site-specific activities in accordance with SFFAS No. 4. By incorporating the resulting indirect cost rates into their analyses, Superfund Managers will be able to compute the full cost of their program.

Policy and Procedures

The OCFO has developed a Superfund indirect cost methodology based upon full cost accounting concepts. Using that new methodology, OCFO is presently calculating and will issue indirect cost rates based upon the full cost accounting methodology (''revised rates''). The OCFO will issue revised rates for each Fiscal Year, by Region beginning with FY 1990. The revised rates will be issued after the date of this Policy Announcement and are expected to be completed and issued by October 2, 2000. Once the revised rates are issued, Superfund managers should use the revised rates to determine the full cost of Superfund site specific activities. In the meantime, EPA Superfund program managers may use the preliminary, estimated indirect cost rates identified in Attachment 1 as the basis for estimating the full cost of Superfund site-specific activities.

Beginning with FY 2001, the Agency will no longer compute nor issue, as provisional or final, indirect cost rates based upon the earlier Ernst & Whinney methodology.

A brief description of the full cost methodology is as follows: EPA's annual costs are analyzed to determine whether the costs represent general Agency or Regional support activities, program support activities, or program direct costs. Those general Agency support activities and the Superfund program support activities are included in calculations that allocate these costs to programs and produce a Superfund indirect cost pool for each region. Each Region's indirect cost pool, including appropriate Regional support costs, is divided by the Region's direct costs incurred for site-specific activities to determine the Region's indirect cost rate for the fiscal year, which is expressed as a percentage of direct site costs. The Region's indirect cost rate is multiplied against the direct costs incurred for a particular Superfund site to determine the amount of indirect costs that will be allocated to that site. By adding the direct site costs and the indirect costs allocated to a particular site, or group of sites, the total cost for that site or group of sites is determined.

For a more detailed description of the Superfund Indirect Cost Rate Methodology, please refer to Attachment 1.

Effective Date

OCFO expects to complete and issue the new Superfund Full Indirect Cost Rates by October 2, 2000, at which time they will be effective for all accounting purposes.

Additional Information

If you need further information on this Policy Announcement, please contact Charles Young of the Program and Cost Accounting Branch, Financial Management Division at (202) 564–4914.

Attachment 2

Superfund Full Cost Indirect Cost Rate Methodology

Background

OMB, the Secretary of the Treasury and the Comptroller General established the Federal Accounting Standards Advisory Board (FASAB) in October 1990 to set Federal Government Accounting Standards. In September 1993, the Vice President in his report on the National Performance Review recommended an action which required the FASAB to issue a set of cost accounting standards for all federal agencies. FASAB issued the Statement of Federal Financial Accounting Standards (SFFAS) No. 4, Managerial Cost Accounting Concepts and Standards for the Federal Government on July 31, 1995, which became effective for EPA on October 1, 1997. Title VIII of the Federal Financial Management Improvement Act of 1996 (Title VIII, Public Law 104–208) requires federal agencies to comply with the Federal Financial Accounting Standards and emphasizes that agencies' systems must report the total costs of programs and activities. EPA will comply with this requirement for all the Agency's programs, based on specific needs of each program and applicable accounting requirements. The methodology described in this Policy Announcement applies to EPA's Superfund site-specific activities as set forth below.

SFFAS No. 4 sets forth five fundamental elements of managerial cost accounting to provide information on the cost of federal programs. One of those elements is to determine the full cost of government goods and services. According to the Standard, full cost includes both direct and indirect costs. Direct costs are defined as ''costs that can be specifically identified with an output.'' Indirect costs are costs that are common to multiple outputs but cannot be specifically identified with any particular output. In the context of the Superfund program, direct costs include those that are directly incurred by the United States for site-specific activities performed at or in connection with a particular site or a particular group of sites. Site-specific activities include the assessment, investigation and clean-up of a site, ancillary site-associated activities, and related enforcement actions. Indirect costs are those that support the Superfund program as a whole and cannot be identified to any one site or other ''output'' of the

program. The government's full cost at a Superfund site consists of the direct costs incurred for site-specific activities and the proportionate share of all the costs that provide indirect support to the site.

In 1985, EPA, with the assistance of the accounting firm Ernst & Whinney, developed an indirect rate methodology for determining the government's cost of site-specific activities under CERCLA. The indirect rates developed were conservative. As a result of the conservative methodology, a substantial portion of the indirect cost pool was not allocated to individual Superfund sites, even though site-specific activities are the direct output that the indirect costs support. As a result, the General Accounting Office (GAO), the EPA Office of Inspector General (OIG), OMB and Congress have repeatedly criticized the methodology for failing to identify the full cost of Superfund site clean-ups and therefore failing to allow potential recovery of all indirect costs. The OIG considered this method of recovering less than full overhead costs as a Federal Manager Financial Integrity Act (FMFIA) ''material weakness'' and suggested the Agency identify it as such.

EPA has revised the Superfund indirect cost methodology to enable the Agency to report the full cost of the program in compliance with SFFAS No. 4 and with other federal mandates requiring the reporting of cost information. During the preparation of the revised methodology, EPA sought separate independent reviews of the methodology by both GAO and the national accounting firm KPMG. KPMG found the revised methodology in compliance with SFFAS No. 4, as well as ''easier to understand, more thorough and more complete than the previous methodology.'' GAO reviewed the revised methodology and found ''that the design of EPA's proposed Superfund indirect cost methodology complies with cost accounting standards for federal government'' as well as the requirements of SFFAS No. 4.

Approach

EPA's approach to developing a full cost indirect cost methodology for Superfund is based on the guidance provided by SFFAS No. 4. In addition, certain other factors are also taken into account. These include the nature and classification of Agency costs, private sector cost accounting practices and the cost/benefit of obtaining the data necessary to compute indirect cost rates. Indirect cost rates will be developed for each region and each Fiscal Year beginning with FY 1990. We are beginning with FY 1990 because active Superfund sites have costs incurred in prior years generally no earlier than FY 1990, with limited exceptions. Thus, computing full cost indirect rates back to FY 1990 will allow Superfund managers to determine the full cost of site-specific activities for nearly all active sites, while going back before FY 1990 would be of primarily historic interest. Therefore, we consider it most cost effective to compute rates no further back than 1990; if managers need indirect cost information for years prior to 1990, the rates computed using the current methodology may be used for those earlier years. Use of the revised indirect cost rates will provide Superfund managers, other EPA management and Congress with the full cost of Superfund site-specific activities.

The current Superfund indirect cost methodology uses indirect rates which are expressed as a rate per hour of labor effort. This rate is computed using a base consisting of all labor hours (including both site and non-site labor), but is applied to only site labor hours. This results in an under-allocation of indirect costs. This approach, although acceptable from an accounting standpoint, is conservative in its allocation of indirect costs to individual sites and led to the criticisms noted above. The principal conceptual change the Agency will make as it moves to full cost accounting in compliance with SFFAS No. 4 with respect to Superfund site-specific activities, is to ensure that indirect costs that support site clean-up are fully allocated to site charges. In order to do so, EPA will allocate the appropriate indirect cost pool using total direct site costs as an allocation base. This will result in indirect cost rates expressed as a percentage of total direct site costs rather than a dollar rate per hour as is the current method. The change in the allocation base is the most important difference between the full cost accounting methodology and the prior methodology, with only minor changes to the indirect cost pool (further described below). The indirect cost pool identified for calculation of the new indirect cost rate will reflect only those costs which are appropriately allocable to and support the Superfund site-specific activities.

In determining the indirect costs associated with the Superfund program, certain costs funded from non-Superfund appropriations are included as indirect costs because they provide services that benefit the Superfund program and are necessary to reflect full cost. SFFAS No. 4 states that one of the components of full cost is the ''cost of support services provided by other responsibility segments * * * and by other reporting entities.'' We include other appropriations because our approach determines the allocability of indirect costs according to the organizational unit that provides the support services regardless of which appropriation has been charged with the costs. We begin with the total costs of organizational units and then allocate these costs to all units receiving support services.

Not all appropriations, however, are included as indirect costs. For example, charges under the Oil Spill appropriation are not included. Oil Spill disbursements support only the Oil Spill program and should not be allocated to other programs. State and Tribal Assistance Grants appropriations are also excluded. These are grants to states, local and tribal governments which fund a variety of environmental programs and infrastructure projects pertaining to water quality initiatives. Funding under the Science and Technology appropriation is excluded. These funds support research and development initiatives. The treatment of research and development costs is discussed under the section on direct costs. The programs funded by the appropriations listed above are considered to be separate from Superfund and have their own outputs. These appropriations do not include any indirect costs that are allocable to the Superfund program.

As explained below under Exclusions from the Pool, costs associated with certain organizational units are also removed from the indirect cost pool depending on their relationship to the Superfund program.

The concept of full cost, according to the Standard, also requires that inter-entity costs or the costs of services received from other entities be recognized. Costs of employee benefits funded by the Office of Personnel Management (OPM) are considered inter-entity costs and will be included as indirect costs. Because methodologies to estimate the costs of services received from federal agencies other than OPM are still under development, these costs are not included in the indirect cost pool at this time.

The methodology for determining indirect costs allocable to Superfund site-specific activities is patterned after private sector models that group costs according to levels of organization and benefit. Indirect costs are classified hierarchically. At the highest level are Agency-wide costs, *i.e.,* national costs which benefit all organizations. Examples of these are facilities management, budget functions, human resource management, and OPM inter-

entity costs. The next level incorporates regional costs which benefit each of the Agency's ten regions. These are general costs which are essentially counterparts of national costs but benefit regions only. Examples include the costs of regional administration, support, and policy and planning functions. Superfund program management costs comprise the next two levels. These are the support costs incurred at both headquarters and regions to implement Superfund site-specific activities. Costs from each of these four levels form the basis of the indirect cost pool. The final product—separate indirect cost rates for each of EPA's ten regions—will be expressed as a percentage of direct (site-specific) costs for each region.

Direct Costs

In determining the direct costs of the Superfund program, we use SFFAS No. 4's definition of direct costs. However, the direct costs of the Superfund program as a whole, are not necessarily synonymous with the direct costs of Superfund site-specific activities. Superfund site-specific activity is one component of the Superfund program.

Site-Specific Costs

The major component of Superfund direct costs is the costs of site-specific activities, *i.e.* the cost of all activities that go toward the assessment, investigation and actual clean up of a site, related enforcement actions, and other site-associated activities. Examples include, but are not limited to, the costs of salaries and benefits of employees who work directly at the site or provide other site-related effort, contractor costs of removal or remedial activities, and analytical work performed for the site.

Certain other Superfund-related costs are also considered direct costs, although they may or may not be associated with site-specific activities. These costs are described in the next several paragraphs.

ZZ Costs

''ZZ'' costs are expenses incurred for site work before a site is established as a Superfund site and assigned a site-specific identifier. If a site-specific identifier is established, the ZZ costs incurred in connection with the site are reclassified to that site-specific identifier. If reclassified, they become part of direct site-specific costs, but for purposes of the indirect rate calculation, ZZ costs are classified as direct costs even if not reclassified.

R&D Costs

Research and Development (R&D) costs are treated as direct costs. All costs incurred within the Office of Research and Development, a separate and distinct organizational unit within the Agency, are excluded from the indirect cost pool. Research and Development costs are considered to be directly incurred for production of R&D outputs. Superfund-related research and development costs are mainly related to the Superfund Innovative Technology (SITE) program. This program evaluates the application of emerging remediation technologies.

NIEHS Costs

Costs associated with the National Institute of Environmental Health Sciences (NIEHS) interagency agreement (IAG) are treated as direct costs. This indirect cost methodology is designed to determine the indirect costs that support Superfund site-specific activities. Therefore NIEHS costs are excluded in their entirety from the indirect cost pool.

OSWER Immediate Office Program Area Costs

Costs associated with certain offices within the Office of Solid Waste and Emergency Response (OSWER) Immediate Office are treated as direct costs. Although these costs are related to the Superfund program and are direct costs of the functions they perform, they are not allocable to Superfund site-specific activities and so are not included in the indirect cost pool for site-specific response costs. For example, the Chemical Emergency Preparedness and Prevention Office (CEPPO), which reports directly to the OSWER Assistant Administrator, implements Agency-wide chemical emergency preparedness and prevention programs. The costs connected with Federal Facilities activities, whether within OSWER or OECA, as well as the costs of activities associated with Brownfields and the Emergency Planning and Community Right-to-know Act, are also considered direct and thus excluded from the indirect cost pool.

Indirect Cost Pool

The indirect cost pool consists of all costs classified as indirect for all appropriations that fund administrative, management and support functions. The pool includes Superfund non-site-specific costs that provide support to Superfund site-specific activities and the other direct Superfund activities. The indirect cost pool includes the non-site portion of: Personnel compensation and benefits, travel, rent, communications, utilities, contracted services, materials and supplies costs. Depreciation and inter-entity costs are also included. The major organizational units contributing costs to the indirect cost pool are described below.

EPA headquarters organizations providing services on an Agency-wide or national basis include the Office of the Administrator, the Office of Administration and Resources Management (human resources, procurement, facilities), the Office of the Chief Financial Officer (Comptroller, budget, finance), the Office of Information Resources Management, the Office of Policy, Planning and Evaluation, the Office of the Inspector General and the Office of General Counsel. The ten EPA regional offices have corporate structures similar in function to those of headquarters. Each region has a regional administrator's office and offices providing general regional support services such as personnel, finance, policy and information management. Costs for these organizations comprise regional indirect costs.

Management and support costs associated with carrying out the Superfund program are another component of the indirect cost pool. These costs are incurred at both headquarters and the regions. At the headquarters level, these are the program management and support costs incurred by the Office of Solid Waste and Emergency Response (OSWER) and by the Office of Enforcement and Compliance Assurance (OECA). At the regional level, Superfund program management costs incurred by regional program divisions in support of Superfund site-specific activities are included in the indirect cost pool. Any of the offices noted above may also have Superfund site-specific charges. Those site-specific charges are subtracted from the total cost of the organization during the indirect cost computation.

The Superfund indirect cost pool, that is, the pool of indirect costs which is ultimately allocable to Superfund sites, will consist of proportionate amounts of Agency-wide, regional and program-related costs. In other words, the Superfund indirect cost pool will be comprised of only the portion of Agency-wide, regional and program-related costs which supports Superfund sites, with the remaining costs supporting all other Agency programs.

Exclusions From the Pool

Superfund non-site specific contractor costs, such as program management, that are distributed through the annual allocation process are excluded from the

indirect cost pool. Annual allocation is the process by which response action contractor non-site support costs are allocated to sites on which the contractor worked. The site-allocable portion of these contracts is removed from the pool because it is allocated to individual sites under a separate process and is treated as a portion of direct site-specific costs incurred by EPA.

Costs of organizational units that provide no direct or indirect support to Superfund are excluded. Examples include the Office of International Activities and certain organizations within the Office of the Administrator, such as the Science Advisory Board and the Office of Administrative Law Judges.

Indirect Cost Base

To properly distribute costs, the indirect cost base must reflect the services provided to each organizational recipient and finally, to the Superfund sites themselves. There are several intermediate allocations of costs, as described below, which use appropriate allocation bases. The choice of allocation base depends on the type of cost to be allocated.

Agency-wide or national indirect costs, also referred to as general and administrative (G&A) costs, are allocated using one of two allocation bases. Facilities, human resources and OPM inter-entity costs are allocated to all EPA organizations based on personnel compensation and benefits (PC&B) costs. The rationale for using PC&B costs as the allocation statistic is that these indirect costs are purely workforce-related and would not otherwise be incurred. Costs associated with other organizations providing Agency-wide benefits, such as procurement, budget, finance, information management, policy, planning, general counsel and inspector general, are distributed across the entire Agency based on total Agency costs. Depreciation will be allocated to all EPA organizations using appropriate cost accounting principles. We are in the process of gathering these costs and determining the appropriate allocation base. Depreciation costs will be incorporated into the rates as soon as possible.

The next level of indirect costs is regional costs which provide general and administrative support similar to that provided at the Agency-wide level. Regional G&A cost pools, including each region's share of national G&A, personnel and facilities costs, depreciation and inter-entity costs are distributed across the entire region based on total regional costs. This is similar to the distribution of Agency-wide support costs across total Agency costs.

Headquarters program management and support costs incurred by OSWER and OECA must be allocated to program areas within each office of an EPA Assistant Administrator and to the regions. Program areas are designated by sub-organization or by funding vehicle such as interagency agreements which fund a particular type of activity. The allocation of headquarters program management and support costs is based on the total costs associated with each program area and region. The headquarters allocation base includes administrative and program costs from appropriations other than Superfund and Superfund site-specific and non-site-specific costs. The regional allocation base consists of regional site charges made within each office of an EPA Assistant Administrator.

The final Superfund indirect cost pool is allocated using Superfund site charges. These site charges include both headquarters and regional site charges, ZZ charges, site charges made under the Department of Justice (DOJ), Corps of Engineers, Bureau of Reclamation, *etc.,* interagency agreements and the Superfund response contract program management costs that are allocated to sites in a separate process. EPA charges arising from mixed funding settlements are direct site costs and are also included in the indirect cost base. The charges for the Agency for Toxic Substances and Disease Registry (ATSDR) are not included in the indirect cost base because their funding mechanism—a ''transfer allocation''—does not result in a charge to EPA's accounting system. Again, instead of a rate per hour as in the current methodology, the indirect cost rate will be expressed as a percentage of direct (site) costs.

Computation of Indirect Cost Rates

Data used for the indirect cost computations are obtained from the Agency's Integrated Financial Management System.

The indirect cost pool supporting Superfund site-specific activities in each region for a given fiscal year consists of proportionate shares of the following: program management and support costs incurred by relevant units of EPA headquarters (including their share of nationwide G&A); the region's G&A; and the region's non-site Superfund costs.

The computation of the indirect cost rates consists of nine steps. A detailed document more fully describing the accounting methodology employed will be released with the calculated rates by region by fiscal year. That document will contain a detailed description of each of the nine steps. Briefly, steps 1 and 2 compute the nationwide G&A rate and step 3 computes the regional G&A rates. Steps 4 through 9 perform various allocations and refinements of costs ensuring that the regional Superfund cost pools, which are summarized in step 9, reflect only costs by region associated with Superfund site-specific activities.

Estimated Indirect Rates by Region

As noted above, the revised indirect cost rate methodology will for the first time provide information on the full costs of the outputs of Superfund site-specific activities. The process of computing rates using the full cost methodology is ongoing. As noted above, the revised rates by region by fiscal year will not be issued for several months. In the meantime, we are providing an approximation of the rates that can be used as a means to estimate the full cost of Superfund site-specific activities. These rates are based on the average of preliminary computed rates for fiscal years 1994, 1997 and 1998. It should be noted that rates for any given region may vary considerably from year to year; therefore, the final calculated rates may differ from the estimated average rates listed below.

Estimated Rates*

(*Subject to Change*)

Region 1—30.0%
Region 2—30.8%
Region 3—43.6%
Region 4—48.1%
Region 5—41.6%
Region 6—29.0%
Region 7—54.4%
Region 8—35.1%
Region 9—40.9%
Region 10—38.6%

* Based on the average of preliminary rates for Fiscal Years 1994, 1997 and 1998.

The overall effect of implementing the full cost accounting methodology for Superfund indirect costs will be to increase the aggregate amount of indirect costs allocated to site-specific activities. As compared to indirect costs allocated using the current methodology, the indirect costs allocated to individual sites may increase or decrease, depending on a number of factors, and will not be known with certainty until all the rates are computed. The estimated rates provided above, however, may be used to predict generally the amount of indirect costs to be allocated to a particular site using the full cost accounting methodology.

To apply these rates to an individual site, identify the total direct site-specific costs of that site (including any DOJ costs but excluding any ATSDR costs) and multiply that total by the appropriate region's indirect cost rate. If you have total site costs including indirect costs using the current labor hours-based rates, total direct site-specific costs consists of the total site costs minus the previously-assessed indirect costs. Adding the direct site-specific costs and the indirect costs calculated under the new methodology will result in the full cost of that site.

[FR Doc. 00–13845 Filed 6–1–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

May 25, 2000.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0927.

Expiration Date: 05/31/2003.

Title: Auditor's Annual Independence and Objectivity Certification.

Form No.: N/A.

Respondents: Business or other for profit.

Estimated Annual Burden: 7 respondents; 10 hours per response (avg). 70 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Annually.

Description: The Responsible Accounting Officer Letter (RAO) 28, released December 1, 1999 requires that carriers' independent auditors disclose in writing all relationships between the auditor and its related entities and the carrier and its related entities that in the auditor's professional judgment may reasonably be thought to bear on independence; confirm in writing in its professional judgment it is independent of the carrier; and discuss the auditor's independence. The information will be used to determine whether the auditors are performing their audits independently and unbiased of the carrier they audit. Obligation to respond: Mandatory.

OMB Control No.: 3060–0514.

Expiration Date: 05/31/2003.

Title: Section 43.21(b)—Holding Company Annual Report.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 20 respondents; 1 hour per response (avg.); 20 total annual burden hours.

Estimated Annul Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annually.

Description: The SEC 10K Form is needed from holding companies of communications common carriers to provide the Commission with the data required to fulfill its regulatory responsibilities and by the public in analyzing the industry. Selected information is compiled and published in the Commission's annual common carrier statistical publication. Obligation to respond: Mandatory.

OMB Control No.: 3060–0894.

Expiration Date: 05/31/2003.

Title: Certification Letter Accounting for Receipt of Federal Support, CC Docket Nos. 96–45 and 96–262.

Form No.: N/A.

Respondents: State, Local or Tribal Government.

Estimated Annual Burden: 51 respondents; 3 hours per response (avg.); 153 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Annually.

Description: The Commission requires states to certify that carriers within the state had accounted for its receipt of federal support in its rates or otherwise used the support pursuant with Section 254(e). A state may file a supplemental certification for carriers not subject to the state's annual certification. This information will be used to show that federal high-cost support is being provided to the carrier to assist in keeping rates affordable in those subscribers' area. Further, the collection of information will be used to certify that the carriers have accounted for its receipt of federal support in its rates or otherwise used the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended in accordance with section 254(e). Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0755.

Expiration Date: 05/31/2003.

Title: 47 CFR Sections 59.1–59.4—Infrastructure Sharing.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 75 respondents; 31 hours per response (avg.); 2325 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third party disclosure.

Description: In CC Docket No. 96–237, the Commission implemented the infrastructure sharing provisions of the Communications Act of 1934, as amended. Section 259 requires incumbent LECs to file any arrangements showing the conditions under which they share infrastructure. See also 47 CFR Section 59.2. (No. of respondents: 75; hours per response: 15; total annual burden: 375 hours). Section 259 also requires incumbent LECs to provide information on deployments of new services and equipment to qualifying carriers. See also 47 CFR Section 59.3 (No. of respondents: 75; hours per response: 24 hours; total annual burden: 1800 hours). The Commission requires incumbent LECs to provide 60-day notices prior to terminating section 259 agreements. See 47 CFR Section 59.2. (No. of respondents: 75; hours per response: 2 hours; total annual burden: 150 hours). The information collected under the requirement that incumbent LECs file any tariffs, contracts or other arrangements for infrastructure sharing would be made available for public inspection. The information collected under the requirement that incumbent LECs provide timely information on planned deployments of new services and equipment would be provided to third parties. The information collected under the requirement that providing incumbent LECs furnish sixty days notice prior to termination of a section 259 sharing agreement would be provided to third parties to protect customers from sudden changes in services. Obligation to respond: Mandatory.

OMB Control No.: 3060–0933.

Expiration Date: 11/30/2000.

Title: Community Broadband Deployment Database Reporting Form.

Form No.: FCC Form 460.

Respondents: Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Estimated Annual Burden: 30 respondents; .25 hours per response (avg.); 7 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: Pursuant to Section 419(b) of the Communications Act of 1934, as amended, on October 8, 1999, the FCC convened a Federal-State Joint Conference on Advanced Telecommunications Services to provide a forum for cooperative dialogue and information exchange between and among state and federal jurisdictions regarding the deployment of advanced telecommunications services. As part of this ongoing effort, a searchable on-line database of community broadband demand aggregation and deployment efforts is being established. Respondents will be able to make their submissions electronically to the Commission and the National Regulatory Research Institute (NRRI) Web sites. The information will be used by the Commission to prepare reports that help inform consumers and policy makers at the state and federal levels of the status of deployment of broadband services. We will use this information to better inform our understanding of broadband deployment in conjunction with our Congressionally required Section 706 reports. Obligation to respond: Voluntary.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–13761 Filed 6–1–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

May 25, 2000.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before July 3, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0012.

Title: Application for Additional Time to Construct a Radio Station (under 47 CFR Part 21).

Form Number: FCC Form 701.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 100.

Estimate Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 200 hours.

Total Annual Costs: $17,000.

Needs and Uses: The FCC Form 701 is being revised to eliminate services authorized under 47 CFR Parts 23, 25, and 101 from this form. Only services authorized under 47 CFR Part 21 will remain users of this form. In addition, fees information is being eliminated. The FCC Form 701 is used when applying for additional time to construct an MDS or international broadcast station. The Commission uses FCC Form 701 to determine whether to grant an applicant's request for an additional period of time to construct a radio station authorized under 47 CFR Part 21. Sections 308, 309, and 319 of the Communications Act of 1934, as amended, are the legal authorities for the requirement. Rule Part 21 promulgates the collection. In addition to the requirements contained in this form, applicants may be subject to other requirements.

OMB Control Number: 3060–0397.

Title: Special Temporary Authority, Section 15.7(a).

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 2.

Estimate Time Per Response: 6 hours.

Frequency of Response: Recordkeeping; Three year reporting requirement.

Total Annual Burden: 12 hours.

Total Annual Costs: None.

Needs and Uses: In exceptional situations, a special temporary authorization to operate a radio frequency device not conforming to the subject rules will be issued. An applicant must show that the proposed operation is in the public interest, but that it cannot be conducted feasibly under the applicable rules.

OMB Control Number: 3060–XXXX.

Title: Application for a Low Power FM Broadcast Station License.

Form Number: FCC Form 319.

Type of Review: New collection.

Respondents: Not-for-profit institutions; and State, Local, or Tribal Government.

Number of Respondents: 1,200.

Estimate Time Per Response: 1.0 hour.

Frequency of Response: On occasion reporting requirements.

Total Annual Burden: 1,200 hours.

Total Annual Costs: $105,000.

Needs and Uses: The FCC adopted a report and order authorizing the licensing of two new classes of FM radio stations, generally referred to as low power FM (LPFM): an LP 100 class for stations operating at 50–100 watts effective radiated power (ERP), and an LP 10 class for stations operating at 1–10 watts ERP. These stations will be operated on a noncommercial educational basis by entities which do not hold attributable interests in any other broadcast station or other media subject to the FCC's ownership rules and will create a new class of radio stations designed to serve very localized communities or underrepresented groups within communities.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–13760 Filed 6–1–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting; Sunshine Act

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, June 6, 2000, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Discussion Agenda

Memorandum and resolution re: Failed Institution Assets Held by Federal Reserve Banks.

Memorandum and resolution re: Notice of Proposed Rulemaking—Parts 364 and 308—Standards for Safeguarding Customer Information and Rescission of Year 2000 Standards for Safety and Soundness.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (*e.g.*, sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: May 30, 2000.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 00–13936 Filed 5–31–00; 11:06 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, June 7, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: May 31, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–13935 Filed 5–31–00; 10:03 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–33–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects: Information Collection Procedures for Requesting Public Health Assessments—(0923–0002)—EXTENSION—The Agency for Toxic Substances and Disease Registry (ATSDR) is announcing the request for extension of the OMB approval for the Information Collection Procedures for Requesting Public Health Assessments. ATSDR is authorized to accept and respond to petitions from the public that request public health assessments of sites where there is a threat of exposure to hazardous substances (42 U.S.C. 9604(i)(6)(B)). The Agency conducts public health assessments of releases or facilities for which individuals provide information that people have been exposed to a hazardous substance, and for which the source of such exposure is a release, as defined under CERCLA. The general administrative procedures for conducting public health assessments, including the information that must be submitted with each request, is described at 42 CFR 90.3, 90.4, and 90.5. Procedures for responding to petitions, decision criteria, and methodology for determining priorities may be found at 57 FR 37382–89. There is no cost to the respondents other than their time.

ATSDR anticipates approximately 36 requests will be received each year. This estimate is based on the number of requests received since the enabling legislation was enacted and the expressions of interest (via telephone, letter, etc.) from members of the public, attorneys, and industry representatives.

The total burden hours are estimated to be 18.

Respondents	Annual number of respondents	Number of responses/ respondent	Avg.hourly burden/ response	Total burden hours
General public	36	1	.50	18

Dated: May 26, 2000.

Charles W. Gollmar,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13801 Filed 6–1–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 Day–35–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

1. An Evaluation Study of Tuberculosis Control and Prevention Measures Implemented in Large City and County Jails—New—The Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, TB Prevention (NCHSTP), Division of TB Elimination, Field Services proposes to conduct a survey to determine the extent that jails have implemented the 1996 recommendations of the Advisory Council for the Elimination of Tuberculosis, Prevention and Control of Tuberculosis in Correctional Facilities [MMWR 1996:45 (No. RR–8)]. The purpose of this evaluation is to determine to what extent the recommendations have been implemented and to identify barriers for implementation of the recommendations. The objectives are to define the knowledge of the recommendations among correctional staff, to identify barriers for the adoption and implementation of the recommendations, and to initiate a dialogue between public health and correctional officials on how to utilize the study results for improving TB control and prevention in the jails.

This project will assess the types and adequacy of the TB control measures that are in place in jails. The first component of this project is a survey of the largest jails to define the size of the TB problem in their populations, to review the infection control procedures that are in place, and determine the tracking mechanisms for information concerning skin test results and completion of therapy. The second component consists of on-site observation of the infection control process to observe the processing and evaluation of inmates and the infection control infrastructure (e.g., isolation procedures).

The evaluation project will be voluntary and only correctional staff will participate; no prisoners will be interviewed or asked to complete a written survey. The total burden hours are estimated to be 138.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Jail Health Administrator	46	1	1	46
Jail Medical Director	46	1	1	46
County/City Public Health Dept. TB Control Director	46	1	1	46
Total				138

Dated: May 26, 2000.

Charles W. Gollmar,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13802 Filed 6–1–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control and Prevention

[Program Announcement 00086]

Cooperative Agreements for National Networks for Tobacco Prevention and Control; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 2000 for cooperative agreements with organizations that can work with the following eight (8) priority populations: 1. African-Americans (AAs); 2. Hispanics/Latinos (H/L); 3. Asian Americans/Pacific Islanders (AAPIs); 4. American Indians/Alaskan Natives (AI/AN); 5. women; 6. gays/lesbians; 7. low socioeconomic status (SES) adults; and, 8. young people to plan, initiate, coordinate, and evaluate tobacco use prevention and control activities to reduce tobacco use in their respective priority population. CDC intends to award cooperative agreements to organizations that can become an integral part of a broad national strategy to prevent and reduce the use of tobacco and exposure to environmental tobacco smoke.

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the focus area of Tobacco Use. For the conference copy of ''Healthy People 2010'', visit the Internet site: <http://www.health.gov/healthypeople>. Additionally, the program relates to the Department of Health and Human Services' (DHHS) initiatives to eliminate the disparities in health status and health outcomes among populations.

The purpose of the awards is to establish a Network of national organizations among the eight priority populations that can plan, initiate, coordinate, and evaluate tobacco use prevention and control activities to reduce tobacco use in their respective priority population and to facilitate the following: 1. creation of national Networks in which multiple organizations can work together to decrease tobacco use in their respective priority populations; 2. building and strengthening capacity and infrastructure within organizations and their Networks so they can mobilize constituents and the public to implement tobacco control efforts; 3. identification of culturally competent strategies and opportunities to reach and impact the priority populations

about tobacco control and prevention; and, 4. initiation and expansion of effective tobacco control measures and initiatives to educate Network members and the public.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, States and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Minimum Requirement

Eligible organizations must meet ALL of the criteria listed below and provide evidence of eligibility by attaching a copy of Addendum 5, Eligibility Certification Form to the application proposal.

Eligibility Criteria

1. Demonstrate that the applicant has at least two years experience in operating and administering coordinated tobacco control or other public health programs that serve their priority population on a regional (multi-state) or national scale.
2. Demonstrate a primary relationship to one of the priority populations listed above. A primary relationship is one in which there is a documented history of assisting, serving or representing the priority population as the most important component of the organization's mission.
3. Describe the specific agencies, organizations and individuals with whom collaboration is being conducted and whom you will invite to join the national Network. In addition, list up to 10 stakeholders that you perceive as most critical for planning and implementing your five-year vision. Describe why each is important.
4. Provide evidence of collaborative relationships with at least two (2) other organizations on the development and implementation of this program.
5. Provide supporting documents and/or letters of support from other potential agency and/or organizational partners.
6. Document that at least 51 percent of persons on the governing board of the lead organization are members of or primarily serve the priority population.
7. For those applicants applying as a private, nonprofit organization, proof of tax exempt status must be provided with the application. Tax-exempt status is determined by the Internal Revenue Service (IRS) Code, Section 501(c)(3).

Note: Public Law 104–65 states that an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

Pre-Application Telephone Conference

Applicants are invited by CDC to participate in a pre-application technical assistance telephone conference June 15, 2000 promptly at 2 p.m. (Eastern time) to discuss: programmatic issues regarding this program; funding availability for the eight priority population categories; suggested collaborations/partners; how to apply; and questions regarding the content of the program announcement. This telephone conference is expected to last one hour. The conference name is Tobacco. The telephone bridge number for Federal participants is 404–639–3277; for not-Federal participants call 1–800–311–3437. Participants will need to enter the following conference code when prompted to be connected 984402. All questions and comments will be recorded and published on the Internet at http://www.cdc.gov/funding as an attachment to this program announcement.

C. Availability of Funds

Approximately $3,000,000 is available in FY 2000 to fund approximately eight (8) awards (approximately 1 award in each priority population.) It is expected that the average award will be $330,000 ranging from $250,000 to $400,000. It is expected that the awards will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to five (5) years. Funding estimates may change in subsequent years.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds cannot be used for construction or renovation, to purchase a facility to house project staff or carry out project activities, to support direct patient care, or to supplant existing support.

Although the applicant may subcontract with other organizations, a substantial portion of the activities (including program management and operations) for this project must be performed by the applicant.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for conducting a range of activities under l. (Recipient Activities), and CDC will be responsible for the activities under 2. (CDC Activities) below.

1. Recipient Activities

a. Develop a national Network of organizations to facilitate the collection and dissemination of general, scientific, and health-related information about tobacco.

b. Provide a mechanism for accessing tobacco control policies, materials, and assets of Network members.

c. Participate in a system for communicating with members of the Network.

d. Train Network members in capacity building and infrastructure development. This can include establishing ways to provide mentorship experiences, as well as assisting Network members in identifying tobacco control information and resources from States, foundations, and other sources.

e. Develop and disseminate reports that identify and describe strategies and opportunities for reaching and/or impacting the identified population vis-a-vis in the four tobacco control and prevention priority goal areas. See Addendum 2—Background.

f. Develop a National data base of tobacco prevention and control experts who can work with Network members to provide training and technical assistance to the priority populations. Assist in arranging linkages with these experts.

g. Provide leadership in the development, operation and administration of tobacco-related initiatives for Network members and on issues related to tobacco use prevention and control within the priority population. Activities may include providing technical assistance on the development of materials that are culturally competent as well as identifying opportunities to train constituents and others to strategically use the media, media advocacy, and other communications strategies.

h. Provide leadership in the development, implementation, and evaluation of an innovative program that addresses identified need(s) within the priority population and coincides with Healthy People 2010 objectives to reduce tobacco use.

i. Establish a working relationship with state-based tobacco control programs to facilitate collaboration with priority populations served by the Network.

j. Develop articles for publication in peer-reviewed journals and/or case studies and presentations for national/

regional meetings, (*e.g.*, National Tobacco Prevention and Control Conference, Tobacco Training Institute, and regional conferences).

k. Plan workshops, trainings and skill building to increase capacity to understand and address issues and implement program activities.

l. Conduct a joint Network activity to coincide with a national conference, issue, or event such as World No Tobacco Day, the Great American Smokeout, the release of Surgeon General's Reports, MMWRs, *etc.*

m. Conduct both process and outcome evaluations to determine if Annual Action Plan objectives were met and to measure the effectiveness of major activities.

n. Provide a full-time employee to direct and coordinate proposed activities.

2. CDC Activities

a. Provide consultation and technical assistance in the planning, implementation and evaluation of program activities.

b. Provide up-to-date information that includes diffusion of best practices and current research and data in areas of tobacco use prevention and control.

c. Facilitate communication and activities among organizations including holding meetings, conferences and conference calls.

d. Assist in planning workshops, trainings and skill building to increase capacity to understand and address issues and implement program activities.

e. Support the development and maintenance of communications and foster the transfer of information, successful prevention interventions and program models between the grantees, the States and national partners.

E. Application Content

Letter of Intent

By postmarked date June 22, 2000 submit a letter of intent (LOI) to the Grants Management specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. The LOI must identify the name, address, telephone number and email address for the applicant organization. Identify possible organizations of collaboration; the principal investigators name, business address and telephone number; and, the priority population served. This information will be used to enable CDC to determine the level of interest in this announcement.

Applications

Use the information in the Program Requirements, Other Requirements, Evaluation Criteria and information below to develop the application content. Your application will be evaluated on the evaluation criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

Applications submitted should include:

1. Executive Summary (3–4 Pages and Addendums 5 and 8)

a. Describe eligibility—type of organization and the priority population served;

b. Describe need for the project;

c. Describe applicant's capability to implement the proposed project(s)/activities;

d. Describe major proposed objectives and activities;

e. Provide a list of proposed organizations that will be included in the Network. See Addendum 7 in the application package for a sample of the matrix format.

f. Completed and signed copy of Addendum 5 in the application packet. Eligibility Certification Form.

2. Narrative (Not More Than 20 Pages)

a. Need

(1) Describe the need for tobacco prevention and control in the specified priority population.

(2) Describe the need for and benefits of convening a tobacco control and prevention national Network of organizations serving the priority population.

(3) Describe the feasibility of developing programs to meet the needs of the specified priority population.

b. Capacity

Describe relevant experience at the National, Regional and State levels that demonstrate the ability, capacity, and state of readiness to perform the program projects/activities, including but not limited to:

(1) Experience facilitating, building and maintaining workgroups, coalitions, and Networks. Include: (a) type of constituents; (b) number of constituents; and (c) location of constituents (intercity, rural, multi-state).

(2) Experience that will demonstrate the capacity and state of readiness to form linkages with public and private agencies including Federal agencies, State and local health departments, and community-based organizations.

(3) Experience in providing leadership in developing, operating and administering health-related programs, campaigns, and trainings within the respective priority population. Be specific (include dates and number of years) about experience with developing and implementing tobacco prevention and control initiatives and whether your public health experience has been at a local, State, multi-state or national level.

(4) Experience, in general, working with the priority population.

(5) Describe the applicant's organizational structure, and how that structure can support the development of a tobacco control agenda and Network. Submit a copy of the organizational chart.

(6) Demonstrate that the applicant has at least two years experience in operating and administering coordinated tobacco control or other public health programs that serve their priority population on a regional (multi-state) or national scale.

(7) Document that at least 51 percent of persons on the governing board of the lead organization are members of or primarily serve the priority population.

(8) Submit a copy of the applicant's tobacco control policy or a letter of commitment from the organization's President or Executive Director to develop one.

(9) Submit a copy of the organization's purpose, mission and goals.

(10) Submit a copy of the tax-exempt status under Section 501 (c)3, if applicable. (Addendum 5)

(11) Show evidence of capacity to carry out fiduciary responsibilities over administration and management of projects.

c. Five-Year Vision

Describe your five-year vision for achieving the tobacco prevention and control goals and objectives you have identified. Incorporate Healthy People 2010 Objectives for decreasing tobacco use, recommendations from Surgeon Generals' reports, (if applicable to the priority population), and your vision for decreasing tobacco-related health disparities within the priority populations.

d. Annual Action Plan (AAP)

Provide a narrative that describes your annual action plan. In addition to the narrative, applicants are encouraged to use the AAP format included as Addendum 6 to summarize the key elements of the plan.

The AAP should include the following:

(1) Objectives—state SMART objectives, provide: Specific; Measurable; Achievable; Relevant; and Time-phased objectives to be accomplished during the first year. Describe possible barriers to or facilitators for reaching each objective

(2) Strategies and activities: For each objective, describe the strategies to be used and activities (in detail) to be conducted to meet the objectives and accomplish the recipient activities. Include, at a minimum, the following:

(a) Describe plans to establish a national Network, and include the types of partners and organizations to be recruited, and the recruiting process.

(b) Describe the process for developing a report that identifies and describes strategies and opportunities to reach and impact the priority population around tobacco control and prevention and the four goal areas in the priority population.

(c) Describe how the recipient will build the capacity of Network members.

(3) Timeline: Provide a timeline that identifies major activities and assigns approximate dates for their inception and completion.

(4) Tracking progress: Provide indicators of how you will monitor and track progress toward accomplishing activities.

(5) Responsible party: What person or party is responsible for overseeing the activity.

The annual action plan may include the following:

(1) A plan to establish a national Network, and include the types of partners and organizations to be recruited, and the recruiting process.

(2) The process for developing a report that identifies and describes strategies and opportunities to reach and impact the priority population around tobacco use prevention and control.

(3) The methods that will be used to build the capacity of Network members.

(4) Responsible party for each activity. Designate who among the collaborative will oversee the process.

(5) Timelines—identify in what quarter(s) major activities will be conducted.

(6) Evaluation indicators—Provide indicators of how you will monitor and track progress toward accomplishing activities.

e. Project Management and Staffing Plan

(1) Describe how you will manage the project to accomplish recipient activities. Identify challenges you expect will arise and how you will problem solve to overcome them.

(2) Describe the proposed project staffing. Staffing should include the commitment of at least two full-time staff members to provide direction for the proposed activities.

(3) Demonstrate that staff members have the professional background, experience, and organizational support needed to fulfill the proposed responsibilities. Include curriculum vitae (limit to 2 pages) for each staff member and job descriptions for staff not yet identified.

(4) If other organizations (through contracts or in kind services) will participate in the collaborative and proposed activities, provide the name(s) of the organization(s), the capacity of the organization's staff, and their roles in carrying out the proposed activities.

f. Collaborative and Network Activities

(1) Describe the specific agencies, organizations and individuals with whom collaboration is being conducted and whom you will invite to join the national Network. In addition, list up to 10 stakeholders that you perceive as most critical for planning and implementing your five-year vision. Describe why each is important.

(2) Describe how collaborators were and will be involved in designing, implementing and providing input into activities. Be specific about their role and the activities in which you will seek collaboration.

(3) Provide evidence of collaborative relationships with at least two (2) other organizations on the development and implementation of this program.

(4) Provide supporting documents and/or letters of support from other potential agency and/or organizational partners.

g. Evaluation of the Annual Action Plan Goals and Objectives

Provide a description of the evaluation and monitoring process to be used to track and measure progress in meeting objectives in the annual action plan. The evaluation plan should include the means of tracking and measuring the objectives, activities, and the collaborative work with Network partners, and any other relevant process or outcome measures. Describe how the results will be reported and used. Designate who will oversee the evaluation design and process.

h. Budget and Accompanying Justification

Provide a line item budget and detailed justification for the first year. The budget should be consistent with stated goals and planned activities outlined in the annual action plan. To the extent necessary applicants are encouraged to include budget items for the following:

(1) If needed—a computer, modem, communicating software, and a dedicated telephone line to support routine participation in accessing and downloading information and communicating with partners via the Internet.

(2) Travel for the following meetings:

(a) Two individuals to participate in the annual three-day National Tobacco Control Conference;

(b) Two individuals for two trips to Atlanta to attend a two-day CDC sponsored training or technical assistance workshop;

(c) Two individuals to attend the five-day CDC Tobacco Use Training Institute.

(d) One individual to attend up to a three-day regional training in South Carolina

(e) Travel for members to attend one to two Network meetings. Location will be determined by the applicant.

If proposed contractors are known at the time of the application, provide the following:

(a) Name of contractor/consultant
(b) Method of selection
(c) Scope of service
(d) Period of performance
(e) Detailed budget
(f) Method of accountability

F. Submission and Deadlines

Letter of Intent

By postmarked date June 22, 2000, submit a letter of intent (LOI) to the Grants Management specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. This information will be used to enable CDC to determine the level of interest in this announcement.

Application

Submit the original and two copies of PHS 5161–1 (OMB 0937–0189). By postmarked date July 17, 2000, submit the application and appropriate information addressing sections 1 and 2 below to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this application.

Deadline: Applications will be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Postmarked on or before the deadline date.

(Applicants must request a legibly dated U.S. Postal Service postmark, Private metered postmarks shall not be acceptable as proof of timely mailing)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Need (10 Percent)

The extent to which the applicant identifies and justifies the need for tobacco prevention and control, and includes data and other supporting evidence of tobacco use in the priority population and problems involving environmental tobacco smoke, access to tobacco, tobacco industry advertising, tobacco use cessation and/or tobacco-related health disparities within the priority population.

The extent to which the applicant describes how a national Network of partners can help advance the tobacco control movement within the priority population.

2. Capacity (25 Percent)

The extent to which the applicant demonstrates the capacity and ability and state of readiness of their organization and collaborators to establish and maintain a national Network, and to facilitate building capacity of Network members, producing a report, and developing a major tobacco control initiative.

a. The extent to which the applicant describes the history, nature, and its relevant experience in organizing and facilitating the work of large groups.

b. The extent to which the applicant describes its linkages with Federal agencies, State and local health departments, and community-based organizations.

c. The extent to which the applicant and members of the collaborative document its experiences and successes in operating and/or administering a tobacco control or other public health program serving the priority population. The extent to which the experience is on a National, Regional or State level. Two years of relevant experience is needed.

d. Document that at least 51 percent of persons on the governing board of the lead organization are members of or primarily serve the priority population.

e. The extent to which the applicant documents its experiences and successes in the fiduciary administration and management of comparable projects.

f. The extent to which the applicant and members of the collaborative demonstrate a primary and working relationship with the priority population to achieve a desired outcome.

g. The extent to which the applicant or organizations making up the collaborative have at least two years experience as the lead or organizing body charged with convening multiple organizations.

h. The extent to which the applicant demonstrates that the organizational structure, mission, and policy, (or in the absence of a policy—a letter from the Director committing to the development of a tobacco control policy), will support the purpose of this project.

3. Five-year Vision (5 Percent)

The extent to which the applicant articulates the vision, seeks meaningful changes for a five-year period, and ties the vision to the Healthy People 2010 Objectives.

4. Annual Action Plan (15 Percent)

a. The extent to which the objectives are realistic and related to identified needs and purpose of the program.

b. The extend to which activities are realistic and feasible and will help accomplish the objectives.

c. The extent to which there are realistic plans to establish a national Network, a realistic process to develop and disseminate reports that identify and describe strategies and opportunities for reaching and/or impacting the identified population.

5. Collaborative and Network Activities (20 Percent)

a. The extent to which the applicant formed and worked with a collaborative of at least 2 other organizations in planning the application, and provides memoranda of agreement or other documents as evidence of agreed-upon collaborative relationships.

b. The extent to which the applicant will involve others in planning, implementing and evaluating activities throughout the project period.

c. The extent to which the applicant proposes to be inclusive and to recruit organizations into the Network with diverse skills and knowledge and that serve diverse populations.

d. The extent to which the applicant includes commitment letters and letters of support from diverse groups of partners, including organizations with experience in tobacco control.

e. The extent to which the applicant proposes to work with State tobacco control programs to reach the primary priority population.

6. Project Management and Staffing Plan (15 Percent)

a. The extent to which the applicant identifies staff that have the responsibility, capability, and authority to carry out the activities, as evidenced by job descriptions, curriculum vitae, and descriptions or memorandum of understandings with collaborating agencies.

b. The extent to which the plan to manage the project and to overcome challenges is logical, resourceful, and adequate to accomplish the purpose of the project.

7. Evaluation (10 Percent)

The extent to which the applicant realistically and adequately proposes to measure progress in tracking and meeting objectives and presents a reasonable plan for obtaining data, reporting the results and using the results for programmatic decisions.

8. Budget and Accompanying Justification (Not Scored)

The extent to which the budget is reasonable, itemized, clearly justified and consistent with the work plan and intended use of funds.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Progress reports (semiannual)
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

For descriptions of the following Other Requirements, see Addendum 1 in the application package. Some of the more complex requirements have some additional information provided below:

AR–7—Executive Order 12372 Review
AR–10—Smoke-Free Workplace Requirements
AR–11—Health People 2010
AR–12—Lobbying Restrictions
AR–15—Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Section 301(a), 317(k)(2), 241(a), and 247b(k)(2) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Nealean Austin, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, Room 3000, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number: (770) 488–2754, FAX: (770) 488–2777, Email address: nea1@cdc.gov

This and other CDC announcements can be found on the CDC Homepage Internet address: http://www.cdc.gov.

For program technical assistance, please contact:

Michele Williams, Project Officer, Program Services Branch, Office on Smoking and Health, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, Atlanta, GA 30341–3717, Telephone number: (770) 488–1207, Email address: muw0@cdc.gov

or

Victor Medrano, Project Officer, Program Services Branch, Office on Smoking and Health, Centers for Disease Control and Prevention, 4770 Buford Hwy., NE, Atlanta, GA 30341–3717, Telephone number: (770) 488–1125, Email address: vdm6@cdc.gov

Dated: May 26, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–13799 Filed 6–1–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 2000–08]

Fiscal Year 2000 Training, Technical Assistance and Capacity-Building Program; Availability of Funds and Request for Applications

AGENCY: Office of Community Services (OCS), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Request for Applications under the Office of Community Services' Training, Technical Assistance and Capacity-Building Program.

SUMMARY: The Office of Community Services announces that competing applications will be accepted for new grants pursuant to the Secretary's authority under Section 674(b) of the Community Services Block Grant (CSBG) Act, as amended by the Community Opportunities, Accountability, and Training, and Educational Services (Coats) Human Services Reauthorization Act of 1998, (Pub. L. 105–285). This program announcement consists of seven parts. Part A provides information on the legislative authority and defines terms used in the program announcement. Part B describes the purposes of the program, the priority areas that will be considered for funding, and which organizations are eligible to apply in each priority area. Part C provides details on application prerequisites, anticipated amounts of funds available in each priority area, estimated number of grants to be awarded, and other grant-related information. Part D provides information on application procedures including the availability of forms, where to submit an application, criteria for initial screening of applications, and project evaluation criteria. Part E provides guidance on the content of an application package. Part F provides instructions for completing an application. Part G details post-award requirements.

Closing Date: The closing date for submission of applications is July 19, 2000. Applications postmarked after the closing date will be classified as late. Applications that are handcarried will be classified as late if they are received after 4:30 p.m., EST, on the deadline date. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing. Detailed application submission instructions, including addresses where applications must be sent are found in Part D of this program announcement.

FOR FURTHER INFORMATION CONTACT: Margaret Washnitzer, Director, Division of State Assistance, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, DC 20447 (202) 401–9343. This program announcement is accessible on the OCS web site for reading or downloading at: http://www.acf.dhhs.gov/programs/ocs/kits1.htm

Additional copies of this program announcement can be obtained by calling (202) 401–4787.

The Catalog of Federal Domestic Assistance number is ''93.570.'' This Program announcement title is ''Training, Technical Assistance, and Capacity-Building Program.''

Part A—Preamble

1. Legislative Authority

Section 674(b)(2) of the Community Services Block Grant (CSBG) Act of 1981, (Pub. L. 97–35) as amended by the Coats Human Services Reauthorization Act of 1998, (Public Law 105–285) authorizes the Secretary of Health and Human Services to utilize a percentage of appropriated funds for training, technical assistance, planning, evaluation, performance measurement, monitoring to correct programmatic deficiencies of eligible entities, reporting and data collection activities related to programs or projects carried out under the CSBG Act . The Secretary may carry out these activities through grants, contracts, or cooperative agreements. For the purpose of improving program quality (including quality of financial management practices), management information and reporting systems, and measurement of program results, and for the purpose of ensuring responsiveness to identified local needs, the Secretary is required to distribute funds directly to eligible entities, or statewide or local organizations or associations with demonstrated expertise in providing training to individuals and organizations on methods of effectively addressing the needs of low-income families and communities. The Secretary may carry out the remaining activities through appropriate entities.

The process for determining the technical assistance, training and capacity-building activities to be carried out must (a) ensure that the needs of Community Action Agencies and programs relating to improving program quality, including financial management practices, are addressed to the maximum extent feasible; and (b) incorporate mechanisms to ensure responsiveness to local needs, including an on-going procedure for obtaining input from State and national networks of eligible entities. Thus, the CSBG Monitoring and Assessment Task Force (MATF) continues to focus on implementation of the Results-Oriented Management and Accountability (ROMA) system to increase program quality and management within the Community Services Network. The Task Force has taken a comprehensive

approach to monitoring including establishing national goals and outcome measures; reviewing data needs relevant to these outcome measures; and assessing technical assistance and training provided toward capacity building within the Community Services Network.

2. Definitions of Terms

For purposes of the FY 2000 CSBG Training, Technical Assistance and Capacity-Building Program, the following definitions apply:

Eligible entity means any organization that was officially designated as a community action agency (CAA) or a community action program under Section 673(1) of the Community Services Block Grant Act, as amended by the Human Services Amendments of 1994 (Pub. L. 103–252), and meets all the requirements under Section 676B of the CSBG Act, as amended by the Coats Human Services Reauthorization Act of 1998. All eligible entities are current recipients of Community Services Block Grant funds, including migrant and seasonal farmworker organizations that received CSBG funding in the previous fiscal year. In cases where eligible entity status is unclear, a final determination will be made by OCS/ACF.

Performance Measure is a tool used to objectively assess how a program is accomplishing its mission through the delivery of products, services, and activities.

Outcome Measures are indicators, which focus on the direct results one wants to have on customers.

Results-Oriented Management and Accountability System (ROMA) is a partnership approach to the administration of the Community Services Block Grant program. It involves setting goals and strategies for developing plans and techniques that focus on a results-oriented performance based model for management.

Training is an educational activity or event which is designed to impart knowledge, understanding, or increase the development of skills. Such training activities may be in the form of assembled events such as workshops, seminars, or conferences or programs of self-instructional activities.

Technical assistance is an activity, generally utilizing the services of an expert (often a peer), aimed at enhancing capacity, improving programs and systems, or solving specific problems. Such services may be provided proactively to improve systems or as an intervention to solve specific problems. Telephone or other communications systems may provide services on-site.

State means all of the States and the District of Columbia. Except where specifically noted, for purposes of this program announcement, it also means Territory.

Territory refers to the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa, and the Commonwealth of the Northern Mariana Islands.

Local service providers are local public or private non-profit agencies that receive Community Services Block Grant funds from States to provide services to, or undertake activities on behalf of, low-income people.

Nationwide refers to the scope of the technical assistance, training, data collection, or other capacity-building projects to be undertaken with grant funds. Nationwide projects must provide for the implementation of technical assistance, training or data collection for all or a significant number of States, and the local service providers who administer CSBG funds.

Statewide refers to training, technical assistance and other capacity-building activities undertaken with grant funds and available to one or more Community Action Agencies in a State, as needed and appropriate.

Community Services Network refers to the various organizations involved in planning and implementing programs funded through the Community Services Block Grant or providing training, technical assistance or support to them. The network includes local Community Action Agencies and other eligible entities; State CSBG offices and their national association; CAA State, regional and national associations; and related organizations which collaborate and participate with Community Action Agencies and other eligible entities in their efforts on behalf of low-income people.

Program technology exchange refers to the process of sharing expert technical and programmatic information, models, strategies and approaches among the various partners in the Community Services Network. This may be done through written case studies, guides, seminars, technical assistance, and other mechanisms.

Capacity-building refers to activities that assist Community Action Agencies and other eligible entities to improve or enhance their overall or specific capability to plan, deliver, manage and evaluate programs efficiently and effectively to produce results. This may include upgrading internal financial management or computer systems, establishing new external linkages with other organizations, improving board functioning, adding or refining a program component or replicating techniques or programs piloted in another local community, or other cost effective improvements.

Regional Networks refers to CAA State Associations within a region.

Part B—Purposes/Program Priority Areas

The principal purpose of this T&TA funding is to stimulate and support planning, training, technical assistance and data collection activities that strengthen the Community Services Network. New and revised techniques and tools are needed to fundamentally change the way the Network does business on a daily basis.

In addition, there are specific changes in the CSBG Act as amended in 1998 that mandate that OCS implement data collection and performance measurement systems by Fiscal Year 2001. The system developed under the leadership of OCS is called the Results-Oriented Management and Accountability system (ROMA). Technical assistance and training activities described in this program announcement are also impacted by the Government Performance and Results Act of 1993 (Pub. L. 103–62), which requires that Federal programs describe expected program outcomes, and by the National Monitoring and Assessment Task Force (MATF) established by the Director of the Office of Community Services (OCS) to develop and implement a process (ROMA) to assist the Community Services Network to manage for results. Thus, the importance of strong technical assistance, training, planning and data collection is essential to ensure a results-oriented strategy for the management and delivery of services to low-income people.

OCS is soliciting applications that implement these legislative mandates in a systematic manner on a nationwide, statewide or local basis, as appropriate to the priority area. OCS believes that identifying training and technical assistance needs requires substantial involvement of eligible entities working in partnership at local, State and national levels. OCS also anticipates that the recipients of awards under the FY 2000 Training, Technical Assistance and Capacity-Building Program can be expected to implement the approved project(s) without substantial Federal agency involvement and direction. Therefore, funds will be provided in the form of grants.

Activities under Sub-Priority Areas 1.1, National Training and Technical Assistance, and 2.4, Strengthening CAA Capacity on Legal Issues Toward

Problem Solving will be carried out under a continuation grant in FY 2000 without further competition, and are included in the Availability of Funds section of this announcement. The National Association of Community Action Agencies is the grantee for Sub-Priority Area 1.1 and CAPLAW for Sub-Priority Area 2.4.

Priority areas of the Office of Community Services' Fiscal Year 2000 Training, Technical Assistance and Capacity-Building Program are as follows:

Priority Area 1.0: Training and Technical Assistance for the Community Services Network

Sub-Priority Areas

1.1 National Training and Technical Assistance
1.2 Statewide Partnership Grants to Implement ROMA
1.3 Technical Assistance for Special Initiatives
1.4 Technical Assistance to Measure Civic/Social Capital Development
1.5 Leadership Development

This priority area addresses the development and implementation of coordinated, comprehensive, nationwide or, where appropriate, statewide training and/or technical assistance programs to assist State CSBG staff, staff of State and regional organizations representing eligible entities, and staff of local service providers which receive funding under the CSBG Act, to acquire the skills and knowledge needed to plan, administer, implement, monitor, and evaluate programs designed to ameliorate the causes of poverty in local communities. Proposals should include a description of how the applicant will collaborate with State CSBG staff and local service providers.

Sub-Priority Area 1.1: National Training and Technical Assistance

Training and technical assistance under this sub-priority area are being supported as a continuation grant in FY 2000 and, therefore, will not be competed.

Sub-Priority Area 1.2: Statewide Partnership Grants To Implement ROMA

The purpose of this sub-priority area is to provide training and technical assistance to Community Action Agencies in implementing ROMA State CAA Associations, in partnership with State CSBG Administrators, are eligible to apply for grants under this sub-priority area. An applicant will be considered under this sub-priority area only if 90 percent of the CAAs in the State have begun implementing ROMA at the time the applicant's proposal is written. All eligible entities must provide evidence that there has been coordination with the appropriate State CSBG office in developing their applications. OCS is particularly interested in train-the-trainer curricula and implementation strategies. Consideration will be given to partnerships, which have demonstrated statewide train-the-trainer capacity and wish to broaden their outreach to other selected States. These statewide grants will be awarded to one entity per State.

Eligible applicants: State CAA Associations, in partnership with State CSBG Administrators.

Sub-Priority Area 1.3: Technical Assistance for Special Initiatives

Issues of crime, violence, drug abuse, unemployment, poverty, family breakdown, and inadequate education and training of many young people to attain productive employment in an increasingly technological labor market, threaten the safety and viability of many urban communities. Grantees funded under this sub-priority area will provide technical assistance to CAAs to assist them in developing and implementing collaborative community-wide strategies, effective organizational working relationships, and special initiatives among CAAs and other organization(s) focusing on issues of crime, violence, family breakdowns, drug abuse and poverty in a culturally sensitive way. Emphasis will be on assisting CAAs to assist in developing minority leadership and bring together the various community, business, labor, voluntary, educational, civil rights, and governmental sectors required to develop model local strategies to improve conditions in low-income, urban communities. Applicants are encouraged to develop applications in collaboration with at least one other national private, non-profit organization, which has a substantial track record in formulating strategies to improve conditions in low-income urban communities. This nationwide training and technical assistance program should be designed as a 3 year project. Funding for years 2 and 3 will be contingent upon the availability of funds and the agency's priorities.

Eligible applicants: Private non-profit organizations in collaboration with a national organization.

Sub-Priority Area 1.4: Technical Assistance to Measure Civic/Social Capital Development

Civic capital refers to the relationships and affiliations—social networks, norms, obligations, expectations, and information channels—that enable community stakeholders to coordinate their resources to address mutual problems. Empirical studies suggest that improvements in community conditions and the social, economic, and physical well-being of residents are closely associated with the extent of civic capital in that community. Communities experiencing socio-economic distress typically lack strong neighborhood institutions and associations that serve as centers for civic activity; residents suffer isolation, disengaged from the broader society, supportive institutions, and one another.

Elements of the ROMA Community Goals and Community Scaling Tool reflect the important role of CAAs in developing civic capital. Historically, CAAs provided a nexus for individuals and community organizations to engage in mutual problemsolving. In more recent years, funding requirements and scarce resources shifted CAA priorities toward delivering direct services.

OCS seeks to promote community action network efforts in conceiving and implementing strategies that strengthen civic capital within communities. OCS will fund one or more projects that address this issue in a pragmatic, practitioner-oriented manner, providing operational tools for CAAs. Proposals may focus on: (1) Identifying lessons from case studies of current community-based efforts to enhance civic capital; (2) preparing a manual on planning, organizing, and undertaking various approaches to civic capital development in different community contexts; (3) assessing the roles and relationships among community organizations, neighborhood governance systems, and local government in developing civic capital; (4) preparing and utilizing measures of civic capital; (5) undertaking demonstration projects to increase participation of community residents in civic activity; or (6) other projects which help CAAs to advance the field of civic capital development. Applications from partnerships of organizations with collective experience in development, operation, documentation, and evaluation of comprehensive community-building initiatives are encouraged. Such collaborations may include: CAAs, community groups and associations, schools, religious institutions, service providers, policy research institutes, local foundations, or already formed community partnerships which team with national organizations, *e.g.,* Free to Grow Initiative which focuses on building stronger communities as a way

to battle a variety of substance abuses with Head Start and Robert Wood Johnson Foundation.

Applicant CAAs should have a demonstrated ability to bring multiple stakeholders together in order to address common issues or problems and experience in the use of scales to measure community-level outcomes. Applicants should include a plan that describes how results will be shared with the Community Services Network.

Eligible applicants: Community Action Agencies or CAAs in partnership with other organizations/institutions.

Sub-Priority Area 1.5: Leadership Development

Periodically institutions and organizations need to change if they are to remain vital. The ability to recognize this need and to facilitate the development of new visions to bring about change is called leadership. No matter how large or small an organization, it needs leadership to survive. OCS is interested in funding effective models of leadership training specifically adapted to the needs of the CAA network in the new millennium. The proposed model needs to have the capacity to serve a two or three region area, meeting both rural and urban needs. Applicants will be funded for three years and must be able to provide leadership training to all State and local CAA Directors and State CAA Directors and Board Chairpersons in the region during that period. Training must be in depth and focus on the changing face of poverty in the new millennium. The curriculum should cover effective new interventions; strategic planning around community needs, developing and managing performance based systems and outcome measurement, (ROMA); staff training, organizing and managing fiscal accountability systems, boards of directors development and governance and program specific modules to cover large programs such as Head Start, WIC, LIHEAP, *etc.*

Proposals should include: a description of which multi-regional setting is to be served; a plan for how a third of the targeted audience will be recruited and served; examples of the various curriculum and faculty to be used; commitments for partnerships with institutions of higher learning, if any. Commitments for innovative matching funding up to 20%; a description of an advisory panel mechanism to guide the project; and performance goals and measurement.

Eligible applicants: CAAs, private non-profits organization, or CAA Association/State partnerships.

Priority Area 2.0: CAA Capacity Building

Sub-Priority Areas

2.1 Collection, Analysis and Dissemination of Information on the CSBG Activities Nationwide
2.2 Local Capacity Building
2.3 Peer-to-Peer Intervention
2.4 Strengthening CAA Capacity to Address Legal Issues

This priority area addresses activities to assist Community Action Agencies (CAAs) to enhance their ability to plan, manage, deliver and evaluate programs to achieve results. This includes support for the continuation and improvement of: (a) CSBG voluntary data collection, analysis, dissemination and utilization; (b) program and management techniques; (c) computer skills and electronic networking; (d) peer-to-peer intervention to avert CAA crisis management; and (e) legal assistance to assist Community Action Agencies to further the understanding (*i.e.,* special initiatives) of legal frameworks.

Sub-Priority Area 2.1: Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide

The purpose of this sub-priority area is to fund a project to improve the collection, analysis, dissemination and utilization of data and information on CSBG activities and effective approaches to ameliorating poverty. This includes the development of a CSBG data collection instrument and a plan for the collection, analysis and dissemination of information on FY 1998, and FY 1999 programs on a nationwide basis through a process that relies on Voluntary State cooperation. The information should be comprehensive enough and disseminated in such formats as to enable State and local service providers to improve their planning, management and delivery of services and to assure that the general public has a clear understanding of those programs and their outcomes. Of particular importance is the continued knowledge building and development of the concepts and technologies of results-oriented management in order to meet the requirements of the CSBG Act as amended in 1998 and the Government Performance and Results Act of 1993. This priority also includes computer technology for Community Action Agencies and other partners in the Community Services Network for two specific objectives: (1) Their ability to participate in the information highway, and (2) their ability to use and disseminate data, research, and information regarding poverty issues, particularly activities and outcomes of the Community Services Network.

The project developed under this sub-priority area should be for a three-year period.

Eligible applicants: Private non-profit organizations with demonstrated expertise in data collection on a nationwide basis and knowledge of and experience with the Community Services Network.

Sub-Priority Area 2.2: Local Capacity Building

The purpose of this sub-priority area is to promote management efficiency and program productivity. It is essential that local CAAs and other partners in the Community Services Network share effective program/management techniques and information systems technology being used and/or developed by eligible entities to address various aspects of poverty and the implementation of ROMA by the Community Services Network. Grants under this sub-priority area will be made to Community Action Agencies to promote local CAA capacity building. Activities may include sharing of model needs assessment tools; sharing of effective data processing innovations; development of effective community organizing techniques; development of effective self assessment tools; demonstration of scaling techniques; use of tracking systems; internal and external communication networks; effective integration of information systems; and sharing successful leveraging strategies. Applicants must include a plan that describes how the results will be shared with the larger Community Services Network.

Eligible applicants: Community Action Agencies

Sub-Priority Area 2.3: Peer-to-Peer Crisis Intervention

The purpose of this sub-priority area is to strengthen the fiscal and management capacity of eligible entities. OCS will fund several organizations to develop and implement strategies to provide coordinated, timely peer-to-peer technical assistance and crisis aversion intervention strategies for CAAs which have identified themselves as experiencing programmatic, administrative, board, and/or fiscal management problems. Such technical assistance should be designed to prevent fiscal and management problems from deteriorating into crisis situations that could threaten the capacity of CAAs to provide quality services to their communities or give rise to possible termination. In a written

agreement with selected CAAs, the applicant will coordinate and deploy the technical assistance resources of experienced individuals within the Community Services Network or other agencies which administer similar programs to assist low-income individuals in the identification and resolution of problems, through necessary actions, including training, to ensure that relevant and timely assistance is provided. Such assistance may be requested to assist the agency in resolving adverse program monitoring or audit findings, improve or upgrade financial management systems, prevent losses of funds, avert serious deterioration of the board of directors, or other immediate assistance to CAAs as requested. To the extent feasible, the applicant will be expected to develop an expert technical assistance resource bank of experienced individuals from the Community Services Network who may be deployed to provide peer technical assistance.

Eligible applicants: Community Action Agencies and other eligible entities and statewide organizations or associations of Community Action Agencies.

Sub-Priority Area 2.4: Strengthening CAA Capacity To Address Legal Issues

Technical assistance under this sub-priority area is being supported as a continuation grant in FY 2000 and, therefore, will not be competed.

Priority Area 3.0: State CSBG Capacity Building

This priority area addresses special activities to State CSBG Administrators to enhance their capacity to assist eligible entities in strengthening their administrative and programmatic capabilities to resolve special structural, financial and programmatic problems.

Sub-Priority Area 3.1: Special Technical Assistance

States are required under the Community Services Block Grant Act to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements and other requirements of the States and to conduct regular on-site reviews of eligible entities. When a State determines that an eligible entity has a deficiency that must be corrected, the CSBG legislation mandates that the State offer an eligible entity training and technical assistance, if appropriate, to help correct such a deficiency. States may support this T&TA with the CSBG funds remaining after it has made grants to eligible entities. However OCS recognizes that in some instances the problem to be addressed may be of such a complex or pervasive nature that it cannot be adequately addressed with the resources available to the State CSBG Administrator.

The purpose of this Sub-Priority Area is to provide funding to States to support interventions in cases where an eligible entity is in a crisis situation. The goal of this sub-priority area is to stabilize eligible entities in crisis and to correct programmatic deficiencies to preclude the need for termination hearings and proceedings. The CSBG legislation mandates that States provide training and technical assistance prior to any termination procedures. It also requires States to carry out corrective activities and to monitor all eligible entities at least every three years.

Applications for funding under this sub-priority area may be submitted at any time prior to August 31, 2000. Application should include a description of the major problems; indication of who will provide the technical assistance, *i.e.,* peer, State, consultant, other; an agreed upon timetable with the ''at risk'' entity for assistance; and an abstract which summarizes the activities covered in this priority area.

Since the CSBG Act mandates that the Secretary assist States in carrying out activities to address corrective actions, States submitting applications under this Sub-Priority Area will not be competing with other States for funding. Applicants who supplement the funding provided under this Sub-Priority with other State funds will be looked upon favorably.

OCS will review each application based on the Criteria for Review and Evaluation of Applications Submitted under Sub-Priority Area 3.1 found in Part D of this Program Announcement. Applications receiving a score of 80 or more will be considered for funding.

Eligible Applicants: State CSBG Administrators

Part C—Application Prerequisites

1. Eligible Applicants

See individual sub-priority areas in Part B.

2. Availability of Funds

The total amount of funds available for grant awards in FY 2000 is expected to be $2,350,000 of which $700,000 is committed for continuation grants. Amounts expected to be available and numbers of grants under each sub-priority area stated in Part B are as follows:

Sub-priority area	Approx. funds available	Estimated number of grants
1.1 National Training and Technical Assistance (CB) [1]	500,000	1.
1.2 Statewide Partnership Grants to Implement ROMA Goals (RM)	600,000	Approximately 8 grants.
1.3 TA for Special Initiatives (UI)	100,000	1.
1.4 TA to Measure Civic/Social Capital Development (CS)	250,000	Approximately 2 grants.
1.5 Leadership Development (LD)	200,000	Approximately 2 grants.
2.1 Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide (IS)	450,000	1.
2.2 Local Capacity-Building (CP)	300,000	Approximately 10 grants.
2.3 Peer-to-Peer Crisis Intervention (PP)	500,000	Approximately 3 grants.
2.4 Strengthening CAA Capacity to Address Legal Issues (LF) [1]	200,000	1.
3.1 Special Technical Assistance (ST)	400,000	Approximately 20 grants.
Total	2,400,000	Approximately 49 grants.

[1] Represent continuation grants in the amount of $700,000.

3. Project and Budget Periods

For projects included in the FY 2000 CSBG T&TA Program Announcement, the project and budget periods are 12 months with the exception of grants under Sub-Priority Area 1.3 Technical Assistance for Special Initiatives, 1.5 Leadership Development and 2.1 which will be made for a 12 month budget period and a three year project period. Continuation grants under Sub-Priority Areas 1.1 and 2.4 will be made for 12-month budget periods. Future funding will be contingent upon the availability of funds and the agency's priorities.

4. Project Beneficiaries

The overall intended beneficiaries of the projects to be funded under the FY 2000 CSBG T&TA Program Announcement are the various ''partners'' in the Community Services Network. Specific beneficiaries are indicated under each sub-priority area in Part B. It is the intent of OCS, through funding provided under this program announcement, to significantly strengthen the capacity of State and regional CAA associations to provide technical assistance and support to local service providers; to strengthen the capacity of State CSBG offices to collect and disseminate accurate and reliable data and to provide support for local service providers; and to enhance the capacities of local service providers themselves. The ultimate beneficiaries of improved program management, data and information collection and dissemination, and service quality of local service providers are low-income individuals, families, and communities.

5. Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. This prohibition does not bar the making of subgrants or subcontracting for specific services or activities needed to conduct the project. However, the applicant must have a substantive role in the implementation of the project for which funding is requested.

6. Number of Projects in Application

Separate applications must be made for each sub-priority area. An applicant will receive only one grant in a sub-priority area and no more than two grants under this FY 2000 CSBG T&TA Program Announcement. Applicants that receive more than one grant for a common budget and project period must be mindful that salaries and wages claimed for the same persons cannot collectively exceed 100% of total annual salary. The sub-priority area must be clearly identified by title and number.

7. Project Evaluations

Each application must include an assessment or self evaluation to determine the degree to which the goals and objectives of the project are met, such as client satisfaction surveys, administration of simple before/after tests of knowledge with comparison of scores to show grasp of teaching points, simple measures of the results of service delivery, and others as appropriate. Goal setting and goal measurement should be the framework for evaluation. Goals, to the extent suitable, should be impact-oriented.

Part D—Application Procedures

1. Availability of Forms

Applications for awards under the FY 2000 CSBG T&TA Program must be submitted on Standard Forms (SF) 424, 424A, and 424B. Part F and the attachments to this program announcement contain all the instructions and forms required for submission of an application. These forms may be photocopied for use in developing the application.

Part F also contains instructions for the project narrative. The project narrative must be submitted on plain bond paper along with the SF–424 and related forms.

A copy of this program announcement is available on the Internet through the OCS web site at: http://www.acf.dhhs.gov/programs/ocs/kits1.htm.

If the kit cannot be accessed through the OCS web site, it can be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this program announcement.

2. Deadlines

Refer to the section entitled ''Closing Date'' at the beginning of this program announcement for the last day on which applications should be submitted.

Mailed applications shall be considered as meeting the announced deadline if they are received on or before deadline date or postmarked on or before the deadline date and received by ACF in time for the independent review. Mailed applications must be sent to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, Aerospace Building, 4th Floor, 370 L'Enfant Promenade, SW, Washington, DC 20447.

Attention: CSBG Training, Technical Assistance and Capacity-Building Program

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private metered postmarks shall be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with a note: Attention: CSBG Training, Technical Assistance, and Capacity-Building Program.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time or submission and time of receipt. Applications, once submitted, are considered final and no additional materials will be accepted.

Late applications. Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mail service. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

3. Number of Copies Required

One signed original application and four copies should be submitted.

4. Designation of Sub-Priority Area

The first page of the SF–424 must contain in the lower right-hand corner a designation indicating under which sub-priority funds are being requested. For example, if you are applying for Sub-Priority Area 2.2—Local Capacity Building, you must have a designation of 2.2 in the lower right-hand corner. Without this clear designation, your proposal may not be reviewed correctly.

5. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Public Law 96–511, the Department is required to submit to OMB for review and approval any reporting and record keeping

requirements in regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062, which expires October 31, 2001.

6. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, and the Republic of Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-three jurisdictions need take no action regarding E.O. 12372.

Applicants for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that OCS can obtain and review SPOC comments as a part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424A, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those Official State process recommendations which they intend to trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor Aerospace Center, 370 L'Enfant Promenade, SW, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment I to this program announcement.

7. Application Consideration

Applications that meet the screening requirements in Sections 8.a. and 8.b. below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this announcement.

Persons outside of the OCS unit that would be directly responsible for programmatic management of the grant will review applications. The results of these reviews will assist OCS in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be ranked and generally considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors deemed relevant may be considered including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the past five years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowance's on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

8. Criteria for Screening Applications

a. Initial Screening

All applicants will receive a written acknowledgment with an assigned identification number. This number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgment is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–5103.

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this Announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF–424B) completed according to instructions published in Part F and Attachments A, B, and C of this program announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant that has authority to obligate the organization legally.

b. Pre-Rating Review

Applications, which pass the initial screening, will be forwarded to reviewers and/or OCS staff to verify, prior to the programmatic review, that the applications comply with this program announcement in the following areas:

(*1*) *Eligibility:* Applicant meets the eligibility requirements found in Part B. Applicant also must be aware that the applicant's legal name as required on the SF 424 (item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

(*2*) *Duration of Project:* The application contains a project that can be successfully implemented in the project period.

(*3*) *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to State staff administering CSBG funds, CAA State or regional associations, and/or local providers of CSBG-funded services and activities. Benefits to low-income consumers of CSBG services also must be identified.

(4) *Program Focus:* The application must address the purpose of the sub-priority area under which funding is being requested.

An application may be disqualified from the competition and returned to the applicant if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications that pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score to each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each

applicable criterion published in this announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained in Part B.

Criteria for Review and Evaluation of Applications Submitted Under This Program Announcement

(1) Criterion I: Need for Assistance: (Maximum 20 Points)

(a) The application documents that the project addresses vital needs related to the purposes stated under the appropriate sub-priority area discussed in this program announcement (Part B) and provides statistics and other data and information in support of its contention. (0–10 points).

(b) The application provides current supporting documentation or other testimonies regarding needs from *State* CSBG Directors, *local* service providers and/or State and Regional organizations of local service providers. (0–10 points)

(2) Criterion II: Work Program: (Maximum: 30 Points)

The work program is results-oriented, appropriately related to the legislative mandate and specifically related to the sub-priority area under which funds are being requested.

Applicant addresses the following: Specific outcomes to be achieved; performance targets that the project is committed to achieving, including reasons for not setting lower or higher target levels and how the project will verify the achievement of these targets; critical milestones which must be achieved if results are to be gained; organizational support including priority this project has for the agency; past performance in similar work; and specific resources contributed to the project that are critical to success.

Applicant defines the comprehensive nature of the project and methods that will be used to ensure that the results can be used to address a statewide or nationwide project as defined by the priority area.

(3) Criterion III: Significant and Beneficial Impact: (Maximum 15 Points)

Applicant adequately describes how the project will assure long-term program and management improvements and have advantages over other products offered to achieve the same outcomes for State CSBG offices, CAA State and/or regional associations, and/or local providers of CSBG services and activities.

The applicant indicates the types and amounts of public and/or private resources it will mobilize, how those resources will directly benefit the project, and how the project will ultimately benefit low-income individuals and families.

If proposing a project with a training and technical assistance focus, applicant indicates the number of organizations and/or staff it will impact.

If proposing a project with a data collection focus, applicant provides a description of the mechanism it will use to collect data, how it can assure collections from a significant number of States, and the number of States willing to submit data to the applicant.

If proposing to develop a symposium series or other policy-related project(s), the applicant identifies the number and types of beneficiaries.

Methods of securing participant feedback and evaluations of activities are described in the application.

(4) Criterion IV: Evidence of Significant Collaborations: (Maximum 10 Points)

Applicant describes how it will involve partners in the Community Services Network in its activities. Where appropriate, applicant describes how it will interface with other related organizations.

If subcontracts are proposed, documentation of the willingness and capacity for the subcontracting organization(s) to participate is described.

(5) Criterion V: Ability of Applicant to Perform: (Maximum 20 Points)

(a) The applicant demonstrates that it has experience and a successful track record relevant to the specific activities and program area that it proposes to undertake.

If applicant is proposing to provide training and technical assistance, it details its competence in the specific program priority area and as a deliverer with expertise in the specific fields of training and technical assistance on a nationwide basis.

If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization. (0–10 points)

(b) Applicant fully describes, for example in a resume, the experience and skills of the proposed project director and primary staff showing specific qualifications and professional experiences relevant to the successful implementation of the proposed project. (0–10 points)

(6) Criterion VI: Adequacy of Budget: (Maximum 5 Points)

(a) The resources requested are reasonable and adequate to accomplish the project. (0–3 points)

(b) Total costs are reasonable and consistent with anticipated results. (0–2 points)

Part E—Contents of Application and Receipt Process

1. Contents of Application

A cover letter containing an e-mail address and a facsimile (FAX) number, if available, should accompany the application. This will facilitate receipt of an acknowledgment from ACF that the application has been received. (See Part D., 8.a.)

Each application should include one original and three additional copies of the following:

a. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant must be aware that, in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

b. ''Budget Information-Non-Construction Programs'' (SF–424A). (Attachment B)

c. A completed, signed and dated ''Assurances—Non-Construction Programs'' (SF–424B). (Attachment C)

d. Drug-free Certification. (The applicant is certifying that it will comply with this requirement by signing and submitting the SF–424.) (Attachment D)

e. Debarment Certification. (Attachment E)

f. Certification Regarding Environmental Tobacco Smoke. (The applicant is certifying that it will comply with this requirement by signing and submitting the SF–424.) (Attachment F)

g. Disclosure of Lobbying Activities, SF–LLL. Complete, sign and date form, as appropriate. (Attachment G)

h. A Project Abstract of 500 words or less. The abstract should provide a succinct description of the project need, goals, and a summary of work plan and the proposed impact.

i. A Project Narrative consisting of the following elements preceded by a consecutively numbered table of contents that will describe the project in the following order:

(i) Need for Assistance

(ii) Work Program

(iii) Significant and Beneficial Impact

(iv) Evidence of Significant Collaborations

(v) Ability of Applicant to Perform

(vi) Appendices including proof of non-profit status, such as IRS determination of non-profit status, where applicable; relevant sections of by-laws, articles of incorporation, and/or statement from appropriate State CSBG office which confirms eligibility; resumes; Single Point of Contact comments, where applicable; any partnership/collaboration agreements; *etc.*

The original must bear the signature of the authorizing official representing the applicant organization.

The total number of pages for the entire application package should not exceed 35 pages, including appendices. Pages should be numbered sequentially throughout.

If appendices include photocopied materials, they must be legible.

Applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications or applications enclosed in a binder are specifically discouraged.

Applications must be submitted on white 8½ × 11-inch paper only since OCS may find it necessary to duplicate them for review purposes. They must not include colored, oversized or folded materials; organizational brochures or other promotional materials; slides; films; clips; *etc.* They will be discarded if included.

Part F—Instructions for Completing Application Package

(Approved by the OMB under Control Number 0970–0062, expiration date 10/31/2001.)

The standard forms attached to this program announcement shall be used when submitting applications for all funds under this announcement.

It is recommended that the applicant reproduce the SF–424 (Attachment A), SF–424A (Attachment B), SF–424B (Attachment C) and that the application be typed on the copies. If an item on the SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested, the applicant should write ''NA'' for ''Not applicable.''

The application should be prepared in accordance with the standard instructions in Attachments A and B corresponding to the forms, as well as the specific instructions set forth below:

1. SF–424 ''Application for Federal Assistance''

Item

1. For the purposes of this program announcement, all projects are considered ''Applications''; there are no ''Pre-Applications.''

5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled ''Federal Identifier'' located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter ''N'' in the box and specify ''non-profit corporation'' in the space marked ''Other.'' Proof of non-profit status such as IRS determination, articles of incorporation, or by-laws, must be included as an appendix to the project narrative.

8. For the purposes of this announcement, all applications are ''New''.

9. Enter ''DHHS–ACF/OCS''.

10. The Catalog of Federal Domestic Assistance number for the OCS program covered under this announcement is ''93.570''.

11. In addition to a brief descriptive title of the project, the following priority area designations must be used to indicate the priority and sub-priority areas for which funds are being requested:

RM—Sub-Priority Area 1.2—Statewide Partnership Grants to Implement ROMA Goals

UI—Sub-Priority Area 1.3—TA to Develop Special Initiatives Between CAAs and Organizations Addressing Urban Problems of Low-Income People

CS—Sub-Priority Area 1.4—TA to Measure Civic/Social Capital Development

LD—Sub-Priority Area 1.5—Leadership Development

IS—Sub-Priority Area 2.1—Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide

CP—Sub-Priority Area 2.2—Local Capacity Building

PP—Sub-Priority Area 2.3—Peer-to-Peer Crisis Intervention

ST —Sub-Priority Area 3.1—Special Technical Assistance

The title is ''Office of Community Services'' Discretionary CSBG Awards—Fiscal Year 2000 Training, Technical Assistance, and Capacity-Building Programs.''

15a. For purposes of this announcement, this amount should reflect the amount requested for the entire project period.

15b–e. These items should reflect both cash and third party in-kind contributions for the total project period.

2. SF–424A—''Budget Information-Non-Construction Programs''

See instructions accompanying the form as well as the instructions set forth below:

In completing these sections, the Federal budget entries will relate to the requested OCS Training and Technical Assistance Program funds only, and Non-Federal will include mobilized funds from all other sources—applicant, State, and other. Federal funds, other than those requested from the Training and Technical Assistance Program, should be included in Non-Federal entries.

Sections A and D must contain entries for both Federal (OCS) and non-Federal (mobilized).

Section A—Budget Summary

Col. (a): Line 1—Enter ''OCS Training and Technical Assistance Program''.

Col. (b): Line 1—Enter ''93.570''.

Col. (c) and (d): Not Applicable.

Col. (e)–(g): For lines 1 enter in column (e), (f) and (g) the appropriate amounts needed to support the project for the entire project period.

Line 5—Enter the figures from Line 1 for all columns completed under (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period of 12 months will be entered in Column #1. Allowability of costs is governed by applicable cost principles set forth in 45 CFR Parts 74 and 92.

A separate itemized budget justification should be included to explain fully and justify major items, as indicated below. The budget justification should immediately follow the Table of Contents.

Column 5: Enter total requirements for Federal funds by the Object Class Categories of this section.

Line 6a-Personnel: Enter the total costs of salaries and wages.

Justification: Identify the project director. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal

and Non-Federal) of the organization's staff who will be working on the project.

Line 6b-Fringe Benefits: Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate which is entered on line 6j.

Justification: Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Line 6c-Travel: Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances.

Line 6d-Equipment: Enter the total costs of all non-expendable personal property to be acquired by the project. Equipment means tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its subgrantees must not already have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Line 6e-Supplies: Enter the total costs of all tangible personal property (surplus) other than that included on line 6d.

Line 6h-Other: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local Travel), space and equipment rentals, printing and publication, computer use training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Line 6-Indirect Charges: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or other Federal agencies. With the exception of States and local governments, applicants should enclose a copy of the current approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services. For an educational institution, the indirect costs on training grants will be allowed at the lesser of the institution's actual indirect costs or 8 percent of the total direct costs.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates*, and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool cannot be budgeted or charged as direct costs to the grant.

Line 6-Totals: The total amount shown in Section B, Column (5), should be the same as the amount shown in Section A, line 5, column (e).

Line 7-Program Income: Enter the estimated amount of income, if any is expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Column 5: Carry totals from column 1 to column 5 for all line items.

Justification: Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of Non-Federal resources that will be used to support the project. Non-Federal resources refer to other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Categories, section B.6) and whether it is cash or third party in-kind. The firm commitment of these required funds must be documented and submitted with the application.

Except in unusual situations, this documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8—

Col. (a): Enter the project title.

Col. (b): Enter the amount of cash or donations to be made by the applicant.

Col. (c): Enter the State contribution.

Col. (d): Enter the amount of cash and third party in-kind contributions to be made from all other sources.

Col. (e): Enter the total of column (b), (c), and (d). Lines 9, 10, and 11 should be left blank.

Line 12—Carry the total of each column of line 8, (b) through (e). The amount in column (e) should be equal to the amount on section A, Line 5, and column (f).

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant for first year and by quarter, during the first 12-month budget period.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the total of Lines 13 and 14 for all columns.

Section E—Budget Estimates of Federal Funds Needed for Balance of the Project

To be completed by applicants applying for funds for a three year project period.

Section F—Other Budget Information

Line 21—Include narrative justification required under Section B for each object class category for the total project period.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF–424B ''Assurances Non-Construction''

Applicant must sign and return the ''Assurances'' found at Attachment C with its application.

4. Project Narrative

Each narrative section of the application must address one or more of the focus areas described in Part B and follow the format outlined below:

a. Need for Assistance
b. Work Program
c. Significant and Beneficial Impact
d. Evidence of Significant Collaborations
e. Ability of the Applicant to Perform

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award, which indicates, the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

In addition to the standard terms and conditions which will be applicable to grants, grantee will be subject to the provisions of 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A–122 and A–87.

Grantees will be required to submit quarterly progress and financial reports (SF–269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A–128 and A–133.

Section 319 of Public Law 101–121, signed into law on October 23, 1989 imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier Contractors or subgrantee will pay with profits or *non-appropriated* funds on or after December 22, 1989, and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachment F for certification and disclosure forms to be submitted with the applications for this program.

Public Law 103–227, Part C. Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through States or local governmental by Federal grant, contract, loan or loan guarantee. The law does not apply to facilities funded solely by Medicare of Medicaid funds, and portions of facilities used for in-patient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application, the applicant/grantee certifies that it will comply with the requirement of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any sub-awards, which contain provisions for children's services and that all subgrantees shall certify accordingly.

Attachment H indicates the regulations that apply to all applicants/grantees under this program.

Dated: May 25, 2000.

Donald Sykes,

Director, Office of Community Services.

CSBG Training, Technical Assistance and Capacity-Building Program; List of Attachments

A—Application for Federal Assistance, SF 424
B—Budget Information—Non-Construction Programs, SF 424A
C—Assurances—Non-Construction Programs, SF 424B
D—Certification Regarding Drug-Free Work Place
E—Debarment Certification
F—Certification Regarding Environmental Tobacco Smoke
G—Disclosure of Lobbying Activities, SF–LLL
H—Listing of Regulations Applicable to All Grantees
I—Listing of State Single Points of Contact

BILLING CODE 4184–01–P

Attachment A

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

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 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:

☐☐ – ☐☐☐

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. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

Please do not return you completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplication and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have 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 and opportunity to review the applicant's submission.

Item: and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and 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 the 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 this 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 requested.
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 this 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 *only* 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.)

BILLING CODE 4184–01–P

Attachment B

OMB Approval No. 0348-0044

BUDGET INFORMATION - Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

Attachment B, Page 2

SECTION C - NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 7-97) Page

BILLING CODE 4184-01-C

Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348/004), Washington, DC.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1–4

Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the lines of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimate of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget information

Line 21—Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details are required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment C

Assurance—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing

data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send it to the address provided by the sponsoring agency.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will not be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional managerial and financial capability (including funds sufficient to pay the non-Federal share or project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after project of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd–3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 *et seq.*), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable with provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 *et seq.*); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 *et seq.*); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93–523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 *et seq.*) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a–1 *et seq.*).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 *et seq.*) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 *et seq.*) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act amendments of 1996 and OMB Circular No. A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Attachment D

Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central pint is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which

reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award. If there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (*e.g.,* all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules;

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substancese Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (*e.g.,* volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee-certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Attachment E

Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of a had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transactions, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participation in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Attachment G

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	**7. Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	**9. Award Amount**, *if known*: $
10. a. Name and Address of Lobbying Registrant (*if individual, last name, first name, MI*):	**b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less that $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

BILLING CODE 4184–01–C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the data of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, *e.g.*, the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee,'' then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (*e.g.,* Request for Proposal (RFP), number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposed control number assigned by the Federal agency). Include prefixes, *e.g.,* ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any Federal loan, the entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

Attachment H—DHHS Regulations Applicable to Grants

The following DHHS regulations apply to all applicants/grantees under the CSBG Training, Technical Assistance and Capacity-Building Program.

Title 45 of the *Code of Federal Regulations*

Part 16—Procedures of the Departmental Grant Appeals Board
Part 74—Administration of grants (non-governmental)
Part 74—Administration of Grants (State and local Governments and Indian Tribal affiliates):
Sections
74.26 Non-Federal Audits
74.27 Allowable Costs for Hospitals and Other Non-profit Organizations
74.90 Final Decisions in Disputes
74.32 Real Property
74.34 Equipment and
74.35 Supplies
74.24 General Program Income
Part 74—20–28 Fiscal Management
Part 74—40–48 Procedure Standards
Part 74—50–53 Reports and Records
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance, Subpart—Drug Free Workplace Requirements
Part 80—Non-discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 84—Non-discrimination on the Basis of

Handicap in Programs
Part 86—Nondiscrimination on the basis of sex in the admission of individuals to training programs
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (*Federal Register*, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment I—State Single Point of Contact Listing Maintained by OMB

In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' Section 4, ''the Office of Management and Budget (OMB) shall maintain a list of official State entities designated by the States to review and coordinate proposed Federal financial assistance and direct Federal development.'' This attached listing is the OFFICIAL OMB LISTING. This listing is also published in the Catalogue of Federal Domestic Assistance biannually.

August 23, 1999 OMB State Single Point of Contact Listing*

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, Fax: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, Fax: (501) 682–5206

California

Grants Coordination, State Clearinghouse, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 445–0613, Fax: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, 540 S. Dupont Highway, Suite 5, Dover, Delaware 19901, Telephone: (302) 739–3326, Fax: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, N.W. Suite 1200, Washington, D.C. 20005, Telephone: (202) 727–1700 (direct), (202) 727–6537 (secretary), Fax: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438, Fax: (850) 414–0479, Contact: Cherie Trainor, (850) 414–5495

Georgia

Deborah Stephens, Coordinator, Georgia State Clearinghouse, 270 Washington Street, S.W.—8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, Fax: (404) 656–7901

Illinois

Virginia Bova, State Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, Fax: (312) 814–1800

Indiana

Renee Miller, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–2971 (directline), Fax: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, Fax: (515) 242–4809

Kentucky

Kevin J. Goldsmith, Director, Sandra Brewer, Executive Secretary, Intergovernmental Affairs, Office of the Governor, 700 Capitol Avenue, Frankfort, Kentucky 40601, Telephone: (502) 564–2611, Fax: (502) 564–0437

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, Fax: (207) 287–6489

Maryland

Linda Janey, Manager, Plan & Project Review, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 767–4490, Fax: (410) 767–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, Fax: (313) 961–4869

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 550 High Street, 303 Walters Sillers Building, Jackson, Mississippi 39201–3087, Telephone: (601) 359–6762, Fax: (601) 359–6758

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Jefferson Building, 9th Floor, Jefferson City, Missouri 65102, Telephone: (314) 4834, Fax: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, 209 E. Musser Street, Room 220, Carson City, Nevada 89710, Telephone: (702) 687–4065, Fax: (702) 687–3983, Contact: Heather Elliot, (702) 687–6367

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2 1/2 Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, Fax: (603) 271–1728

New Mexico

Nick Mandell, Local Government Division, Room 201 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640, Fax: (505) 827–4984

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605, Fax: (518) 486–5617

North Carolina

Jeanette Furney, North Carolina Department of Administration, 116 West Jones Street—Suite 5106, Raleigh, North Carolina 27603–8003 Telephone: (919) 733–7232, Fax: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, Fax: (701) 224–2308

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, Fax: (401) 277–2083

South Carolina

Omeagia Burgess, State Single Point of Contact, Budget and Control Board, Office of State Budget, 1122 Ladies Street—12th Floor, Columbia, South Carolina 29201 Telephone: (803) 734–0494, Fax: (803) 734–0645

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, Fax: (512) 936–2681

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, State Capitol, Salt Lake City, Utah 84114 Telephone: (801) 538–1027, Fax: (801) 538–1547

West Virginia

Fred Cutlip, Director, Community, Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, Fax: (304) 558–3248

Wisconsin

Jeff Smith, Section Chief, Federal/State Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, Fax: (608) 267–6931

Wyoming

Sandy Ross, State Single Point of Contact, Department of Administration and Information, 2001 Capitol Avenue, Room 214, Cheyenne, WY 82002, Telephone: (307) 777–5492, Fax: (307) 777–3696

Territories

Guam

Joseph Rivera, Acting Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96932, Telephone: (671) 475–9411 or 9412, Fax: (671) 472–2825

Puerto Rico

Jose Caballero-Mercado, Chairman, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (787) 727–4444, (787) 723–6190, Fax: (787) 724–3270

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, Office of Management and Budget, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2256, Fax: (670) 664–2272, Contact person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 664–2289, Fax: (670) 664–2272

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden, Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, Fax: (809) 776–0069.

If you would like a copy of this list faxed to your office, please call our publications office at: (202) 395–9068.

* In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' this listing represents the designated State Single Points of Contact. The jurisdictions not listed no longer participate in the process BUT GRANT APPLICANTS ARE STILL ELIGIBLE TO APPLY FOR THE GRANT EVEN IF YOUR STATE, TERRITORY, COMMONWEALTH, ETC DOES NOT HAVE A ''STATE SINGLE POINT OF CONTACT.'' STATES WITHOUT ''STATE SINGLE POINTS OF CONTACT'' INCLUDE: Alabama, Alaska; American Samoa; Colorado; Connecticut; Hawaii; Idaho; Kansas; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal domestic Assistance.

[FR Doc. 00–13689 Filed 6–1–00; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00D–1309]

Draft Guidance for Industry: Channels of Trade Policy for Commodities With Methyl Parathion Residues; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a proposed guidance document entitled ''Guidance for Industry: Channels of Trade Policy for Commodities With Methyl Parathion Residues'' (the proposed guidance). The proposed guidance presents FDA's policy for implementing the channels of trade provision for the pesticide chemical methyl parathion in of the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act (FQPA) of 1996. The proposed guidance is intended to assist firms in understanding FDA's planned approach to the enforcement of this provision of the FQPA with regard to residues of methyl parathion in food.

DATES: Submit written comments concerning this guidance and the information collection by August 1, 2000.

ADDRESSES: Submit written comments concerning the proposed guidance and the collection of information provisions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written requests for single copies of the proposed guidance entitled ''Guidance for Industry: Channels of Trade Policy for Commodities With Methyl Parathion Residues'' to Donna L. Myers, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4681. Send one self-adhesive address label to assist that office in processing your request. Comments and requests for copies should be identified with the docket number found in brackets in the heading of this document. A copy of the proposed 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.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFS–306), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4681, FAX 202–205–4422, e-mail: mkashtoc@bangate.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 3, 1996, the FQPA was signed into law. This law, which amends the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the FFDCA, established a new safety standard for pesticide residues in food, with an emphasis on protecting the health of infants and children. In accordance with the FQPA, the Environmental Protection Agency (EPA), the agency responsible for regulating the use of pesticides (under FIFRA) and establishing tolerances for residues of pesticide chemicals in food commodities (under the FFDCA), is in the process of reassessing the pesticide tolerances and exemptions that were in effect when the law was signed. When the determination is made that a pesticide's tolerance level does not meet the safety standard set forth by the FQPA, the registration for the pesticide may be canceled for all or certain uses. In addition, the tolerances for that pesticide may be lowered or revoked for the corresponding food commodities. Under section 408(l)(2) of the FFDCA (21 U.S.C. 346a(l)(2)), when the registration for a pesticide is canceled or modified due in whole or in part to dietary risks to humans posed by residues of that pesticide chemical on food, the effective date for the revocation of such tolerance (or exemption in some cases) must be no later than 180 days after the date such cancellation becomes effective or 180 days after the date on which the use of the canceled pesticide becomes unlawful under the terms of the cancellation, whichever is later.

When EPA takes such actions, food derived from a commodity that was lawfully treated with the pesticide may not have cleared the channels of trade by the time the revocation or new tolerance level takes effect. The food could be found by FDA, the agency that is responsible for monitoring pesticide residue levels and enforcing the pesticide tolerances in most foods (the U.S. Department of Agriculture (USDA) has responsibility for meat, poultry, and

certain egg products), to contain a residue of that pesticide that does not comply with the revoked or lowered tolerance. FDA would normally deem such food to be in violation of the law by virtue of it bearing an illegal pesticide residue. The food would be subject to FDA enforcement action as an ''adulterated'' food. However, the channels of trade provision of the FQPA address the circumstances under which a food is not unsafe solely due to the presence of a residue from a pesticide chemical for which the tolerance has been revoked, suspended, or modified by EPA. The channels of trade provision (section 408(l)(5) of the FFDCA) states the following:

PESTICIDE RESIDUES RESULTING FROM LAWFUL APPLICATION OF PESTICIDE.—Not withstanding any other provision of this Act, if a tolerance or exemption for a pesticide chemical residue in or on a food has been revoked, suspended, or modified under this section, an article of that food shall not be deemed unsafe solely because of the presence of such pesticide chemical residue in or on such food if it is shown to the satisfaction of the Secretary that—

(A) the residue is present as the result of an application or use of a pesticide at a time and in a manner that was lawful under the Federal Insecticide, Fungicide, and Rodenticide Act; and

(B) the residue does not exceed a level that was authorized at the time of that application or use to be present on the food under the tolerance, exemption, food additive regulation, or other sanction then in effect under this Act; unless, in the case of any tolerance or exemption revoked, suspended, or modified under this subsection or subsection (d) or (e), the Administrator has issued a determination that consumption of the legally treated food during the period of its likely availability in commerce will pose an unreasonable dietary risk.

As part of the tolerance reassessment process mandated by the FQPA, in a cancellation order published in the **Federal Register** of October 27, 1999 (64 FR 57877), EPA cancelled, effective on the same date, several registered food uses for the pesticide methyl parathion (Ref. 1). These canceled food uses are as follows: Apples, artichokes, beets (greens alone), beets (with or without tops), broccoli, brussels sprouts, carrots, cauliflower, celery, cherries, collards, grapes, kale, lentils, kohlrabi, lettuce, mustard greens, nectarines, peaches, pears, plums (fresh prunes), rutabagas (with or without tops), rutabaga tops, spinach, succulent beans and peas, tomatoes, turnips (with or without tops), turnips greens, vegetables leafy Brassica (cole), and vetch.

Under the terms of the cancellation, the application of the pesticide on the crops specified became unlawful after December 31, 1999. This action was precipitated by EPA's determination that the dietary risks from exposure to methyl parathion exceeded the safety standard under the FFDCA. Consistent with section 408(l)(2) of the FFDCA, EPA is proposing in this issue of the **Federal Register** to revoke the pesticide tolerances for methyl parathion corresponding to the canceled food uses.

FDA anticipates that some foods bearing methyl parathion residues resulting from lawful application of this pesticide will remain in the channels of trade after the revocation of the applicable tolerance for methyl parathion (Refs. 2 through 4). If FDA encounters such a food bearing a residue of methyl parathion, it intends to address the situation in accordance with this proposed guidance. FDA has developed this proposed guidance to set forth its policy for how FDA plans to approach its enforcement of the channels of trade provision with respect to the pesticide chemical methyl parathion.

With this document, FDA is announcing the availability of the proposed guidance. The proposed guidance represents FDA's current thinking on its planned enforcement approach to the channels of trade provision and how such provision relates to FDA-regulated products with methyl parathion residues. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. The proposed guidance is being distributed for comment purposes, in accordance with FDA's policy for Level 1 Good Guidance Practices documents as set out in the **Federal Register** of February 27, 1997 (62 FR 8961).

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Suggested Documentation for Demonstrating Compliance With the Channels of Trade Provision

Description: Under the pesticide tolerance reassessment process that EPA was mandated to carry out under the FQPA, EPA has proposed to revoke the tolerances for the pesticide chemical methyl parathion on several food commodities. The FQPA includes a provision in section 408(l)(5) of the FFDCA, referred to as the ''channels of trade provision,'' that addresses the circumstances under which a food is not unsafe solely due to the presence of a residue from a pesticide chemical whose tolerance has been revoked, suspended, or modified by EPA.

In general, FDA anticipates that the party responsible for food found to contain methyl parathion residues (within the former tolerance) after the tolerance for the pesticide chemical has been revoked, will be able to demonstrate that such food was packed or processed on or prior to December 31, 2000, by providing appropriate documentation to the agency as discussed in the proposed guidance. FDA is not suggesting that firms maintain a certain set list of documents where anything less or different would likely be considered unacceptable. Rather, the agency is leaving it to each firm's discretion to maintain appropriate documentation to demonstrate that the food was so packed or processed.

Examples of documentation which FDA anticipates will serve this purpose may be divided into two categories: (1) Documentation associated with packing codes, batch records, and inventory records, and (2) other types of

documentation. The first category includes the types of documents that many food processors routinely generate as part of their basic food-production operations. The second category may include documentation that processors generate for the express purpose of compiling information that may satisfy the showing required in the channels of trade provision, such as copies of product specification requirements (requesting that the supplier not provide commodities treated with methyl parathion to the processor), written acknowledgement from the supplier that it intends to comply with the above request, and records demonstrating that the processor carried out an auditing program (e.g., spot checks) to verify that incoming commodities did not contain residues of methyl parathion.

Description of Respondents: The likely respondents to this collection of information are firms in the produce and food-processing industries who handle food products that may contain residues of methyl parathion after the tolerances for this pesticide chemical have been revoked.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
67	1	67	3	201

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
333	1	333	20	6,660

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Estimates for the annual reporting burden were determined by using the maximum number of samples collected throughout a year that FDA believes may be found to contain methyl parathion residues. Because all residues are expected to have dissipated from nonfrozen foods by the time FDA intends to question firms about when a food product was packed or processed (i.e., after December 31, 2000), FDA included only frozen food in its estimate (i.e., processors of foods stored under refrigerated and ambient conditions were excluded) (Ref. 2). Although residues within the former tolerance resulting from legal application of methyl parathion are not expected to be found in nonfrozen foods after December 31, 2000, under the channels of trade provision, firms will have an opportunity to make a showing that any such food was packed or processed on or before this date.

Considering the variation in and effects of food handling, particularly with regard to the time between pesticide application and freezing, FDA estimated that potentially half of all frozen food products sampled may contain methyl parathion residues, and therefore, the responsible party, under the approach set forth in this guidance, would be subject to the reporting requirement since it would be the burden of the responsible party to demonstrate that food found to contain methyl parathion residues within the former tolerance was packed or processed on or before December 31, 2000.

When determining the annual recordkeeping burden, importers and domestic processors of frozen food commodities affected by the revocation of the pesticide chemical methyl parathion were considered. FDA estimated that most firms (at least 90 percent) maintain (or maintain access to) Category I documentation (packing codes, batch records, inventory records, etc.) as part of their basic food production and/or import operations. It was presumed that the 10 percent of firms which do not maintain such documentation would likely begin maintaining (or maintaining access to) Category II documentation (other types of documentation, such as certification from the supplier that products do not contain methyl parathion) rather than instituting a system to begin maintaining Category I documentation. This being the case, a portion of the recordkeeping burden was calculated as the time required for the 10 percent of firms not currently maintaining Category I documentation, to develop and maintain (or maintain access to) Category II documentation.

As discussed in detail in the guidance, some firms (i.e., frozen juice manufacturers) may decide to maintain Category II documentation in addition to Category I documentation, as part of the showing under the channels of trade provision. FDA estimated that firms fitting this description represent approximately one third of the frozen fruit, vegetable, and juice-processing industry. Therefore, a portion of the annual recordkeeping burden estimate was calculated based upon the time required for these firms to develop and maintain Category II documentation.

Because all residues are expected to have dissipated from nonfrozen foods by the time FDA intends to ask for a showing under section 408(l)(5) of the FFDCA (i.e., after December 31, 2000), FDA used the number of frozen food processors when determining the annual recordkeeping burden. As with the annual reporting burden estimate, although nonfrozen food processors are entitled to make a showing under the channels of trade provision, they were excluded from this estimate because based upon residue dissipation estimates provided by EPA (Ref. 2), methyl parathion residues within the former tolerance resulting from legal application are not expected to be found in nonfrozen commodities after December 31, 2000.

III. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments on the proposed guidance by August 1, 2000. 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. The proposed guidance may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. An electronic version of this draft guidance is available on the Internet at http://www.fda.gov/.

IV. References

The following references have been placed on display at the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Cancellation Order from the Environmental Protection Agency Canceling the Registration for Methyl Parathion Effective October 27, 1999 (www.epa.gov/fedrgstr/EPA–PEST/1999/October/Day-27/p27800.htm), **Federal Register** (64 FR 57877), October 27, 1999.

2. Environmental Protection Agency, Residue Dissipation Chart, Draft Estimates of Methyl Parathion Dissipation Rates in Commodities Under Various Storage Conditions, 1999.

3. American Frozen Food Institute, Letter to FDA Estimating the Amount of Time Frozen Fruits and Vegetables Are Likely to Remain in Commerce Prior to Being

Purchased by the Consumer (i.e., How Long They Are Likely to Remain in the Channels of Trade), October 26, 1999.

4. National Food Processors Association, Letter to FDA Estimating the Amount of Time Processed Foods Are Likely to Remain in the Channels of Trade, August 23, 1999.

Dated: May 26, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–13813 Filed 6–1–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1965, HCFA–2649, HCFA–5011A & HCFA–5011B]

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

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.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Hearing—Part B Medicare Claim and Supporting Regulations in 42 CFR 405.821; *Form No.:* HCFA–1965 (0938–0034); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with any determination and amount of benefit paid. This form is used so that a party may request a hearing by a Hearing Officer because the review determination failed to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individual or households, and not-for-profit institutions; *Number of Respondents:* 55,000; *Total Annual Responses:* 55,000, *Total Annual Hours:* 9,167.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Reconsideration of Part A Insurance Benefits and Supporting Regulations in 42 CFR 405.711; *Form No.:* HCFA–2649 (0938–0045); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the intermediary's Part A determination or the benefit amount paid. This form is used by a party to request a reconsideration of the initial determination of benefits. *Frequently:* Annually, quarterly and monthly; *Affected Public:* Individuals or households, and not-for-profit institutions; *Number of Respondents:* 62,000; *Total Annual Responses:* 62,000; *Total Annual Hours:* 15,500.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Part A Medicare Hearing by an Administrative Law Judge and Supporting Regulations in 42 CFR 498 Subpart D and E; *Form No.:* HCFA–5011A–U6 (0938–0486); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the intermediary's Part A determination or the amount paid. This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge is the reconsideration determination fails to satisfy the appellant. *Frequency:* Annually, Quarterly and Monthly; *Affected Public:* Individuals or households, and not-for-profit institutions; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 2,500.

4. *Type of Information Collection Request:* Extension of a currently approved collection; *Tital of Information Collection:* Request for Part B Medicare Hearing by an Administrative Law Judge and Supporting Regulations in 42 CFR 498 Subpart D and E; *Form No.:* HCFA–5011B–U6 (0938-0567); *Use:* Section 1869 of the Social Security Act authorizes a hearing for any individual who is dissatisfied with the carrier's Part B determination or the amount paid. This form is used by the beneficiary or other qualified appellant to request a hearing by an Administrative Law Judge if the hearing officer's decision fail's to satisfy the appellant. *Frequency:* Annually, quarterly and monthly; *Affected Public:* Individuals or households, and not-for-profit institutions; *Number of Respondents:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Responses:* 10,000; *Total Annual Hours:* 2,500.

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: May 25, 2000.

John P. Burke, III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–13860 Filed 6–1–00; 8:45 am]

BILLING CODE 4120–03–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Request for Clearance To Conduct Voluntary Customer Satisfaction Surveys

SUMMARY: In compliance with the requirement of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Institute on Deafness and Other Communication Disorders (NIDCD), the National Institutes of Health (NIH), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: Request for Clearance to Conduct Voluntary Customer Satisfaction Surveys. *Type of Information Collection Request:* NEW.

Need and Use of Information Collection: The NIDCD was established to support biomedical and behavioral research and research training in hearing, smell, balance, taste, voice, speech and language. Although minorities and women will dominate the work force within the next decade, both groups are underrepresented in science and health professional fields. Because of this concern, the NIDCD, with assistance from the Office of Research on Minority Health, established the Partnership Program in 1994 to increase the number of minority scientists and health care professionals doing research on communication and communication disorders. The proposed survey will yield data about: (1) Reasons for participation in the program; (2) satisfaction of participants with the program and (3) how participation in the program has lead to the pursuit of a career in the health field. This survey will track the Partnership Program's success at increasing the number of women and minorities who are scientists. *Frequency of Response:* One. *Affected Public:* Individuals. *Type of Respondent:* Partnership Program Participants. The annual reporting burden is as follows: *Estimated Number of Respondents:* 62; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 0.5; and *Estimated Total Annual Burden Hours Requested:* 15.5. The annualized cost to respondents is estimated at: $155. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Note: The following table is acceptable for the Respondent and Burden Estimate Information, if appropriate, instead of the text as shown above.)

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
New Participants	16	1	.25	4
Past Participants	16	1	.25	4
Applicants	30	1	.25	7.5
Total	62			15.5

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for fulfillment of the NIDCD mission, including whether the information will have practical utility; (2) the accuracy of the estimate of the burden of the proposed data collection, including the validity of the methodology; (3) ways to enhance the quality, utility, and clarity of the data collection and (4) ways to minimize the burden of the collection of information on the respondents, including appropriate use of automated collection techniques and information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Mrs. Kay C. Johnson-Graham, EEO Officer, Office of Equal Employment Opportunity, NIDCD, NIH, Building 31, Room 3C08, 31 Center Drive, Bethesda, MD 20892, or call non-toll-free number (301) 402–6415 or E-mail your request, including your address to: <*kay__johnson@ms.nidcd.nih.gov*>.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before July 3, 2000.

Dated: May 23, 2000.

W. David Kerr,

Executive Officer, NIDCD.

[FR Doc. 00–13885 Filed 6–1–00; 8:45 am]

BILLING CODE 4140–01–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This Notice is available on the internet at the following website: *http://wmcare.samhsa.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

Special Note: Please use the above address for all surface mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three

rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150,

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000, (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (Formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, Building 38-H, P. O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories*, 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023

Integrated Regional Laboratories, 5361 NW 33rd Avenue, Fort Lauderdale, FL 33309, 954–777–0018, 800–522–0232, (Formerly: Cedars Medical Center, Department of Pathology)

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.)

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555, (Formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515

NWT Drug Testing, 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/800–322–3361, (Formerly: NorthWest Toxicology, Inc.)

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory

Pathology Associates Medical Laboratories, 11604 E. Indiana Ave., Spokane, WA 99206, 509–926–2400/800–541–7891

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800, (Formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 858–279–2600/800–882–7272

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 248–373–9120/800–444–0106, (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485, (Formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)

Quest Diagnostics Incorporated, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 972–916–3376/800–526–0947, (Formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006, (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010, (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)

Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728, (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)

Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590, (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories)

San Diego Reference Laboratory, 6122 Nancy Ridge Dr., San Diego, CA 92121, 800–677–7995/858–677–7970

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130

Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 254–771–8379/800–749–3788

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520, (Formerly: St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 818–996–7300 / 800–339–4299, (Formerly: MetWest-BPL Toxicology Laboratory)

Universal Toxicology Laboratories, LLC 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851

The following laboratory voluntarily withdrew from the NLCP program, effective May 16, 2000:

Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–920–7733/800–574–2474, (Formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 FR, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 00–13798 Filed 6–1–00; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–22]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: June 2, 2000.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7488.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988

court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD published a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 25, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

[FR Doc. 00–13610 Filed 6–1–00; 8:45 am]

BILLING CODE 4210–29–M

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© of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Mandalay Bay Resort and Casino, Las Vegas, NV, PRT–027740.

The applicant requests a permit to import five captive-bred saltwater crocodiles (*Crocodylus porosus*) from the Vancouver Aquarium in Canada to Shark Reef at Mandalay Bay Resort and Casino in Las Vegas, Nevada for public display, conservation education, and behavioral research to enhance survival of the species. The animals were produced at the Samutprakan Crocodile Farm & Zoo., Ltd. in Thailand.

Applicant: Henry Doorly Zoo, Omaha, NE, PRT–013269.

The applicant requests a permit to import biological samples from Gaur (*Bos gaurus*) collected from wild, wild caught, and captive born sources in Thailand, Laos, Cambodia, Malaysia, Nepal, and Vietnam for scientific research.

Applicant: Tom Stehn, Whooping Crane Recovery Plan Coordinator, U.S. Fish and Wildlife Service, Region 2, Austwell, TX, PRT–022747.

The applicant requests a permit to export/re-export captive-bred/captive hatched and wild live specimens, captive-bred/wild collected viable eggs, biological samples from captive-bred/wild specimens, and salvaged materials from captive-bred/wild specimens of Whooping cranes (*Grus americana*) to Canada, for completion of identified tasks and objectives mandated under the Whooping Crane Recovery Plan. Salvage materials may include, but are not limited to, whole or partial specimens, feathers, eggs, and egg shell fragments. This notification covers activities conducted by the applicant over the next 5 years.

Applicant: Ferdinand and Anton Fercos Hantig, Las Vegas, NV, PRT–005821.

The applicant requests a permit to export and re-import African leopard (*Panther pardus delacouri*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Atlanta/Fulton County Zoo, Inc. Atlanta, GA, PRT–027116.

The applicant requests a permit to import tissue samples from Drill (*Mandrillus leucophaeus*) taken from wild animals in Equatorial Guinea. Samples are to be imported for scientific research purposes.

Applicant: Ron Holiday, Umatilla, FL, PRT–801464.

The applicant requests a permit to re-export and re-import one captive born Clouded leopard (*Neofelis nebulosa*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Miller Equipment company, Inc., Hugo, OK, PRT–025867.

The applicant requests a permit to purchase in interstate commerce one male and four female Asian elephants (*Elephas maximus*) from Bucky Steele, Jefferson, Texas for conservation educational purposes.

Applicant: Larry Johnson, Boerne, TX, PRT–027396.

The applicant requests a permit to export one male and two females Ring-tail lemur (*Lemur catta*) to Gobierno del Edo. De Mexico, Toluca Edo de Mexico, Mexico for the purpose of enhancement of the survival of the species through propagation.

Applicant: Larry Johnson, Boerne, TX, PRT–027399.

The applicant requests a permit to export one pair of Siamang gibbons (*Hylobates syndactylus*) to Gobierno del Edo. De Mexico, Toluca Edo de Mexico, Mexico for the purpose of enhancement of the survival of the species through propagation.

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: May 26, 2000.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 00–13788 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Reconsideration of an Environmental Assessment/Habitat Conservation Plan for Issuance of an Incidental Take Permit for the Construction and Operation of a Mixed-Use Development on a Portion of the 216-Acre Hart Triangle Property, Travis County, Texas.

SUMMARY: GDF Realty Investments Ltd. and Purcell Investments, L.P. (Landowners; Applicants) had applied to the U.S. Fish and Wildlife Service (Service) for seven incidental take permits for the Hart Triangle Property pursuant to Section 10(a) of the Endangered Species Act (Act). These permits were denied because the applications did not meet the statutory criteria for issuance. The EA/HCP made available by this notice is a draft EA/HCP that encompasses the entire area that was covered by the seven original permit applications. This EA/HCP was prepared by the Service based on information provided by the Applicants and other information acquired by the Service. The Applicants have been assigned permit number TE–027690–0. The permit, which is for a period of 30 years, would authorize the incidental

take of the endangered golden-cheeked warbler (*Dendroica chrysoparia*), and five karst invertebrates: Tooth Cave pseudoscorpion (*Tararocreagris texana*), Kretschmarr Cave mold beetle (*Texamaurops reddelli*), Bone Cave harvestman (*Texella reyesi*), Tooth Cave spider (*Neoleptoneta myopica*), and Tooth Cave ground beetle (*Rhadine persephone*). The proposed take would occur as a result of the construction and operation of mixed-use development on a portion of the 216-acre Hart Triangle property, Travis County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on this draft EA/HCP should be received on or before July 3, 2000.

ADDRESSES: Persons wishing to review the EA/HCP may obtain a copy by written or telephone request to Sybil Vosler, U.S. Fish and Wildlife Service, Ecological Services Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request or by appointment only during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service Office, Austin, Texas. Data or comments concerning the EA/HCP should be submitted in writing to the Field Supervisor, U.S. Fish and Wildlife Service Office, Austin, Texas at the above address. Please refer to permit number TE–027690–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Sybil Vosler at the above U.S. Fish and Wildlife Service Office, Austin, TX.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the golden-cheeked warbler or the listed karst invertebrates. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicants

GDF Realty Investments Ltd. and Purcell Investments, L.P., plan to construct and operate a mixed-use development on the 216-acre Hart Triangle property. The Service, after denying the original seven applications, has developed the draft EA/HCP for the issuance of this permit. Two alternatives were developed. The Preferred Alternative 1 has two Options A and B. Alternative 1, Option A, includes a 75-acre karst preserve, a 77-acre golden-cheeked warbler preserve, and 64 acres for residential and commercial development, roads, and utilities. Preferred Alternative 1, Option B, includes a 75-acre karst preserve, a 36-acre golden-cheeked warbler preserve, and 105 acres for residential and commercial development, roads, and utilities. The action in Alternative 1, Option A, would eliminate approximately 16 acres of habitat and indirectly impact 23 additional acres of golden-cheeked warbler habitat. The action in Alternative 1, Option B, would eliminate approximately 55 acres of habitat and indirectly impact 45 additional acres of golden-cheeked warbler habitat.

Since the preferred alternative Options were developed to promote the long-term viability of the karst ecosystems, there would be minimal impacts to the listed karst species. However, some take of endangered karst invertebrates could occur during construction activities in the development area if voids containing the listed species are encountered during construction. The draft EA/HCP proposes to compensate for the incidental take of golden-cheeked warbler habitat by donating through fee simple or conservation easement to Travis County or other approved management entity, 77 acres of the Hart Triangle property (Preferred Alternative 1, Option A) or donating 35 acres on-site and purchasing 220 acres of golden-cheeked warbler habitat off-site (Preferred Alternative 1, Option B). This land is adjacent to the existing Balcones Canyonlands Preserve and will be managed by Travis County, or another conservation entity approved by the Service, as a preserve. Although impacts to the listed karst invertebrates are expected to be minimal, the draft EA/HCP proposes that the Landowners will sell or donate a 75-acre karst preserve to Travis County or another entity approved by the Service that will preserve and manage the preserves in perpetuity for either Preferred Alternative 1, Option A or Preferred Alternative 1, Option B.

Other alternatives to this action were rejected because not developing the subject property with federally listed species present was not economically feasible for the Landowners, and other alterations of the project design increased the level of impacts to the endangered species present on the property.

Nancy M. Kaufman,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 00–13933 Filed 5–31–00; 11:04 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–HY–P]

Alaska Native Claims Selection, AA–6986–B and AA–6986–C; Notice for Publication

In accordance with Departmental regulations 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, (ANCSA), 43 U.S.C. 1601, 1613(b), will be issued to Cape Fox Corporation for approximately 745 acres. The lands involved are in the vicinity of Ketchikan, Alaska.

Serial No.	Land description	Acreage
AA–6986–B and AA–6986–C	Cooper River Meridian, Alaska: T. 74 S., R, 90 E., Secs., 4, 5, 8, 9 and 10	724.00

A notice of the decision will be published once a week, or four (4) consecutive weeks, in the Ketchikan Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5060).

Any party claiming a property interest which is adversely affected by the decision, shall have until July 3, 2000, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the

requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Glenn C. Elliott,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 00–13792 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–$$–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P]

Alaska Native Claims Selection, AA–6687-A; Notice for Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Old Harbor Native Corporation for the village of Old Harbor. The lands involved are in the vicinity of Old Harbor, Alaska.

U.S. Survey No. 10920, Alaska

Containing 119.99 acres as shown on the plat of survey officially filed on November 25, 1992.

Seward Meridian, Alaska

T. 33. S., R. 23 W.,
Sec. 5, lot 2;
Sec. 6, lot 2;
Sec. 8, lot 2;
Sec. 9, lots 1 and 2;
Sec. 10, lot 1.

Containing 1,305.04 acres as shown on the plat of survey officially filed on April 16, 1999.

T. 33 S., R. 24 W.,
Sec. 12, lots 2, 3, and 4.

Containing 172.36 acres as shown on the plat of survey officially filed on December 3, 1999. Aggregating 1,597.39 acres.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily Mirror newspaper. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599; (907) 271–5960.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until July 3, 2000, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Dennis R. Benson,

Land Law Examiner, Branch of ANCSA Adjudication.

[FR Doc. 00–13793 Filed 6–2–00; 8:45 am]

BILLING CODE 4310–JA–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–010–00–1610–DE–002A]

Grand Canyon-Parashant National Monument Map and Boundary Description

AGENCY: Bureau of Land Management and National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice is to publish the official map and boundary description of Grand Canyon-Parashant National Monument, established by Presidential Proclamation on January 11, 2000.

FOR FURTHER INFORMATION CONTACT: Roger G. Taylor, Field Manager, Bureau of Land Management—Arizona Strip Field Office, 345 East Riverside Drive, St. George, Utah 84790. Telephone (435) 688–3200.

SUPPLEMENTARY INFORMATION: The Grand Canyon-Parashant National Monument is on federal lands in Mohave County, Arizona. The following description refers to the original map entitled ''Grand Canyon-Parashant National Monument'', on file at the Arizona Strip Field Office, St. George, Utah.

Beginning at a point where the Nevada-Arizona State Line intersects a line 300 feet landward from the high water mark of Lake Mead in Section 6, T. 32 N., R. 16 W., Gila and Salt River Meridian, Arizona;

Then northerly along the Nevada-Arizona State line some 31 miles to the point where the aforementioned state line intersects the hydrologic divide between the Virgin River and Cedar Wash along the crest of Virgin Peak Ridge; Then easterly along said hydrologic divide some 2.75 miles across Lime Kiln Pass;

Then northeasterly along the hydrologic divide between Tom and Cull Wash and the Virgin River, passing over the summits of Lime Kiln and Lead Mine mountains, some 13.2 miles to a point offset 30 feet northwest of the centerline of Mohave County Road #299;

Then easterly along a line offset 30′ north of the centerline of Mohave County Road #299 some 3,000 feet to the intersection with the road to Cougar Spring, then bearing right and continuing along the offset of County Road #299 some 875 feet to an intersection with a 30-foot offset east of the centerline of BLM Road #1004 which is the exterior boundary of Paiute Wilderness;

Then north along the Paiute Wilderness boundary some 275 feet to a point 30 feet south of the centerline of BLM Road #1004, at an intersection of the eastern fork of the road to Cougar Spring;

Then easterly along the south line of the open road corridor through the Paiute Wilderness Area (approximately 30′ south of the centerline of BLM Road #1004) some 6.5 miles to a point where the road corridor intersects the exterior boundary of Paiute Wilderness;

Then southeasterly along the wilderness boundary, (which passes Black Rock Lookout and follows a 100-foot offset east of the centerline of the Lookout access road, then a 100-foot offset south of the centerline of BLM Road #1004), some 6.7 miles to a point where BLM Road #1004 intersects with BLM Road #1051;

Then southerly continuing along the Paiute Wilderness boundary (offset 30′ west of the centerline of BLM Road #1051) for approximately 2,150′ to the hydrologic divide between Grand Wash and the Virgin River tributaries; Then southeasterly and southerly along said hydrologic divide some 22.4 miles to the point where the divide intersects with a line offset 30 feet east of the centerline of an unnumbered road in SW¼ of Section 7, T. 36 N., R. 12 W.;

Then south and southeast along a line offset 30 feet east of the centerline of said road some 5.8 miles through sections 7, 18 and 30, T. 36 N., R. 12 W., and sections 13 and 24, T. 36 N., R. 13 W., to a point some 500′ west of the section line between sections 32 and 33, T. 36 N., R. 12 W.;

Then south some 500′ to the eastern rim of Hidden Canyon; Then southerly along said rim some 5.7 miles to a point offset 100′ northwest of the centerline of Mohave County Road #103;

Then northeasterly along a line offset 100′ northwest of the centerline of Mohave County Road #103 some 1.3 miles to a point where this line intersects the section line between sections 15 and 22, T. 35 N., R. 12 W.;

Then easterly along said section line some 780 feet;

Then southeasterly toward the crest of a small ridge on the northwest side of Poverty Mountain in the NE¼, NE¼, Section 22, T. 35 N., R. 12 W., and continuing along the northern rim of Poverty Mountain some 10.9 miles to the head of an unnamed wash west of the center of Section 33, T. 35 N., R. 11 W.;

Then easterly along a line offset 30 feet south of the center of said wash some 1.2 miles to the intersection of a 30-foot offset east of an unnumbered road in the southwest corner of Section 34, T. 35 N., R. 11 W.;

Then south along a line offset 30 feet east of said road some 2000′ to a point offset 30 feet north of the centerline of BLM Road #1018;

Then easterly along a line offset 30 feet north of BLM Road #1018 some 1.8 miles to a point offset 30 feet west of the centerline of Ivanpatch Wash;

Then south along a line offset 30 feet west of the center of Ivanpatch Wash across the road some 75 feet to a point offset 30 feet south of the centerline of BLM Road #1018;

Then easterly along a line offset 30 feet south of said road some 2,000 feet to a departure point some 350 feet northwest of the center of Ivanpatch Pond #2;

Then, from said departure point, counterclockwise around the south and east of Ivanpatch Pond #2, some 1,400 feet to a point offset 30 feet south of the centerline of BLM Road #1018 where said road crosses an unnamed wash in SW¼, SE¼ of Section 36, T. 35 N., R. 11 W.;

Then easterly along a line offset 30 feet south of the centerline of Road #1018 some 0.5 miles to a point of intersection with the east boundary of Section 36, T. 35 N., R. 11 W.;

Then south along said section line approximately ¼ mile to the common corner of Tps. 34 and 35 N., Rs. 10 and 11 W.;

Then east along the section line between Section 6, T. 34 N., R. 10 W. and Section 31, T. 35 N., R. 10 W., some ¼ mile to the W. 1/16 section corner of sections 6 and 31, Tps. 34 and 35 N., R. 10 W.;

Then in T. 34 N., R. 10 W., south on the N. and S. centerline of the NW. ¼ section 6, to the NW. 1/16 corner, then east on the E. and W. centerline of the NW ¼, to the center north 1/16 corner section 6, then south on the N. and S. centerline section 6, to the center south 1/16 corner section 6, then east on the E. and W. centerlines of the SE ¼, section 6 and the SW ¼ section 5 to the SW. 1/16 corner section 5, then north on the N. and S. centerline of the W. ½ of section 5 to the W. 1/16 corner of sections 5 and 32, Tps. 34 and 35 N., R. 10 W.;

Then east on the line between Tps. 34 and 35 N., R. 10 W., to the corner of sections 3, 4, 33 and 34;

Then in T. 34 N., R. 10 W., south between sections 3 and 4, and sections 9 and 10, to the ¼ corner of sections 9 and 10, east on the E. and W. centerline of section 10, to the ¼ corner of sections 10 and 11, then north between sections 10 and 11, then east between sections 2 and 11 and sections 1 and 12, then north along the east line of section 1;

Then north between sections 31 and 36, and sections 25 and 30, T. 35 N., Rs. 9, 10, W., to a point offset 100 feet north of the centerline of Mohave Country Road #5;

Then easterly along a line offset 100 feet north from the centerline of County Road #5 some 4 miles to a point where the country road enters privately-owned land on the North and South center line of Section 22, T. 35 N., R. 9 W.;

Then south along the North-South center line (private land boundary) some 3,700 feet to the center of Section 27, T. 35 N., R. 9 W.;

Then east along the E. and W. centerline (private land boundary) some 0.5 mile to the section line between Sections 26 and 27, T. 35 N., R. 9 W. and north along the line between Sections 26 and 27, some 1,800 feet to a point 100 feet north of Mohave County Road #5;

Then easterly along a line offset 100 feet north of the centerline of County Road #5 some 0.75 miles to a point where the county road enters privately-owned land in the east one-half of the NE¼ of Section 26, T. 35 N., R. 9 W.;

Then south along the private land boundary some 0.5 mile to the section line between Sections 26 and 35, east on the line between sections 26 and 35, and sections 25 and 36, some 1.25 miles to the common corner of Sections 25, 30, 31 and 36, T. 35 N., Rs. 8 and 9, W., south some 0.5 miles to the ¼ corner of sections 31 and 36, T. 34 N., Rs. 8 and 9 W., east to the center ¼ section 31, north on the N. and S. centerline of sections 30 and 31, some 0.9 mile to a point 100 feet north of Mohave County Road #5;

Then easterly along a line offset 100 feet north of the centerline of Mohave County Road #5 some 3,000 feet to a point where the county road adjoins the private land boundary on the section line between Sections 29 and 30, T. 35 N., R. 8 W.;

Then south and east along the private land boundary some 0.5 miles to the North and South center line of Section 29, and north along N. and S. centerlines of sections 20 and 29 some 0.9 miles to a point 30 feet northwest of Mohave County Road #1530 where said road veers northeast from the private land boundary;

Then northeasterly along a line offset 30 feet north and west of Mohave County Road #1530 some 2 miles to a point where said road enters privately-owned land on the section line between Sections 9 and 16, T. 35 N., R. 8 W.;

Then east on the line between sections 9 and 16, and 10 and 15, some 1.3 miles to the common corner of sections 10, 11, 14 and 15, T. 35 N., R. 8 W., and north on the line between sections 10 and 11, and sections 2 and 3, some 1.5 miles to a point offset 100 feet north of the centerline of Mohave County Road #717;

Then easterly along a line offset 100 feet north of Mohave County Road #717 some 6 miles to a point offset 100 feet east of the centerline of Mohave County Road #5, which is the intersection of Mohave County Roads #717 and #5 in the SW¼ of Section 34, T. 36 N., R. 7 W.;

Then southeasterly along a line offset 100 feet east of the centerline of County Road #5 some 1,300 feet to the section line between Sections 34 and 3, Ts. 35, 36 N., R. 7 W.;

Then east along the section line between Sections 34 and 3, Ts. 35, 36 N., R. 7 W. to a point some 1,495 feet east of the north quarter corner of Section 3, T. 35 N., R. 7 W.;

Then southeasterly from said point some 500 feet to a point on the rim on the east side of Toroweap Valley at an elevation of 5,800 feet in the SE¼NW¼NE¼NE¼ of Section 3, T. 35 N., R. 7 W.;

Then southerly along the east rim of Toroweap Valley some 6 miles to a geographic point at the intersection of Toroweap Valley and Broad Canyon at an elevation of approximately 5,680 feet in Section 28, T. 35 N., R. 7 W.;

Then easterly along the northern rim of Broad Canyon some 3.6 miles to a point southwest of two small reservoirs in the northeast corner of Section 23, T. 35 N., R. 7 W.;

Then southerly across the wash to a point of equal elevation to the previous point and along the rim southwesterly and easterly to a point where said rim intersects with the boundary of Grand Canyon National Park on the section line between Sections 23 and 26, T. 35 N, R. 7 W.;

Then southerly and westerly along the Grand Canyon National Park boundary to a point 300 feet landward of the high water level of Lake Mead (Bureau of Reclamation withdrawal boundary) in Section 30, T. 32 N., R. 15 W., which is just north of Colorado River mile 277;

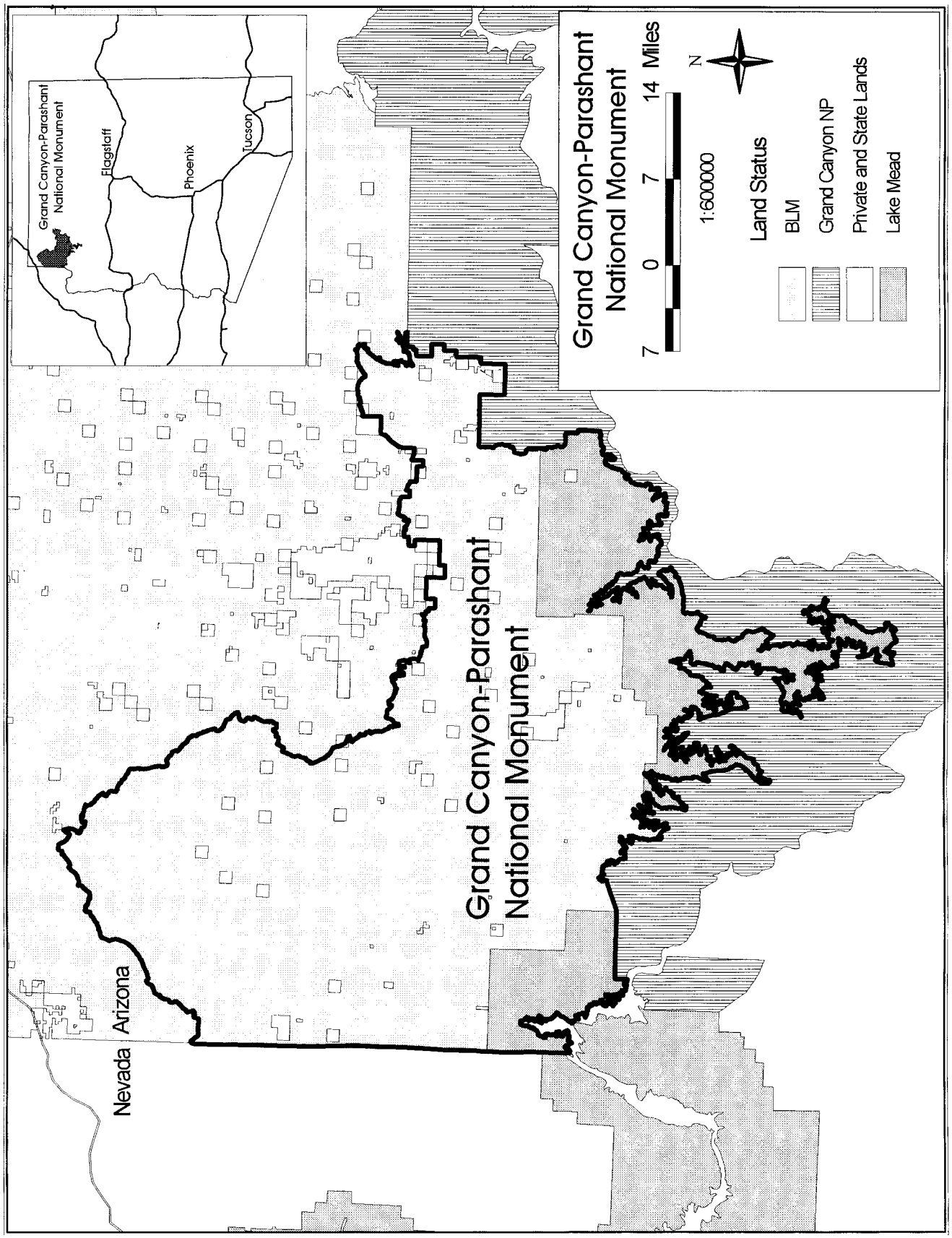
Then northerly and westerly along the Bureau of Reclamation withdrawal boundary, which is a line 300 feet landward of the high water mark of Lake Mead, to the point of beginning.

Note: Roads referenced in this document are as depicted on the following 7.5 minute topographic quadrangle maps (with date of publication): Poverty Knoll (1971), Poverty Spring (1971), Last Chance Canyon (1971), Jones Hill (1971), Mt. Trumbull NW (1967), Mt. Trumbull NE (1967), Mustang Knoll (1979), Wolf Hole Mtn. West (1979), St. George Canyon (1979) and Mt. Bangs (1985).

Becky J. Hammond,

Acting Field Manager.

BILLING CODE 4310–32–P



[FR Doc. 00–13863 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–32–C

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–200–1220–MA]

Notice of Closure of Public Lands to Motorized Vehicles

AGENCY: Bureau of Land Management, Interior.

ACTION: Closure Order for Motorized Vehicle Travel on Public Lands.

SUMMARY: Notice is hereby given that certain public lands in Fremont County, Colorado are closed to all types of motorized vehicle (including but not limited to 4X4, ATVs, and motorcycles) travel. The purpose of this closure is to prevent further disturbance to soils and vegetation in and near the riparian area of Badger Creek, reduce sedimentation in Badger Creek, and preclude use of a washed out portion of the Badger Creek Road #5965 that is a safety hazard. The reason behind this closure is the recent washing out of a portion of the Badger Creek Road. This has caused some vehicle users to drive in Badger Creek as a way to get around the washout. In addition, renewed use of the channel of Badger Creek for vehicular passage is occurring throughout the closure area. This closure is made under the authority of 43 CFR 8364.1.

DATES: Effective immediately and remaining in effect unless revised, revoked or amended.

ADDRESSES: Bureau of Land Management, Royal Gorge Field Office, 3170 East Main Street, Canon City, Colorado 81212; telephone 719–269–8500.

FOR FURTHER INFORMATION CONTACT: Levi D. Deike, Associate Field Office Manager, at the above address and phone number, or John Nahomenuk, Outdoor Recreation Planner, Arkansas Headwaters Recreation Area, P.O. Box 126, Salida, CO 81201; telephone 719–539–7289.

SUPPLEMENTARY INFORMATION: The public lands affected by this closure are identified as follows:

New Mexico Principal Meridian

T.49N., R.10E.,
- Section 15: SW¼
- Section 16: S½SE¼
- Section 21: E½
- Section 22: W½
- Section 27: NW¼ and that portion of the SW¼ north of the railroad right-of-way
- Section 28: that portion of the NE¼, NE¼SE¼ north of the railroad right-of-way

This closure does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fine and/or imprisonment as defined in 18 U.S.C. 3571. A copy of this **Federal Register** Notice and a map showing the closure area is posted in the Royal Gorge Field Office and in public places in the affected area.

Levi D. Deike,

Associate Field Office Manager.

[FR Doc. 00–13772 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–330–1820–DH–014B]

Headwaters Forest Reserve, California

AGENCY: Bureau of Land Management in Partnership with California Department of Fish and Game.

ACTION: Notice of preparation.

SUMMARY: This Notice of Preparation of an Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) for the adoption of a Management Plan for the Headwaters Forest Reserve in the northcoast area of California is the result of the acquisition of the property by the U.S. Department of the Interior and the State of California by purchase in March 1999. The Federal legislation creating the Reserve prescribes management issues that the plan must address (1997 Interior Appropriations Bill). Land and resource management alternatives will be formulated to address the required issues in different ways that are consistent with the preservation of ecological integrity and other policy direction specified in the legislation. The ''no action'' alternative will consist of continuation of the current interim management strategy, established in 1999.

DATES: Three public meetings are scheduled to solicit public input for plan implementation and to impact the assessment of planning alternatives:

Eureka, California: June 13, 2000 at the Eureka Inn, 518 7th Street, Eureka, California; San Francisco, California: June 20, 2000 at Fort Mason, Landmark Building A, San Francisco, California; Sacramento, California: June 22, 2000 at the Scottish Rite Memorial Center, 6151 H Street, Sacramento, California.

SUPPLEMENTARY INFORMATION: Various management alternatives would affect environmental conditions in and adjacent to the Reserve in different ways. Environmental resources that could be impacted include forest ecosystem species, structure, and function; habitat for threatened and endangered species including marbled murrelet, northern spotted owl, coho salmon, chinook salmon and steelhead; water quality; fire hazard; and conditions on adjoining properties, including access, roads, and fire management. An internet web page describes in detail the scope of the proposed plan and provides background information on the Headwaters Forest Reserve. The web page contains instructions for submitting scoping comments, and coding of comments by subject is requested. The internet address of the web site of *www.ca.blm.gov/arcata/headwaters.html.* The deadline for submitting comments is Monday, July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Karen Kovacs, California Department of Fish and Game, 707–441–5789 or the Headwaters Forest Reserve Management Plan Information Line, 916-737–3010, extension 4326. Email comments should be sent to *headwatersplan@att.net,* or comment letters should be mailed to P.O. Box 189445, Sacramento, California 95818–9445.

Lynda J. Roush,

Arcata Field Manager.

[FR Doc. 00–13794 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–330–1820–DH–014B]

Headwaters Forest Reserve, California

AGENCY: Bureau of Land Management in Partnership with California Department of Fish and Game.

ACTION: Notice of intent.

SUMMARY: This Notice of Intent to prepare an Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) for the adoption of a Management Plan for the Headwaters Forest Reserve in the northcoast area of California is the result of the acquisition of the property by the U.S. Department of the Interior and the State of California by purchase in March 1999. The Federal legislation creating the Reserve prescribes management issues that the plan must address (1997 Interior Appropriations Bill). Land and resource management alternatives will be formulated to address the required

issues in different ways that are consistent with the preservation of ecological integrity and other policy direction specified in the legislation. The ''no action'' alternative will consist of continuation of the current interim management strategy, established in 1999.

DATES: Three public meetings are scheduled to solicit public input for plan implementation and to impact the assessment of planning alternatives: Eureka, California: June 13, 2000 at the Eureka Inn, 518 7th Street, Eureka, California; San Francisco, California: June 20, 2000 at Fort Mason, Landmark Building A, San Francisco, California; Sacramento, California: June 22, 2000 at the Scottish Rite Memorial Center, 6151 H Street, Sacramento, California.

SUPPLEMENTARY INFORMATION: An internet web page describes in detail the scope of the proposed plan and provides background information on the Headwaters Forest Reserve. The web page contains instructions for submitting scoping comments, and coding of comments by subject is requested. The internet address of the web site of *www.ca.blm.gov/arcata/headwaters.html.* The deadline for submitting comments is Monday, July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Lynda J. Roush, Arcata Field Manager, at 707–825–2300 or Headwaters Forest Reserve Management Plan Information Line, 916–737–3010, extension 4326. Email comments should be sent to *headwatersplan@att.net,* or comment letters should be mailed to P.O. Box 189445, Sacramento, California 95818–9445.

Lynda J. Roush,

Arcata Field Manager.

[FR Doc. 00–13795 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1410–HX; AA–65185]

Public Land Order No. 7449; Partial Revocation of Public Land Order No. 725; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes a public land order insofar as it affects 32.66 acres of National Forest System land withdrawn for use by the Forest Service for the Edna Bay Administrative Site. The land is no longer needed for the purpose for which it was withdrawn. This action also allows the conveyance of the land to the State of Alaska, if such land is otherwise available. Land not conveyed to the State is opened to such forms of disposition as may by law be made of National Forest System land, subject to other withdrawals or segregations of record.

EFFECTIVE DATE: June 2, 2000.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5049.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 725, which withdrew National Forest System land for administrative sites or for other public purposes, is hereby revoked insofar as it affects the following described land:

Copper River Meridian

Tongass National Forest

T. 68 S., R. 76 E., Sec. 28, lots 11 and 12, and W½SE¼NW¼.

The area described contains 32.66 acres.

2. The State of Alaska application for selection made under Section 6(a) of the Alaska Statehood Act of July 7, 1958, 48 U.S.C. note prec. 21 (1994), and under Section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(e) (1994), is effective without further action by the State upon publication of this public land order in the **Federal Register**, if such land is otherwise available. Land not conveyed to the State is opened to such forms of disposition as may by law be made of National Forest System land subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: May 22, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–13865 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1430–ET; CACA 583, CACA 7767, CARI 3649, CARI 07692, and CACA 40671]

Public Land Order No. 7447; Transfer of Jurisdiction to the National Park Service; Partial Revocation of Executive Order dated February 26, 1852 and Public Land Order No. 4883, and Revocation of Public Land Order No. 5234; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes an Executive order and a public land order insofar as they affect 18.72 acres of lands withdrawn for use by the Department of the Navy for military purposes and revokes another public land order in its entirety, which withdrew 6.88 acres for the National Park Service. The 18.72 acres are no longer needed for military purposes and the revocation of the 6.88 acres is a record-clearing action only. This order also permanently transfers the jurisdiction of all 25.60 acres to the National Park Service, for inclusion into the Cabrillo National Monument. The transferred lands and their related resource uses will be managed under the laws and regulations appropriate to a national monument.

EFFECTIVE DATE: July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–931.4), 2800 Cottage Way, Sacramento, California 95825, 916–978–4675 or Gary Chulla, National Park Service, Pacific Land Resources Program Center, Pacific West Region, 600 Harrison Street, Suite 600, San Francisco, California 94107–1372, 415–427–1410.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated February 26, 1852, and Public Land Order No. 4883, which withdrew public lands for military purposes are hereby revoked insofar as they affect the following described lands:

San Bernardino Meridian

(a) Bayside Trail

Those portions of lot 39 in T. 17 S., R. 3 W., and lot 37 in T. 17 S., R. 4 W., more particularly described in the notice published in the **Federal Register** on October 26, 1999 (64 FR 57650). The area described contains approximately 2.72 acres in San Diego County.

(b) Point Loma TIdepool Area

A portion of lot 37 in T. 17 S., R. 4 W., more particularly described in the notice published in the **Federal Register** on October 26, 1999 (64 FR 57650). The area described contains approximately 16 acres in San Diego County.

2. Public Land Order No. 5234, which withdrew public land for the National Park Service, is hereby revoked in its entirety as to the following described land:

San Bernardino Meridian

Point Loma Maintenance Area

A portion of lot 37 in T. 17 S., R. 4 W., more particularly described in Public Land Order No. 5234 published in the **Federal Register** on July 21, 1972 (37 FR 14571).

The area described contains approximately 6.88 acres in San Diego County.

3. Subject to valid existing rights, the administrative jurisdiction of the lands described in paragraphs 1(a), 1(b), and 2, and their related resource uses are hereby permanently transferred to the National Park Service. These lands and their related resource uses shall be managed as part of the Cabrillo National Monument and shall thereafter be subject to all laws and regulations applicable thereto. As a result of this transfer, the lands will not be opened and they are no longer subject to the operation of the general land laws, including the mining and the mineral leasing laws.

4. Pursuant to an agreement between the Department of the Navy and the National Park Service, the Navy may continue to use the Bayside Trail provided such use does not materially interfere with the use of said trail by the National Park Service in their management of the Cabrillo National Monument.

5. The transfer of jurisdiction for the land described as the Point Loma Maintenance Area made by this order is in furtherance of, and subject to the provisions of that certain Memorandum of Agreement, dated January 12, 1970, entered into between the Commander, Naval Electronics Laboratory Center, and Commander, Naval Undersea Research and Development Center, Department of the Navy, and the Superintendent, Cabrillo National Monument, National Park Service, Department of the Interior, as may be amended or supplemented.

Dated: May 22, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–13862 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–28647]

Public Land Order No. 7448; Opening of Land Under Section 24 of the Federal Power Act; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order opens, subject to the provisions of section 24 of the Federal Power Act, 80 acres of National Forest System land withdrawn by a Secretarial order which established Bureau of Land Management Power Site Classification No. 361. This action will permit consummation of a pending Forest Service land exchange and retain the power rights to the United States. The land has been and will remain open to mineral leasing and, under the provisions of the Mining Claims Rights Restoration Act of 1955, to mining.

EFFECTIVE DATE: July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7093; 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, section 24, as amended, 16 U.S.C. 818 (1994), and pursuant to the determination of the Federal Energy Regulatory Commission in DVCO–555–000, it is ordered as follows:

1. At 9 a.m. on July 3, 2000, the following described National Forest System land withdrawn by the Secretarial Order dated October 24, 1944, which established Power Site Classification No. 361, will be opened to disposal subject to the provisions of Section 24 of the Federal Power Act as specified by the Federal Energy Regulatory Commission determination DVCO–555–000, and subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law:

Sixth Principal Meridian

Arapaho-Roosevelt National Forest

T. 6 N., R. 71 W.,
Sec. 31, SW¼NE¼ and SE¼NW¼.

The area described contains 80 acres in Larimer County.

Dated: May 22, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–13861 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–JB–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ET; NEV–042819]

Public Land Order No. 7450; Partial Revocation of Secretarial Order dated July 2, 1902; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a Secretarial order insofar as it affects 1,262.05 acres of public lands withdrawn for the Bureau of Reclamation's Newlands Project. The lands are no longer needed for reclamation purposes, and the revocation is necessary to facilitate a pending land exchange. The lands are temporarily closed to surface entry and mining due to an overlapping segregation for an exchange proposal. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520–0006, 775–861–6532.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated July 2, 1902, which withdrew public lands for the Bureau of Reclamation's Newlands Project, is hereby revoked insofar as it affects the following described lands:

Mount Diablo Meridian

T. 20 N., R. 25 E.,
Sec. 4, lot 5, lots 10 to 16, inclusive, lots 18 to 19, inclusive, lots 22 to 25, inclusive, and S½;
Sec. 6, lots 8 to 23, inclusive.

The areas described aggregate 1,262.05 acres in Washoe and Lyon Counties.

2. At 9 a.m. on July 3, 2000, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on July 3, 2000, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Dated: May 22, 2000.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–13864 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–330–1030–JE–014B]

Headwaters Forest Reserve, California

AGENCY: Bureau of Land Management, DOI.

ACTION: Notice.

SUMMARY: Notice is hereby given related to the restriction of Bureau of Land Management (BLM) administered lands in accordance with regulations contained in 43 CFR 8364.1(a). This action affects approximately 7,400 acres of public land comprising the Headwaters Forest Reserve, located in Humboldt County, CA. Public access into the Reserve from the south along Felt Springs Road is allowed only during BLM guided hikes. The public must contact the BLM Arcata Field Office to make reservations. Employees, agents and permittees of the BLM may be exempt from this restriction as determined by the authorized officer.

DATES: This restriction order will be effective upon the date of publication and will terminate upon the completion and approval of a long range management plan for the area.

ADDRESSES: Maps and supporting documentation are available for review at the following location: Bureau of Land Management, Arcata Field Office, 1695 Heindon Road, Arcata, CA 95521.

FOR FURTHER INFORMATION CONTACT: Lynda J. Roush, BLM, Arcata Field Manager (707) 825–2300.

SUPPLEMENTARY INFORMATION: Limiting public access into the Reserve from the south end is consistent with Environmental Assessment No. 99–15, ''Headwaters Forest Reserve: Public Access (South)'' and its Decision Record entitled ''Public Access to the Southern Part of the Headwaters Forest Reserve.'' The decision provides for interim public access with BLM personnel accompanying visitors as they hike along Salmon Creek Trail. Guided hikes are needed to protect the fragile natural resources within the old-growth redwood groves of the Reserve. Limited public access from the south will be allowed from May 15th through November 15th with wet weather restrictions. There will be four guided hikes per week/one hike per day. Each hike is limited to 20–30 visitors. Two days per week are reserved for schools/educational programs.

Lynda J. Roush,

Arcata Field Manager.

[FR Doc. 00–13803 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–950–1420–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

The plats of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., May 23, 2000.

The plat representing the dependent resurvey of a portion of the Ninth Auxillary Meridian West, through Township 54 North, between Ranges 76 and 77 West, a portion of the South boundary, the East and North boundaries and a portion of the subdivisional lines, T. 54 N., R. 76 W., Sixth Principal Meridian, Wyoming, Group No. 511, was accepted May 18, 2000.

The plat representing the dependent resurvey of a portion of the Ninth Auiliary Meridian West, through Township 55 North, between Ranges 76 and 77 West, the East boundary and a portion of the subdivisional lines, T. 55 N., R. 76 W., Sixth Principal Meridian, Wyoming, Group No. 511, was accepted May 18, 2000.

The plat representing the dependent resurvey of a portion of the Fourteenth Standard Parallel North, through Range 76 West, a portion of the South boundary, the East boundary and a portion of the subdivisional lines, T. 56 N., R. 76 W., Sixth Principal Meridian, Wyoming, Group No. 511, was accepted May 18, 2000.

The plat representing the dependent resurvey of a portion of the Thirteenth Standard Parallel North, through Range 76 West, the East boundary and a portion of the subdivisional lines, T. 53 N., R. 76 W., Sixth Principal Meridian, Wyoming, Group No. 585, was accepted May 18, 2000.

The plat representing the dependent resurvey of the subdivisional lines, T. 42 N., R. 74 W., Sixth Principal Meridian, Wyoming, Group No. 601, was accepted May 18, 2000.

The plat representing the dependent resurvey of a portion of the Tenth Standard Parallel North, through Range 74 West, the North boundary and the subdivisional lines, T. 41 N., R. 74 W., Sixth Principal Meridian, Wyoming, Group No. 601, was accepted May 18, 2000.

The plat representing the dependent resurvey of Mineral Survey No. 246, T. 29 N., Rs. 99 and 100 W., Sixth Principal Meridian, Wyoming, Group No. 627, was accepted May 18, 2000.

The plat representing the dependent resurvey of the South boundary and a portion of the East boundary, T. 43 N., R. 67 W., Sixth Principal Meridian, Wyoming, Group No. 635, was accepted May 18, 2000.

Dated: May 23, 2000.

John P. Lee,

Chief Cadastral Survey Group.

[FR Doc. 00–13866 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[DES 00–18]

Colusa Basin Drainage District's Integrated Resources Management Program for Flood Control in the Colusa Basin in Glenn, Colusa, and Yolo Counties, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of the draft programmatic environmental impact statement/draft programmatic environmental impact report (DEIS/DEIR), and notice of public hearing.

SUMMARY: Pursuant to the National Environmental Policy Act and the California Environmental Quality Act, the Bureau of Reclamation (Reclamation) and the Colusa Basin Drainage District (District) have prepared a joint DEIS/DEIR for the Integrated Resources Management Program for Flood Control in the Colusa Basin (Program). The Program encompasses an area of about 1,036,000 acres within the Basin, extending from Orland in the north to Knights Landing in the south, and includes lands in Glenn, Colusa, and Yolo Counties. The Sacramento River and Coastal Range foothills form its eastern and western boundaries, respectively. Within this area, the District encompasses about 650,000 acres. The Program is comprised of three elements: construction of a series of flood detention dams and basins on selected ephemeral streams that cause flooding in the Basin; implementation of several upland, riparian, and wetland environmental restoration measures that will help reduce soil erosion and sedimentation and restore degraded habitat; and development of a water supply that could be used for environmental purposes. The DEIS/DEIR describes and presents the potential environmental effects of the

three Program elements. A public hearing has been scheduled to receive comments on the DEIS/DEIR. Three public workshops will be held before the public hearing to allow interested parties to learn more about the Program and its potential environmental consequences.

DATES: Please submit written comments on the DEIS/DEIR on or before August 25, 2000. Comments may be submitted to Reclamation or the District at the addresses provided below.

The public workshop dates are:

- June 29, 2000, 7:00 p.m., Arbuckle, CA
- July 13, 2000, 7:00 p.m., Colusa, CA
- July 20, 2000, 7:00 p.m., Willows, CA

The public hearing on the DEIS/DEIR will be held on August 9, 2000, at 7:00 p.m.

ADDRESSES: The public workshop locations are:

- Arbuckle: Pierce High School Library, 960 Wildwood Road
- Colusa: Colusa Industrial Properties, Agricultural Building Conference Room, 100 Sunrise Boulevard
- Willows: Willows City Hall, 201 North Lassen Street

The public hearing will be held at the Willows City Hall, located at 201 North Lassen Street, Willows, California 95988

Written comments on the DEIS/DEIR should be addressed to Ms. Gaye Lopez, Colusa Basin Drainage District, P.O. Box 312, Woodland, CA 95776.

Copies of the DEIS/DEIR may be requested from Ms. Susan Lamb or Ms. Diane Hopkins by calling (916) 852–1300.

See **SUPPLEMENTARY INFORMATION** section for locations where copies of the DEIS/DEIR are available for public inspection.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

FOR FURTHER INFORMATION CONTACT: Ms. Gaye Lopez, Colusa Basin Drainage District, at (530) 795–3038 or Mr. Russ Smith, Reclamation, at (530) 275–1554.

SUPPLEMENTARY INFORMATION: The proposed action is to construct flood detention dams and basins on certain ephemeral streams in the foothills west of the Basin that cause the greatest flood damage. Reclamation and the District also propose to implement approximately 10,000 acres of environmental restoration measures to help restore degraded upland, riparian, and wetland habitats in the project area. In addition, the detention basins could provide a water supply that could be used for environmental purposes.

The goal of the Program is to substantially reduce flood damages and restore upland, riparian, and wetland habitats that have been historically degraded in the Colusa Basin. In addition to a No Program Alternative, which involves the continued use of the existing Colusa Basin Drain for drainage management and inadequate flood flow conveyance, six program alternatives are examined. Alternatives 1a, 2a, and 3a include the proposed construction of 14, 8, and 5 foothill flood detention dams and reservoirs, respectively, and about 10,000 acres of upland, riparian, and wetland restoration measures in the Colusa Basin. Alternatives 1b, 2b, and 3b include all the elements of Alternatives 1a, 2a, and 3a, respectively, and would also be operated to provide a water supply that could be used for environmental purposes, including the dedication of some reservoir space for water storage.

Copies of the DEIS/DEIR are available for public inspection at the following locations:

- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver CO 80225; telephone: (303) 445–2072
- Bureau of Reclamation, Office of Public Affairs, 2800 Cottage Way, Sacramento CA 95825–1898; telephone: (916) 978–5100
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW, Main Interior Building, Washington DC 20240–0001
- Colusa County Library, 738 Market Street, Colusa CA 95932
- Sacramento State University Library, 6000 J Street, Sacramento CA 95521
- Princeton Public Library, P.O. Box 97, Princeton CA 95970–0097
- Elk Creek Library, Box 163, Elk Creek CA 95939–0163
- Bayliss Library, Rd 39 and West Bayliss, Bayless CA 95943
- Willows City Library, 201 N. Lassen Street, Willows CA 95988
- Woodland Public Library, 250 First Street, Woodland CA 95695
- Grimes Library, P.O. Box 275, Grimes CA 95950
- Orland City Library, 333 Mill Street, Orland CA 95963
- Shasta College Library, 1065 Old Oregon Trail, Redding, CA 96099
- Arbuckle Library, 7th & King, Arbuckle, CA 95912
- Butte Community College Library, 3536 Butte Campus Drive, Oroville, CA 95965
- Campus Library, Humboldt State University, Arcata, CA 95521
- Knights Landing Library, 42351 3rd Street, Knights Landing, CA 95645
- Willows Public Library, 201 North Lassen Street, Willows, CA 94988
- Shields Library, University of California-Davis, Davis, CA 95616

Hearing Process Information

Colusa Basin Drainage District staff will make a brief presentation to describe the proposed project, its purpose and need, and alternatives considered. The public may comment on environmental issues addressed in the DEIS/DEIR. If necessary due to large attendance, comments will be limited to 5 minutes per speaker. Written comments will also be accepted.

Dated: May 23, 2000.

Lester A. Snow,

Regional Director.

[FR Doc. 00–13854 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Notice of Availability of a Draft Agency Handbook on the National Environmental Policy Act; Extension of Public Comment Period

AGENCY: Bureau of Reclamation, Interior.

SUMMARY: Notice is hereby given that the public comment period for Reclamation's draft agency handbook is extended 16 days to end on July 5, 2000.

DATES: The end of the public comment period, as originally noted in the **Federal Register** (65 FR 21210) on April 20, 2000, was to be June 19, 2000. The public comment period is now extended to July 5, 2000.

ADDRESSES: Written comments on the NEPA Handbook should be addressed to Bureau of Reclamation, Office of Policy, Attention: Dr. Darrell Cauley, Manager—Environmental and Planning Coordination, D–5100, Denver Federal Center, PO Box 25007, Denver, CO 80225–0007.

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Copies of the NEPA Handbook may also be requested from Theresa Taylor at the above address, via the Internet at nepa@do.usbr.gov, or by calling (303) 445–2826. The entire document is available at http://www.usbr.gov/nepa on the Internet.

Copies of the NEPA Handbook are available for public inspection and review at the following locations:

- Bureau of Reclamation, Reclamation Service Center Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, Colorado 80225; telephone: (303) 445–2072
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington DC 20240–0001

FOR FURTHER INFORMATION CONTACT: Theresa Taylor, Bureau of Reclamation, Office of Policy, at (303) 445–2826.

SUPPLEMENTARY INFORMATION: Requests for the document have depleted our supply. To accommodate requests, more copies are being printed for distribution. Reclamation's goal is to give the public a reasonable opportunity to review and offer comments on the content of this handbook. The NEPA Handbook was developed to assist Reclamation employees who are required to comply with the National Environmental Policy Act and various other environmental laws as part of their daily work. Reclamation's NEPA Handbook was first published in 1984, not in 1991 as previously reported on April 20, 2000. After Reclamation was re-organized in 1994 to reflect a de-centralization of decision making and authority, the NEPA Handbook needed major revisions to reflect the re-organization and to update the content. The handbook was extensively revised and has gone through various stages of review both internally and with the Council on Environmental Quality. At the commencement of the extended public review period, comments received will be considered as part of a final revision of the handbook.

Dated: May 25, 2000.

Wayne O. Deason,

Associate Director.

[FR Doc. 00–13796 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for Requirements for Permits and Permit Processing, 30 CFR part 773.

DATES: Comments on the proposed information collection must be received by August 1, 2000, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease at the address listed in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collection that OSM will be submitting to OMB for extension. This collection is contained in 30 CFR part 773, Requirements for Permits and Permit Processing.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Requirements for Permits and Permit Processing, 30 CFR Part 773.

OMB Control Number: 1029–0041.

Summary: The collection activities for this part ensure that the public has the opportunity to review permit applications prior to their approval, and that applicants for permanent program permits or their associates who are in violation of the Surface Mining Control and Reclamation Act do not receive surface coal mining permits pending resolution of their violations.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for surface coal mining and reclamation permits and State governments and Indian Tribes.

Total Annual Responses: 310.

Total Annual Burden Hours: 1,909.

Dated: May 30, 2000.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 00–13884 Filed 6–1–00; 8:45 am]

BILLING CODE 4310–05–M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Submission for OMB Review: Comment Request

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a Notice in the **Federal Register** notifying the public that the Agency has prepared an information collection request for OMB review and approval

and has requested public review and comment on the submission. OPIC published its first **Federal Register** Notice on this information collection request on April 22, 1998, in 63 FR 19946, at which time a 60-calendar day comment period was announced. This comment period ended June 22, 1998. No comments were received in response to this notice. This information collection submission has now been submitted to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collection techniques and uses of other forms of technology. The proposed form under review is summarized below.

DATES: Comments must be received on or before July 2, 2000.

ADDRESSES: Copies of the subject form and the request for review prepared for submission to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer.

FOR FURTHER INFORMATION CONTACT: *OPIC Agency Submitting Officer:* Carol Brock, Records Manager, Overseas Private Investment Corporation, 1100 New York Avenue, N.W., Washington, D.C. 20527; 202/336–8563.

OMB Reviewer: David Rostker, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, N.W., Washington, D.C. 20503, 202/395–3897.

Summary of Form Under Review

Type of Request: Extension of currently approved form.

Title: Small Business Application for Political Risk Investment Insurance.

Form Number: OPIC–223.

Frequency of Use: Once per investor per project.

Type of Respondents: Small business or other institutions qualifying as small business under OPIC's definition (except farms); individuals qualifying as small business under OPIC's definition.

Standard Industrial Classification Codes: All.

Description of Affected Pubic: Small U.S. companies or citizens investing overseas.

Reporting Hours: 4 hours per project.

Number of Responses: 50 per year.

Federal Cost: $750 per year.

Authority for Information collection: Sections 231 and 234(a), 239(d), and 204A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The small business application is the principal document used by OPIC to determine the small business investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: May 24, 2000.

Laura Naide,

Senior Counsel for Administrative Affairs, Department of Legal Affairs.

[FR Doc. 00–13848 Filed 6–1–00; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–286 (Review) and 731–TA–365 (Review)]

Industrial Phosphoric Acid From Israel and Belgium

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the countervailing duty order on industrial phosphoric acid from Israel and the antidumping duty order on industrial phosphoric acid from Belgium would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on March 1, 1999 (64 FR 10017) and determined on June 3, 1999, that it would conduct full reviews (64 FR 31610, June 11, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing 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** on July 16, 1999 (64 FR 38474).[3] The hearing was held in Washington, DC, on March 30, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these reviews to the Secretary of Commerce on May 22, 2000. The views of the Commission are scontained in USITC Publication 3302 (May 2000), entitled Industrial Phosphoric Acid from Israel and Belgium: Investigations Nos. 701–TA–286 (Review) and 731–TA–365 (Review).

Issued: May 24, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–13807 Filed 6–1–00; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Lynn M. Bragg not participating.

[3] The Commission subsequently revised its schedule, publishing notice in the **Federal Register** on January 7, 2000 (65 FR 1173).

INTERNATIONAL TRADE COMMISSION

Possible Modifications to the International Harmonized System Nomenclature

AGENCY: United States International Trade Commission.

ACTION: Request for Proposals To Amend the International Harmonized System.

SUMMARY: The Commission is soliciting proposals from interested parties and agencies to amend the international Harmonized Commodity Description and Coding System (Harmonized System), including the rules of interpretation, section and chapter notes, and the texts of the headings and subheadings, with a view to keeping the Harmonized System current with changes in patterns of technology and trade. Specific proposals in this connection will be reviewed by the Commission staff for potential submission to the Customs Co-operation Council, now known as the World Customs Organization (WCO), in Brussels, Belgium.

EFFECTIVE DATE: May 24, 2000.

FOR FURTHER INFORMATION CONTACT: Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements (O/TA&TA) (202/205–2595, E-Mail rosengarden@usitc.gov) or Ronald Heller (202/205–2596, E-Mail rheller@usitc.gov). The O/TA&TA fax number is 202/205–2616.

Background

Soon after the implementation of the Harmonized System (HS) in 1988, the Harmonized System (HS) Review Subcommittee (RSC) of the WCO began a series of reviews of the entire HS. The third review cycle begins this year, with an expected implementation date for changes of January 2007.

The HS was established by an international Convention, which, inter alia, provides that the Harmonized System should be kept up-to-date in light of changes in technology and patterns of international trade. The international HS nomenclature, which is administered by the WCO, provides a uniform structural basis for the customs tariff and statistical nomenclatures of all major trading countries of the world, including the United States. The Commission, the U.S. Customs Service and the Bureau of the Census are responsible for the development of U.S. technical proposals concerning the HS under section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (the 1988 Act) (19 U.S.C. 3010). A 1988 notice issued by the United States Trade Representative (53 FR 45646, Nov. 10, 1988), establishes the Commission as the lead U.S. agency in considering proposals for HS amendments that are intended to ensure that it reflects such changes in technology and trade.

A copy of the U.S. Harmonized Tariff Schedule (HTSA), which incorporates the international Harmonized System in its overall structure, can be downloaded in compressed form (self-extracting files) at the USITC's World Wide Web (WWW) site on the following page (URL): http://www.usitc.gov/taffairs.htm. Hard copies and electronic copies of the HTSA can be found at many of the 1,400 federal Depository Libraries located throughout the United States and its territories; further information about these locations can be found on the WWW at the following location (URL): http://ww1.access.gpo.gov/GPOAccess/sitesearch/su__docs__fdlp/adpos003.html, or by contacting GPO Access at the Government Printing Office, 1–888–293–6498. Note that the international HS comprises the broadest levels of categories in the HTSA, that is, the General Rules for the Interpretation of the Nomenclature, Section and Chapter titles, Section and Chapter legal notes, and heading and subheading texts to the 6-digit level of detail. U.S. Legal Notes, further subdivisions (8- and 10-digit subheadings) and statistical notes, as well as the entire chapters 98 and 99, are national legal and statistical detail added for the administration of the tariff and statistical programs and are not within the scope of the international HS review process.

Request for Proposals: In accordance with the above mentioned USTR notice, the Commission is seeking proposals for specific modifications to the HS (including the rules of interpretation, section and chapter notes, and the texts of the headings and subheadings) that will further the above goals. No proposals for changes to the national-level provisions (which include U.S. 8-digit subheadings, statistical annotations and rates of duty) will be considered by the Commission as a part of this review. Interested parties, associations and government agencies should submit specific language for proposed amendments to the HS together with appropriate descriptive comments and, to the extent available, trade data.

As part of this review, the Commission particularly invites proposals concerning the following matters:

- The deletion of HS headings or subheadings with low trade volume.
- The separate identification in the HS of new products important in international trade.
- The simplification of the HS, *e.g.,* by the elimination of classification provisions which are difficult to administer.
- Modifications to the HS Explanatory Notes, a WCO publication which clarifies the scope of HS provisions.

As mentioned above, *no proposals for changes to national-level provisions (including Additional U.S. Notes, U.S. 8-digit subheadings, statistical annotations and rates of duty) will be considered by the Commission as a part of this review.* The changes in the international HS that will result from this review cycle will not necessarily affect tariff rates for products imported into the United States; as with the first two HS review cycles, the USITC plans eventually to develop a set of proposed HTS changes that will align the HTS with the international HS changes, pursuant to sec. 1205 of the 1988 Act.

Deadline: Suggestions must be received no later than the close of business June 30, 2000, in order to be considered by the Commission. Requests for extensions of time should be made in writing to the Secretary at the address indicated below.

Written Submissions: All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E St. SW, Room 112–A ,Washington, DC 20436. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons.

TDD Access: Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

World Wide Web Access: This notice, and any subsequent notices published pursuant to section 1210 of the 1988 Act, may be obtained from the ITC Internet web server: http://www.usitc.gov/.

By order of the Commission.

Issued: May 25, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–13806 Filed 6–1–00; 8:45 am]

BILLING CODE 7020–02–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated February 25, 2000, and published in the **Federal Register** on March 6, 2000, (65 FR 44) Chattem Chemicals, Inc., 3708 St. Elmo Avenue, Chattanooga, Tennessee 34709, made application by letter to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of amphetamine (1100), a basic class of controlled substance listed in Schedule II.

The firm plans to bulk manufacture amphetamine for distribution to its customers.

DEA has considered the factors in Title 21, United States code, Section 823(a) and determined that the registration of Chattem Chemicals, Inc. to manufacture amphetamine is consistent with the public interest at this time. DEA has investigated Chattem Chemicals, Inc. to ensure that the company's continued registration is consistent with the public interest. The investigations have included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the

company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: May 22, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13785 Filed 6–1–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on December 22, 1999, Lonza Riverside, 900 River Road, Conshohocken, Pennsylvania 19428, made application by renewal which was received for processing April 12, 2000, to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine (1100)	II
Phenylacetone (8501)	II

The firm plans to manufacture the listed controlled substances in bulk for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than August 1, 2000.

Dated: May 24, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13786 Filed 6–1–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 14, 2000, Sigma Aldrich Research Biochemicals, Inc., Attn: Richard Milius, 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391).	I
4-Bromo-2, 5-dimethoxyphenethylamine (7392).	I
2,5-Dimethoxyamphetamine (7396).	I
3,4-Methylenedioxyamphetamine (7400).	I
N-Hydroxy-3, 4-methylenedioxyamphetamine (7402).	I
3, 4-Methylenedioxy-N-ethylamphetamine (7404).	I
3, 4-Methylenedioxymethamphetamine (7405).	I
Psilocybin (7437)	I
1-[1-(2-Thienyl) cyclohexyl] piperidine (7470).	I
Heroin (9200)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Pentobarbital (2270)	II
Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecgonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metazocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (LAAM) (9648).	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances for laboratory reference standards and neurochemicals.

Any other such applicant and any person who is presently registered with DEA to manfuacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be file no later than August 1, 2000.

Dated: May 12, 2000.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 00–13787 Filed 6–1–00; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,303 and NAFTA–3688]

Motor Coils Manufacturing, Emporium, Pennsylvania; Notice of Revised Determination on Reconsideration

By application dated March 24, 2000, petitioners requested administrative reconsideration of the Department's denial of Trade Adjustment Assistance (TAA) petition number TA–W–37,303 and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) petition number NAFTA–3688, for workers and former workers of Motor Coils Manufacturing, Emporium, Pennsylvania. The notices of negative determination were issued March 8, 2000 and published in the **Federal Register** on March 31, 2000 (65 FR 17312) and (65 FR 17313), respectively.

The March 8, 2000 denial of TAA and NAFTA–TAA for workers of the subject firm engaged in employment related to the refurbishment of traction motors for locomotives at Motor Coils Manufacturing, Emporium, Pennsylvania, was based on the finding that the workers provided a service and did not produce an article within the meaning of the group eligibility requirements of section 222 and 250(a) of the Trade Act of 1974, as amended.

The Department, on reconsideration, has learned that the workers produce an article, and all the worker group eligibility requirements of section 222 of the Trade Act of 1974 have been met. There were declines in sales or

production, employment, and increased imports of articles like or directly competitive with those produced by workers of the subject firm.

The Department has obtained information on reconsideration that there were increased company imports of traction motors for locomotives from Mexico during the relevant time period.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Motor Coils Manufacturing, Emporium, Pennsylvania, were adversely affected by increased imports of articles, including those from Mexico, like or directly competitive with those produced at the subject firm.

All workers of Motor Coils Manufacturing, Emporium, Pennsylvania, who became totally or partially separated from employment on or after January 18, 1999 through two years from the date of the certification, are eligible to apply for worker adjustment assistance under section 223 of the Trade Act of 1974;

* * * and

All workers of Motor Coils Manufacturing, Emporium, Pennsylvania, separated from employment on or after January 17, 1999, through two years from the date of the certification, are eligible to apply for NAFTA–TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC this 23rd day of May 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13755 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 12, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 12, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of May, 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 05/22/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,684	Colby Footwear, Inc (Co.)	Gonic, HN	05/04/2000	Women's Footwear.
37,685	Makco Manufacturing Co (Co.)	Edinboro, PA	05/03/2000	Metal Stamped Parts.
37,686	Calgon Corporation (Wkrs)	Pittsburgh, PA	05/11/2000	Water Treatment Chemicals.
37,687	Xantech Corporation (Co.)	Sylmar, CA	05/10/2000	Signal Processing and Control Systems.
37,688	Ripley Industries (Co.)	Lewiston, ME	05/12/2000	Women's Shoe Heels.
37,689	AGRI Sales (Wkrs)	Saginan, MI	05/10/2000	Dry Edible Beans.
37,690	PCC Olofsson (Wkrs)	Lansing, MI	05/03/2000	Slack Adjuster for Semi-Trucks.
37,691	Four Seasons Apparel Co. (Co.)	Murfreesboro, NC	05/05/2000	Sportswear.
37,692	Valley Recreation Product (Co.)	Sycamore, IL	05/10/2000	Electronic Dart Games.
37,693	PCS Nitrogen (Wkrs)	Camanche, IA	05/10/2000	Nitric Acid and Ammonium Nitrate.
37,694	Meritor Automotive, Inc (IAMAW)	Fairfield, IA	04/28/2000	Universal Joints for Trucks.
37,695	Ryan Press (Wkrs)	Ogdensburg, NY	04/23/2000	Commercial Printing.
37,696	Parker Hannifin (Wkrs)	Batesville, MS	05/04/2000	Hose Assemblies for Automobiles.
37,697	Scientific Research Co. (Co.)	Portland, OR	05/02/2000	Metal Parts for Trucks.
37,698	Grayson Enterprises (Wkrs)	Eaton, IN	04/28/2000	Sterile Sampling Bags.
37,699	Invensys Appliance Control (Co.)	Independence, VA	05/04/2000	Air Conditioning, Refrigeration Controls.
37,700	Cove Shoe Co. (UFCW)	Martinsburg, PA	05/15/2000	Leather Boots.
37,701	Oregon Woodworking (Co.)	Bend, OR	05/05/2000	Interior Jambs.
37,702	Spencer's (Wkrs)	Mt. Airy, NC	04/27/2000	Baby Clothes.
37,703	Beloit Corporation (PACE)	Neenah, WI	05/09/2000	Service Paper Machines & Parts.
37,704	Ferwood Magnetics (Wkrs)	Belvidere, NJ	04/23/2000	Magnetic Transistor Devices.
37,705	Competitive Engineering (Wkrs)	Tucson, AZ	05/06/2000	Pico Carriers.
37,706	Fruit of the Loom (Wkrs)	Frankford, KY	05/12/2000	Wilson Sports Products.
37,707	Oliver Rubber Co. (Wkrs)	Export, PA	05/09/2000	Cure Tread Rubber.
37,708	Stanley Tools (Co.)	Shelbyville, IN	05/09/2000	Hammers and Hand Saws.
37,709	Boeing (Wkrs)	St. Louis, MO	05/11/2000	Military Aircraft and Missiles.
37,710	A.T. Cross Co. (Co.)	Lincoln, RI	04/13/2000	Writing Instruments.
37,711	Dana Epic Technical Group (Wkrs)	Kendallville, IN	05/05/2000	Fuel Rails for Autos and Trucks.
37,712	Rite Industries, Inc (Comp)	High Point, NC	05/17/2000	Dyes for Textile and Paper Industries.

[FR Doc. 00–13754 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,016]

Deluxe Corporation, Financial Services Division, Springfield, Massachusetts; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Delux Corporation, Financial Services Division, Springfield, Massachusetts. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–37,106; Deluxe Corporation, Financial Services Division, Springfield, Massachusetts (May 23, 2000).

Signed at Washington, DC this 25th day of May 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13757 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,541]

Joshua L. Bailey Co., Inc., Hoboken, New Jersey; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Joshua L. Bailey Co., Inc., Hoboken, New Jersey. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–37, 541; Joshua L. Bailey Co., Hoboken, New Jersey (May 24, 2000).

Signed at Washington, DC this 25th day of May 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13758 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–37,060]

Liz Claiborne, North Bergen, NJ; Notice of Negative Determination Regarding Application for Reconsideration

By application dated March 30, 2000, the Union of Needletrades, Industrial and Textile Employees (UNITE) request administrative reconsideration of the Department's negative determination regarding eligibility to apply for Trade Adjustment Assistance (TAA), applicable to workers and former workers of the subject firm. The denial notice was signed on February 29, 2000, and published in the **Federal Register** on March 17, 2000 (65 FR 14627).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The February 29, 2000 denial of TAA for workers producing samples and patterns at Liz Claiborne, North Bergen, New Jersey, was based on the finding that the ''contributed importantly'' test of the worker group eligibility requirements of Section 222 of the Trade Act of 1974 was not met. The investigation revealed that the layoffs at the subject firm were not related to increased imported but instead, a restructuring of operations at the subject facility.

The petitioners disagree with the statement in the denial notice that ''Samples produced at the subject facility are used in the company's worldwide production of apparel and could not therefore, have been adversely affected by increased imports.'' UNITE believes that the Department set a precedent when it certified other sample-making workers.

The TAA certifications referenced by UNITE were applicable to workers of those companies where sample-making/cutting were shifted abroad and the samples were returning to the United States. That is not the case for the workers producing samples and patterns at Liz Claiborne in North Bergen, New Jersey. UNITE states North Bergen employees no longer produce certain sizes of sample garments. The Department's investigation, however, revealed that the company chose to reduce sample making and patterns at North Bergen.

UNITE suggests that the company's apparent decision to shift sample making and patterns abroad support a certification. However, there is no provision in the group eligibility requirements of Section 222 of the Trade Act of 1974 to certify workers based on a shift in production.

UNITE asserts that imports of articles at a later stage of processing have had an economic effect on the North Bergen workers comparable to the effect of importation of foreign-made sample garments and/or markers by definition in the Code of Federal Regulations, 29 CFR 90.2. The Department points out that the importation of the article (apparel) would have to have an economic effect on producers of the domestic article (samples and patterns) in the same stage as processing as the domestic article. In this case the importation of apparel is not in the same stage of processing as samples and patterns.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C. this 22nd day of May 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

[FR Doc. 00–13756 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address show below, not later than June 12, 2000.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than June 12, 2000.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 15th day of May 2000.

Grant D. Beale,

Program Manager, Division of Trade Adjustment Assistance.

APPENDIX

[Petitions instituted on 05/15/2000]

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
37,661	RHI Refractories (USWA)	Farber, MO	04/20/2000	Bricks for Steel Industry.
37,662	Cap Cod Cricket Lane (Comp)	W. Bridgewater, MA	04/27/2000	Ladies' Apparel.
37,663	Fruit of the Loom (Wrks)	New York, NY	04/24/2000	Apparel Patterns.
37,664	Hutchinson Technology (Wrks)	Eau Claire, WI	04/26/2000	Suspension Systems for Disc Drive.
37,665	Chetta B Evening Ltd (UNITE)	New York, NY	04/18/2000	Ladies' Dresses.
37,666	Jensports (Wrks)	New Kensington, PA	04/28/2000	Ladies' Sportswear.
37,667	AMF Reece, Inc. (Comp)	Mechanicsville, VA	04/26/2000	Industrial Sewing Machines.
37,668	Pope and Talbot, Inc. (Comp)	New Castle, WY	05/11/2000	Softwood Lumber.
37,669	Wheeling-LaBelle Nail Co. (Wrks)	Wheeling, WV	05/02/2000	Hardened Steel Cut Nails.
37,670	Berstone Knitting Mills (Wrks)	Brooklyn, NY	05/01/2000	Collars, Cuffs and Waist.
37,671	Hillsville Apparel, Inc. (Comp)	Hillsville, VA	05/02/2000	Knit Apparel.
37,672	Total Rental Tool (Wrks)	Rush Springs, OK	04/26/2000	Valves for Oil Equipment.
37,673	Dana Corp.—Marion Forge (IBB)	Marion, OH	05/04/2000	Axles and Ring Gears.
37,674	Marquip, Inc. (Comp)	Madison, WI	05/05/2000	Paper Making Machines and Parts.
37,675	Hagales Industries (Wrks)	Salem, MO	04/26/2000	Men's & Ladies' Pants and Shorts.
37,676	Schreiber Foods, Inc. (IBT)	Monroe, WI	04/27/2000	Processed Cheese Products.
37,677	Wheaton USA, Inc. (Comp)	Pennsville, NJ	04/18/2000	Silk Screens Glass Bottles.
37,678	Packard Bell/NEC, Inc. (Wrks)	Boxborough, MA	05/03/2000	Assemble Computer Servers.
37,679	National Semiconductor (Wrks)	South Portland, ME	05/08/2000	Die Products.
37,680	Chick Orchards, Inc. (Comp)	Monmouth, ME	05/01/2000	Apples and Apple Cider.
37,681	PJC Sportswear, Inc. (Wrks)	Brooklyn, NY	05/09/2000	Beachwear.
37,682	Johnson Controls, Inc. (Comp)	Goshen, IN	04/27/2000	Machining Equip for Parts.
37,683	LeFever Plastics, Inc. (Comp)	Huntsville, OH	05/05/2000	Plastic Injection Molded Grommets.

[FR Doc. 00–13753 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Public Meeting; Federal Committee on Registered Apprenticeship

AGENCY: Employment and Training Administration, DOL.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10 of the Federal Advisory Committee Act (Pub. Law 92–463; 5 U.S.C. APP. 1), notice is hereby given of a meeting of the Federal Committee on Registered Apprenticeship (FCRA).

TIME AND DATE: The meeting will begin at 9:00 a.m. on Thursday, June 15, 2000 and continue until approximately 5:00 p.m. The meeting will reconvene at 9:00 a.m. on Friday, June 16, 2000, and continue until approximately 12:00 noon.

PLACE: The Jefferson Room East of the Hilton Washington and Towers, 1919 Connecticut Ave., N.W., Washington, D.C. 20009.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–4649, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Telephone: (202) 219–5921 (this is not a toll-free number)

MATTERS TO BE CONSIDERED: The agenda will focus on the following topics:

(1) Reports on the FCRA Work Groups
- Marketing
- Quality
- Diversity
- Resources/Data
- Legislative

(2) Child Care Grants

(3) Discuss FCRA Recommendations

(4) Demonstration of apprenticeship Websites: Partnerships

(5) Progress Report on ATELS/BAT activities

(6) Next Meeting Dates and Location
(7) Public Comment

STATUS: Members of the public are invited to attend the proceedings. Individuals with disabilities should contact Marion Winters at (202) 219–5921 no later than June 9, 2000, if special accommodations are needed.

Any member of the public who wishes to file written data or comments pertaining to the agenda may do so by sending it to Mr. Anthony Swoope, Administrator, Office of Apprenticeship Training, Employer and Labor Services, Employment and Training Administration, U.S. Department of Labor, Room N–4649, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Such submissions should be sent by June 9, 2000, to be included in the record for the meeting.

Any member of the public who wishes to speak at the meeting should indicate the nature of the intended presentation and the amount of time needed by furnishing a written statement to the Designated Federal official by June 9. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Signed at Washington, D.C., on May 26, 2000.

Raymond L. Bramucci,

Assistant Secretary for Employment and Training.

[FR Doc. 00–13849 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled ''General Wage determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

Volume III

Florida
FL000104 (Jun. 02, 2000)

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice General Wage Determination #ND000047. See #ND000034.

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effected unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

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Volume VI

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Volume III

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General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of

Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. this 25th day of May 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–13670 Filed 6–1–00; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Tuesday, June 6, 2000.

PLACE: Board Room, 7th Floor, Room 7047 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed IRPS 00–1, Amendments to NCUA's Chartering and Field of Membership Policies.
2. Request from a Federal Credit Union to Convert to a Community Charter.
3. Request from a Credit Union to Merge into a Federal Mutual Savings Association.
4. Proposed Rule: Amendments to Part 792, Subparts C & E, NCUA's Rules and Regulation, Privacy Act.
5. Proposed Rule: Appendix to Part 748, NCUA's Rules and Regulations, Privacy of Consumer Financial Information.
6. Final Rule: Amendments to Sections 716.4 and 716.7, NCUA's Rules and Regulations, Privacy of Consumer Financial Information.
7. Advance Notice of Proposed Rulemaking: Predatory Lending.

RECESS: 1:00 p.m.

TIME AND DATE: 2:30 p.m., Tuesday, June 6, 2000.

PLACE: Board Room, 7th Floor, Room 7047 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Field of Membership Appeal. Closed pursuant to exemptions (8) and (9)(A)(ii).
2. One (1) Personnel Matter. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 00–13932 Filed 5–31–00; 10:02 am]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts, Special Projects Advisory Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Special Projects Advisory Panel (Research Section), to the National Council on the Arts will be held on June 12, 2000. The committee will meet from 1:30 a.m. to 5 p.m. in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, to assist in developing parameters for a national study of jazz artists in four cities.

The agenda will tentatively include:

Discussion of the revised proposal and additional methodologies
Context—landscape for jazz artists in 4 cities
Definitions for the purpose of this study: What is jazz? What is a jazz artist?
Criteria for determining what is a jazz artist Response Driven Sampling (RDS) for interviews
Appropriateness of incentives for RDS
Kinds of analysis—context, data, comparisons, recommendations

This meeting will be open to the public on a space available basis. Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. Tom Bradshaw, Office of Policy Research & Analysis, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5527.

Dated: May 26, 2000.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 00–13693 Filed 6–1–00; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

AmerGen Energy Company, LLC; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–50 issued to AmerGen Energy Company, LLC (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 1 (TMI–1), located in Dauphin County, Pennsylvania.

The proposed amendment would add new Technical Specifications (TSs) 3.7.2.a(ii) and 3.7.2.h to address voltage on the 230 kV (kilovolt) grid as a precondition of criticality and to provide a time limit for when the 230 kV grid voltage is found to be insufficient to support Loss-of-Coolant Accident (LOCA) electrical loading during power operation. The application also requests various minor editorial changes. The Bases have also been changed to reflect the addition of the two new TSs and to provide clarification of the components to which surveillance is applicable. The changes requested supplement an application dated August 20, 1999, which were noticed in the **Federal Register** on December 1, 1999 (64 FR 67334).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves 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. 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 to the TS 3.7.2 to incorporate an action statement for Post Contingency grid voltages are intended to provide greater confidence that the NSR [nuclear safety related] equipment power supplies are maintained. The proposed changes will enhance the ability of the undervoltage protection scheme to perform in accordance with its intended design, and will improve the ability to respond to low grid voltage conditions. Therefore, operation of the facility in accordance with the proposed amendment will not involve a significant increase in the probability [of occurrence] or the consequences of an accident previously evaluated in the SAR [Safety analysis Report].

2. The proposed changes to the TS 3.7.2 LCO [limiting condition for operation] and TS 3.7 Bases are consistent with the intended design of the degraded voltage protection scheme and do not introduce the possibility of any new failure modes to the protection scheme or the electrical distribution system. The proposed changes reduce the probability of operation of the Unit without sufficient voltages to NSR loads from off-site sources. Therefore, operation of the facility in accordance with the proposed changes do not create a possibility of a new or different kind [type] of accident than any accident previously evaluated in the SAR.

3. The proposed changes to the TS 3.7.2 LCO and TS 3.7 Bases are intended to provide sufficient time for the transmission system operator to take appropriate action to restore grid voltage levels and operability of the offsite sources. The risk analysis results for use of the proposed LCO time period is such that there is only a small incremental increase in the core damage frequency (CDF). These changes enhance the current Technical Specifications by limiting the unavailability of the offsite sources to supply NSR equipment during a LOCA. Therefore, operation of the facility in accordance with the proposed changes 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

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. 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 Administrative 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 6D59, 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 hearing and petitions for leave to intervene is discussed below.

By July 3, 2000, 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 accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov). 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 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 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 Edward J. Cullen, Jr., PECO Energy Company, 2301 Market Street (S23–1), Philadelphia, PA 19103, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the 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 dated May 22, 2000, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 26th day of May 2000.

For the Nuclear Regulatory Commission.

Timothy G. Colburn,

Senior Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–13875 Filed 6–1–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–312]

Sacramento Municipal Utility District (SMUD), Rancho Seco Nuclear Generating Plant; Notice of Public Meeting

The NRC will conduct a public meeting in the Chabolla Community Center, 630 Chabolla Avenue, Galt, California, on June 20, 2000, to discuss SMUD plans to commence dismantlement and decontamination activities at the Rancho Seco Nuclear Generating Station, Herald, California. The meeting will begin at 7:00 p.m., with the doors opening at 6:30 p.m. The meeting will be chaired by Mr. Don Notolli, Supervisor, County Supervisory District 5, County of Sacramento, California, and will include short presentations by the NRC staff on the decommissioning process and NRC inspection program and by SMUD on its planned decommissioning activities. There will be an opportunity for members of the public to make comments and question the NRC staff and SMUD representatives.

On November 4, 1999, SMUD provided Amendment 2 to its Post-Shutdown Decommissioning Activities Report (PSDAR) to the NRC staff. This revision describes, in part, the licensee's plans to forego its initial option of hardened—SAFSTOR (*i.e.*, long-term safe storage) for the Rancho Seco facility to implement an accelerated schedule of dismantlement and decontamination that will result in license termination by 2008. This licensee decision was made, in part, on its success in the incremental decontamination and dismantlement of the facility as described in Amendment 1 to its PSDAR dated January 29, 1997.

The NRC staff believes that the licensee's decision to change from hardened-SAFSTOR to full-plant decontamination and dismantlement is a significant change to the activities and schedules identified in the original PSDAR submitted on March 20, 1997. As such, the NRC plans to inform the public of the licensee's new decommissioning schedule by conducting a public meeting at the Chabolla Community Center which is in the vicinity of the Rancho Seco facility. This meeting will also provide a forum for the public to gather information and ask questions or make comments.

For more information, contact Paul W. Harris, Project Directorate IV & Decommissioning, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone 301–415–1169 or email at PWH1@NRC.gov.

The PSDAR is available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L Street, NW, Washington, DC, and is accessible electronically from the ADAMS Public Library (Amendment 2 Accession No. ML993160051) component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 26th day of May 2000.

For the Nuclear Regulatory Commission.

Paul W. Harris,

Project Manager, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–13876 Filed 6–1–00; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24477; 812–11644]

UAM Funds, Inc. et al.; Notice of Application

May 25, 2000.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of an application under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') exempting applicants from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act exempting applicants from section 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF THE APPLICATION: The order would permit certain registered open-end investment companies to use cash collateral from securities lending transactions (''Cash Collateral'') to purchase shares of affiliated money market funds or affiliated private investment companies, to deposit Cash Collateral in one or more joint accounts, and to pay fees based on a share of the revenue generated from securities lending transactions to an affiliated lending agent and other affiliated entities.

APPLICANTS: UAM Funds, Inc. (''Fund I''), UAM Funds, Inc. II (''Fund II''), UAM Funds Trust (''Fund III'') (the ''Lending Funds''), Acadian Asset Management LLC, Analytic Investors, Inc., C.S. McKee & Company, Inc., Cambiar Investors, Inc., Chicago Asset Management Company, Cooke & Bieler, Inc., Dewey Square Investors Corp., Dwight Asset Management Company, Fiduciary Management Associates, Inc., First Pacific Advisors LLC, Hanson Investment Management Company, Heitman/PRA Securities Advisors LLC, Investment Counselors of Maryland, Inc., JAM Asset Management L.P., Murray Johnstone International Ltd., NWQ Investment Management Company, Pacific Financial Research, Inc., Pell Rudman Trust Company, Rice, Hall, James & Associates, Sirach Capital Management, Inc., Sterling Capital Management Company, Thompson, Siegel & Walmsley, Inc., Tom Johnson Investment Management, Inc. and any entity controlling, controlled by, or under common control with United Asset Management Corporation (''UAM'') that, in the future, acts as investment adviser to a Lending Fund or any other registered open-end management investment company (the ''Investment Advisers''), UAM Trust Company (the ''Trust Company''), UAM Global Securities Lending, Inc. (the ''Servicing Agent''), and UAM Fund Services, Inc. (the ''Administrator'').

FILING DATES: The application was filed on June 4, 1999, and amended on May 24, 2000.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 19, 2000, 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 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 211 Congress Street, Boston, MA 02110.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Funds I and II are Maryland corporations registered under the Act as open-end management investment companies comprised of multiple series. Fund III is a Delaware business trust registered under the Act as an open-end management investment company comprised of multiple series.

2. Applicants request that the order also apply to (a) all other registered open-end management investment companies for which the Investment Advisers may now or in the future act as investment adviser (the ''Fund Lending Funds''); (b) unregistered investment vehicles relying on section 3(c)(1) or 3(c)(7) of the Act, currently in existence or proposed to be formed, and advised by a Private Fund Adviser (the ''Private Funds''); and (c) any investment adviser controlling, controlled by, or under common control with UAM that, in the future, acts as investment adviser to a Private Fund (the ''Private Fund Advisers'').[1] Either the Trust Company or the Administrator may act in the role of ''Lending Agent,'' as described below. In addition, either the Trust Company or the Administrator may act in the role of ''Program Administrator,'' as described below. Existing and future series of the Lending Funds and the Future Lending Funds are collectively referred to as the ''Portfolios.'' Portfolios that hold themselves out as money market funds are referred to as the ''Money Market Portfolios.''

3. The current Investment Advisers, except JAM Asset Management L.P., are wholly-owned subsidiaries of UAM, which is a holding company incorporated in Delaware. JAM Asset Management L.P. is a limited partnership, of which UAM is the sole limited partner. Pursuant to an investment advisory agreement between the respective Investment Adviser and the respective Lending Fund, on behalf of each respective Portfolio, each Investment Adviser manages one or more Portfolio's investments. Each of the Investment Advisers is registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') except Pell Rudman Trust Company, which is exempt from registration pursuant to section 202(a)(11) of the Advisers Act.

4. The Lending Funds have each entered into a Fund Administration Agreement with the Administrator, pursuant to which the Administrator provides transfer agent, fund accounting and fund administration services to the Lending Funds. Chase Manhattan Bank, N.A. is the custodian of Fund I and Fund III. First Union National Bank is the custodian of Fund II. The Trust Company, a wholly-owned subsidiary of UAM and a Maryland chartered trust company, is exempt from registration as an investment adviser pursuant to section 202(a)(11) of the Advisers Act. The Trust Company serves as Private Fund Adviser to certain Private Funds. The Servicing Agent is an indirect wholly-owned subsidiary of UAM.

5. Each Lending Fund has the ability to increase its income by participating in a securities lending program (the ''Program'') under which it may lend portfolio securities to registered broker-dealers or other institutional investors deemed by its Investment Adviser to be of good standing, which meet minimum criteria established by the board of directors or trustees (the ''Board'') of the Lending Funds (''Borrowers''). The agreements governing such loans will require that the loans be continuously secured by collateral equal at all times in value to at least the market value of the securities loaned. Collateral for such loans may include cash, securities of the U.S. Government or its agencies, or any combination of cash and such securities.

6. Under the Program, the Lending Agent, Program Administrator, Administrator and Servicing Agent, together or individually with unaffiliated entities, will provide securities lending services and administrative services required for the operation of the Program to the Lending Funds.[2] The Lending Agent will be responsible for soliciting Borrowers for each Portfolio's securities subject to criteria established by the Board and guidelines provided by the Investment Advisers, monitoring daily the value of the loaned securities and collateral, and requesting that Borrowers add to the

[1] All registered investment companies, unregistered investment vehicles and investment advisers that currently intend to rely on the order are named as applicants. Any Future Lending Fund, Private Fund, future Investment Adviser, or future Private Fund Adviser that relies on the requested relief will do so only in compliance with the terms and conditions of the application.

[2] The personnel who will provide day-to-day lending agency services to the Lending Funds do not and will not provide investment advisory services to the Lending Funds, or participate in any way in the selection of the portfolio securities or other aspects of the management of the Lending Funds.

collateral when required by the loan arrangements. The Lending Agent will contract with the Servicing Agent to provide product development support, including information about Borrowers and securities lending market data.

7. In transactions in which the collateral consists of U.S. Government securities or letters of credit, the Lending Agent will negotiate on behalf of the Lending Fund a lending fee to be paid by the Borrower to the Lending Fund. In transactions in which the collateral consists of cash, the Lending Fund, instead of receiving a separate lending fee, receives a portion of the return earned on the investment of the Cash Collateral by or under the direction of the Lending Fund's Investment Adviser. Depending on the arrangements negotiated with the Borrower by the Lending Agent, a percentage of the return on the investment of the Cash Collateral may be remitted on behalf of the Lending Fund to the Borrower.

8. Under the Program, it is proposed that the Lending Funds pay, and that the Lending Agent, Program Administrator, Administrator, and Servicing Agent accept, fees based on a share of the revenues generated from securities lending transactions for the Lending Funds. The Program Administrator and/or the Administrator will maintain accounting and financial records for the Portfolios of the Lending Funds that participate in the Program, and assist with communications and instructions by and among the Lending Funds, the Investment Advisers, Borrowers, and the managers and other personnel of the various investment vehicles in which the Cash Collateral will be invested.

9. Each of the Lending Funds will enter into a Securities Lending Program Administration Agreement with the Program Administrator. Services provided to the Lending Funds under this agreement include: monitoring the Program to ensure that loans are effected in accordance with the instructions of each Investment Adviser; maintaining financial and accounting records; communicating instructions by and among the Lending Funds, Investment Advisers and third parties; reviewing market prices of securities, daily reports of outstanding loan activity, collateral reinvestment and month-end security position reports.

10. The Program Administrator will enter into a Securities Lending Record Administration Agreement with the Administrator, pursuant to which the Program Administrator delegates certain of its recordkeeping obligations under the Securities Lending Program Administration Agreement to the Administrator. The Administrator will be compensated under that agreement based on a share of the securities lending program administration fees received by the Program Administrator from the Lending Funds.

11. The Lending Agent will enter into an Administrative Services Agreement with the Servicing Agent pursuant to which the Servicing Agent will assist in identification of prospective Borrowers, analyzing the creditworthiness of prospective Borrowers, identifying strategies for reinvestment of cash collateral consistent with the Investment Advisers' instructions, and provide research about industry trends and developments, and analyses of the economy as it may affect the Program. Under the applicable agreement, the Servicing Agent will be compensated based on a share of the fees received by the Lending Agent from the Lending Funds.

12. Applicants proposed that each of the Portfolios of the Lending Funds (the ''Investing Portfolios'') use Cash Collateral to purchase shares of the Money Market Portfolios. By investing Cash Collateral in the Money Market Portfolios, the Investing Portfolios are expected to reduce their transaction costs, create more liquidity, enjoy greater returns and further diversify their holdings.

13. Applicants also propose that the Investing Portfolios use Cash Collateral to purchase shares of beneficial interest, common stock or other units of beneficial ownership (''Shares'') issued by the Private Funds. An Investment Adviser or other entity under common control with an Investment Adviser, such as the Trust Company, will serve as the trustee or other manager (''Trustee'') of the Private Funds. In addition, a Private Fund Adviser will serve as investment adviser to the Private Funds. An affiliated person of an Investment Adviser may provide administrative, accounting, transfer agent and other services to the Private Funds. Private Funds utilized in the Program may operate as a money market portfolio and comply with the requirements of rule 2a–7 under the Act. Private Funds that do not comply with rule 2a–7 will be short-term fixed income funds with an average portfolio maturity of no more than 365 days. Each Private Fund will offer daily redemption of Shares at the current net asset value per share. The Private Funds will not impose any sales load or redemption or distribution fees.

14. Applicants also propose to deposit Cash Collateral in one or more joint trading accounts or subaccounts (''Joint Accounts'') with their custodian bank or another unaffiliated custodian or sub-custodian approved by the Boards of the Lending Funds (the ''Custodians''). The daily balance of the Joint Accounts will be invested in: (a) Repurchase agreements ''collateralized fully'' (as defined in rule 2a–7 under the Act);[R] (b) interest bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers; and (c) any other short-term taxable or tax-exempt money market instruments, including variable rate demand notes, that constitute ''Eligible Securities'' (as defined in rule 2a–7 under the Act) (collectively, ''Short-Term Investments'').

15. Any repurchase agreements entered into through a Joint Account will comply with Investment Company Act Release No. 13005 (February 2, 1983) and any other existing and future staff positions taken by the SEC and the staff by rule, release, letter or otherwise relating to repurchase agreement transactions. In the event that the SEC or the staff sets forth guidelines with respect to other Short-Term Investments, all such investments made through the Joint Accounts will comply with those guidelines. All purchases through the Joint Accounts will comply with all present and future SEC and staff positions relating to the investment of Cash Collateral in connection with securities lending activities.

16. Investing Portfolios will invest through a Joint Account only to the extent that, regardless of the Joint Accounts, they would desire to invest in short-term liquid investments that are consistent with their respective investment objectives, policies and restrictions. An Investing Portfolio's decision to use a Joint Account will be based on the same factors as its decision to make any other short-term liquid investment.

17. The Investment Advisers will be responsible for providing guidelines to the Program Administrator or the Administrator for investing funds held by the Joint Accounts, and, in conjunction with the Program Administrator or the Administrator, establishing accounting and control procedures, operating the Joint Accounts in accordance with the procedures discussed below, and ensuring fair treatment of the Investing Portfolios. The Investment Advisers will

[3] The Investing Portfolios will not enter into ''hold-in-custody'' repurchase agreements in which the counterparty or one of its affiliated persons may have possession of, or control over, the collateral subject to the agreements except in instances when cash is received very late in the business day or would otherwise be unavailable for investment.

not participate monetarily in the Joint Accounts.

18. The applicants request relief to permit: (a) The Investing Portfolios to use Cash Collateral to purchase and redeem shares of the Money Market Portfolios and each Money Market Portfolio to sell shares to, and redeem such shares from the Investing Portfolios; (b) the Investing Portfolios to use Cash Collateral to purchase and redeem Shares of the Private Funds and the Private Funds to sell Shares to the Investing Portfolios and redeem Shares from the Investing Portfolios; (c) the Investing Portfolios to deposit Cash Collateral in the Joint Accounts; and (d) the Lending Funds and Future Lending Funds to pay, and the Lending Agent, Program Administrator, Administrator and Servicing Agent to accept, fees based on a share of the revenue generated from securities lending transactions for services provided by the lending Agent, program Administrator, Administrator and Servicing Agent.

Applicants' Legal Analysis

A. Investment of Cash Collateral in Money Market Portfolios and Private Funds

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company representing more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or, together with the securities of other investment companies, more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(J) of the Act provides that the SEC may exempt any person or transaction from any provision of section 12(d)(1) if and to the extent that the exemption is consistent with the public interest and the protection of investors.

3. Applicants request an exemption under section 12(d)(1)(J) to permit each Investing Portfolio to use Cash Collateral to acquire shares of a Money Market Portfolio in excess of the limits imposed by section 12(d)(1)(A) if the Act. Applicants' proposed also would permit the Money Market Portfolios to sell their securities to an Investing Portfolio in excess of the percentage limitation in section 12(d)(1(B). Applicants represent that no Money Market Portfolio will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

4. Applicants state that none of the abuses meant to be addressed by section 12(d)(1) of the Act is created by the proposed investment of Cash Collateral in Money Market Portfolios. Applicants further state that access to the Money Market Portfolios will enhance each Investing Portfolio's ability to manage and invest Cash Collateral. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because the Money Market Portfolios will not charge a sales load, redemption fee, distribution fee adopted in accordance with rule 12b–1 under the Act or service fee (as defined in rule 2830(b)(9) of the National Association of Securities Dealers, Inc. Conduct Rules (''NASD Conduct Rules'')).

5. Sections 17(a)(1) and 17(a)(2) of the Act prohibit an affiliated person of a registered investment company, or any affiliated person of the affiliated person, acting as principal, from selling any security to, or purchasing any security from, the registered investment company. Section 2(a)(3) of the Act defines an ''affilated person'' of another person to include: Any person directly or indirectly controlling, controlled by, or under common control with, the other person; and, in the case of an investment company, its investment adviser. Control is defined in section 2(a)(9) of the Act to mean ''the power to exercise a controlling influence over the management of policies of a company, unless such power is solely the results of an official position with such company.'' Because the Lending Funds share a common Board, each Portfolio of the Lending Funds may be deemed to be under common control with each of the other Portfolios of the Lending Funds. In addition, an Investment Adviser serves as investment adviser to each of the Investment Portfolios and the Money Market Portfolios, each such Investment Adviser could be deemed to control the Portfolio it advises, and the Investment Advisers are under common control. Therefore, the Investing Portfolios and the Money Market Portfolios could be deemed to be under common control and each Investing Portfolio is an affiliated person of each Money Market Portfolios. Accordingly, the sale of shares of the Money Market Portfolios to the Investing Portfolios, and redemption of such shares by the Investing Portfolios, is prohibited under section 17(a).

6. Because the Trust Company, an Investment Adviser, an entity under common control with an Investment Adviser or a Private Fund Adviser will serve as Private Fund Adviser or Trustee to each Private Fund, and each entity could be deemed to control the Private Fund, the Private Fund and each Lending Fund could be deemed to be under common control. Therefore, the sale or redemption by a Private Fund of its Shares to or from the Lending Funds is prohibited by section 17(a).

7. Section 17(b) of the Act authorizes the SEC to exempt a transaction from section 17(a) of the Act if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

8. Section 6(c) of the Act authorizes the SEC to exempt any person or transaction from any provision of the Act if the 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.

9. Applicants request an order under sections 6(c) and 17(b) of the Act to permit the Investing Portfolios to use Cash Collateral to purchase shares of the Money Market Portfolios and Shares of the Private Funds and to permit the redemption of the shares or Shares. Applicants maintain that the terms of the proposed transactions are reasonable and fair because the Investing Portfolios will be treated like any other investors in the Money Market Portfolios and Private Funds, and will purchase and sell shares of the Money Market Portfolios and Shares of the Private Funds on the same terms and on the same basis as all other shareholders of the Money Market Portfolios and Private Funds. Applicants assert that the proposed transactions comply with each Portfolio's investment restrictions and policies. Applicants state that Cash Collateral of an Investing Portfolio that is a Money Market Portfolio will not be used to acquire Shares of any Private Fund that does not comply with rule 2a–7 under the Act. Applicants further sate that the investment of Cash Collateral will comply with all present and future SEC and staff positions concerning securities lending. Applicants also state that the Private Funds will comply with the major

substantive provisions of the Act, including the prohibitions against affiliated transactions, leveraging and issuing senior securities, and rights of redemption.

10. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person or principal underwriter for a registered investment company, or any affiliated person of such a person or principal underwriter, acting as principle, from effecting any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which the investment company participates, without an order of the SEC.

11. Applicants state that the Investing Portfolios (by purchasing and redeeming shares of the Money Market Portfolios and Shares of the Private Funds), the Investment Advisers (by managing the assets of the Investing Portfolios invested in the Money Market Portfolios and Private Funds and by managing the assets of the Money Market Portfolios), the Investment Advisers, Private Fund Advises, and Trust Company and their affiliated companies (by managing the assets of, and providing other services to, the Private Funds), the Lending Agent, Program Administrator, Servicing Agent, and Administrator (by facilitating the investment of Cash Collateral of the Investing Portfolios in the Money Market Portfolios and Private Funds), an the Money Market Portfolios (by selling shares to and redeeming Shares from the Investing Portfolios) could be deemed to be participants in a joint enterprise or other joint arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act. Applicants request an order in accordance with section 17(d) and rule 17d–1 to permit certain transactions incident to investments in the Money Market Portfolios and the Private Funds.

12. Under rule 17d–1, in passing on applicants for orders under section 17(d), the SEC considers whether the company's participation in the joint enterprise is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the proposed transactions meet these standards.

13. Applicants state that the investment by the Investing Portfolios in shares of the Money Market Portfolios and Shares of the Private Funds will be on the same basis and will be indistinguishable from any other shareholder account maintained by the Money Market Portfolios and Private Funds. Applicants also maintain that, to the extent any of the Investing Portfolios invests in the Money Market Portfolios and Private Funds as proposed, each Investing Portfolios will participate on a fair and reasonable basis in the returns and expenses of the Money Portfolios and Private Funds.

B. Investments in Joint Trading Accounts

1. As noted above, section 17(d) and rule 17d–1 generally prohibit joint transactions involving registered investment companies and certain of their affiliates unless the SEC has approved the transaction. Applicants state that the Investing Portfolios may be considered ''affiliated persons'' because they may be deemed to be under the control of the Investment Advisers, which are under common control. Applicants state that the Investing Portfolios, by participating in the Joint Accounts, and the Investment Advisers, Program Administrator and Administrator, by managing the Joint Accounts, could be deemed to be ''joint participants'' in a transaction within the meaning of section 17(d). In addition, applicants state that each Joint Account could be deemed to be a ''joint enterprise or other joint arrangement'' within the meaning of rule 17d–1.

2. Applicants submit that the proposed Joint Accounts meet the criteria of rule 17d–1 for issuance of an order. Applicants assert that no Investing Portfolio would be in a less favorable position than any other Investing Portfolio as a result of participating in the Joint Accounts. Each Investing Portfolio's liability on any Short-Term Investment will be limited to its interest in the Short-Term Investment. Applicants also assert that the proposed operation of the Joint Accounts will not result in any conflicts of interest among any of the Investing Portfolios, Investment Advisers, Program Administrator or Administrator.

3. Applicants state that the operation of the Joint Accounts could result in certain benefits to the Investing Portfolios. The Investing Portfolios may earn a higher rate of return on investments through the Joint Accounts relative to the returns they could earn individually. Under most market conditions, applicants assert, it is possible to negotiate a rate of return on larger investments that is higher than the rate available on smaller investments. In addition, applicants state that the enhanced purchasing power available through a Joint Account may increase the number of dealers willing to enter into Short-Term Investments with the Investing Portfolios and may reduce the possibility that an Investing Portfolio's Cash Collateral would remain uninvested. Finally, the Joint Accounts may result in certain administrative efficiencies and lessen the potential for error by reducing the number of trade tickets and cash wires that counterparties, the Custodian and the Investment Advisers must process.

C. Payment of Lending Agent Fees to the Lending Agent, Program Administrator, Administrator and Servicing Agent

1. Applicants state that each of the Lending Agent, the Program Administrator, the Administrator, and the Servicing Agent, as an entity under common control with the Investment Advisers to the Lending Funds, is an affiliated person of an affiliated person of the Lending Funds. Applicants further state that a lending agent agreement between the Lending Funds and the Lending Agent, an administrative services agreement between the Lending Funds and the Program Administrator, an administrative services agreement between the Program Administrator and the Administrator, and an administrative and research services agreement between the Lending Agent and the Servicing Agent, under which compensation is based on a share of the revenue generated by the Program, may be a joint enterprise or other joint arrangement or profit sharing plan within the meaning of section 17(d) and rule 17d–1. Consequently, applicants request an order to permit the Lending Agent. Program Administrator, Administrator and Servicing Agent to receive a portion of the revenue generated by the Program.

2. Applicants propose that each Lending Fund adopt the following procedures to ensure that the proposed fee arrangement and the other terms governing the relationship with the Lending Agent, the Program Administrator, the Administrator and the Servicing Agent will meet the standards of rule 17d–1:

(a) In connection with the approval of the Lending Agent as lending agent and the Program Administrator and/or the Administrator as administrator and the Servicing Agent as provider of administrative and research services for the Program and implementation of the proposed fee arrangement, a majority of the Board of the Lending Fund (including a majority of the directors or trustees who are not ''interested persons'' of the Lending Fund within the meaning of the Act (the ''disinterested directors'')) will

determine that: (i) Each of the contracts between the Lending Funds and the Lending Agent, between the Lending Funds and the Program Administrator, between the Program Administrator and the Administrator, and between the Lending Agent and the Servicing Agent is in the best interests of the Lending Fund and its shareholders; (ii) the services to be performed by the Lending Agent, Program Administrator, Administrator and the Servicing Agent are appropriate for the Lending Fund; (iii) the nature and quality of the services provided by the Lending Agent, Program Administrator, Administrator and Servicing Agent are at least equal to those provided by others offering the same or similar services for similar compensation; and (iv) the fees for the Lending Agent's, Program Administrator's, Administrator's and Servicing Agent's services are fair and reasonable in light of the usual and customary charges imposed by others for services of the same nature and quality.

(b) Each Lending Fund's respective contract withe the Lending Agent for lending agent services, the Program Administrator for program administration, and the Program Administrator's contract with the Administrator for administrative services and the Lending Agent's contract with the Servicing Agent for related research and administrative services, will be reviewed annually and will be approved for continuation only if a majority of the Board of the Lending Fund (including a majority of the disinterested directors) makes the findings referred to paragraph (a) above.

(c) In connection with the initial implementation of an arrangement whereby the Lending Agent will be compensated as lending agent, the Program Administrator and/or the Administrator will be compensated as administrator and the Servicing Agent will be compensated for administrative and research services based on a percentage of the revenue generated by a Lending Fund's participation in the Program, the Board will obtain at least three competing quotes from independent entities providing Lending Agent, Program Administrator, Administrator and Servicing Agent services as a package, to assist the Board in making the findings referred to in paragraph (a) above.

(d) The Board, including a majority of the disinterested directors, will (i) at each regular quarterly meeting determine, on the basis of reports submitted by the Lending Agent, that the loan transactions during the prior quarter were conducted in compliance with the conditions and procedures set forth in the application and (ii) review no less frequently than annually the conditions and procedures set forth in the application for continuing appropriateness.

(e) Each Lending Fund will (i) maintain and preserve permanently in an easily accessible place a written copy of the procedures and conditions (and modifications thereto) described in the application or otherwise followed in connection with lending securities pursuant to the Program and (ii) maintain and preserve for a period of not less than six years from the end of the fiscal year in which any loan transaction pursuant to the Program occurred, the first two years in an easily accessible place, a written record of each loan transaction setting forth a description of the security loaned, the identity of the person on the other side of the loan transaction, the terms of the loan transaction, and the information or materials upon which a determination was made that each loan was made in accordance with the procedures set forth above and the conditions to the application.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

A. General

1. The securities lending program of each Lending Fund will comply with all present and future applicable guidelines of the SEC and its staff regarding securities lending arrangements.

2. Each Lending Fund, Future Lending Fund and Private Fund that relies on the order will be advised by an Investment Adviser or Private Fund Adviser controlling, controlled by or under common control with UAM.

3. Before a Lending Fund may participate in the Program, a majority of the Board (including a majority of the disinterested directors) of the Lending Fund will approve the Lending Fund's participation in the Program. The Board of each Lending Fund will evaluate the Program and its results no less frequently than annually and a majority of the Board (including a majority of the disinterested directors) will determine that investing Cash Collateral in any of the Money Market Portfolios, the Private Funds and/or Joint Accounts is in the best intersts of the shareholders of the Lending Fund.

B. Private Funds

1. Investment in Shares of a Private Fund by a particular Lending Fund will be consistent with the Lending Fund's investment objectives and policies.

2. A money market Lending Fund that complies with rule 2a–7 under the Act will not invest its Cash Collateral in a Private Fund that does not comply with the requirements of rule 2a–7.

3. Shares of a Private Fund will not be subject to a sales load, redemption fee or asset-based sales charge or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules).

4. The Private Funds will comply as to each investment series with the requirements of sections 17(a), (d), and (e), and 18 of the Act as if the Private Fund were a registered open-end investment company. With respect to all redemption requests made by a Lending Fund, the Private Fund will comply with section 22(e) of the Act. The Private Fund Adviser will, subject to approval by the Trustee, adopt procedures designed to ensure that the Private Fund complies with sections 17(a), (d) and (e), 18, and 22(e) of the Act. The Private Fund Adviser will also periodically review and periodically update as appropriate the procedures and will maintain books and records describing the procedures, and maintain the records required by rules 31a–1(b)(1), 31a–1(b)(2)(ii), and 31a–1(b)(9) under the Act. All books and records required to be made pursuant to this condition will be maintained and preserved for a period of not less than six years from the end of the fiscal year in which any transaction occurred, the first two years in an easily accessible place, and will be subject to examination by the SEC and the staff.

5. The net asset value per share with respect to Shares of a Private Fund will be determined separately for each Private Fund by dividing the value of the assets belonging to that Private Fund, less the liabilities of that Private Fund, by the number of Shares outstanding with respect to that Private Fund.

6. Each Lending Fund will purchase and redeem Shares of a Private Fund as of the same time and at the same price, and will receive dividends and bear its proportionate share of expenses on the same basis, as other shareholders of a Private Fund. A separate account will be established in the shareholder records of a Private Fund for the account of each Lending Fund.

7. Private Funds will not acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

8. Each Private Fund that operates as a money market portfolio and uses the amortized cost method of valuation, as defined in rule 2a–7 under the Act, will

comply with rule 2a–7. Each such Private Fund will value its shares, as of the close of business on each business day, using the amortized cost method to determine its net asset value per share. Each such Private Fund will adopt the monitoring procedures described in rule 2a–7(c)(7) and the Private Fund Adviser will comply with these procedures and take any other action as are required to be taken pursuant to these procedures.

C. Affiliated Money Market Funds

1. Shares of the Money Market Portfolios sold to and redeemed by the Investing Portfolios will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the 1940 Act, or service fee (as defined in rule 2830(b)(9) of the NASD Conduct Rules).

2. Investment of Cash Collateral in shares of the Money Market Portfolios will be in accordance with each Investing Portfolio's respective investment restrictions and will be consistent with each Investing Portfolio's policies as set forth in its prospectus and statement of additional information.

3. The Money Market Portfolios shall not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

D. Joint Accounts

1. One or more Joint Accounts will be established on behalf of the Lending Funds as separate cash accounts into which a Lending Fund may deposit daily all or a portion of its Cash Collateral. The Joint Accounts may be established with one or more custodians, and more than one Joint Account may be established with a custodian. The Joint Accounts will not be distinguishable from any other accounts maintained by the Lending Funds at their custodian except that monies from the Lending Funds will be deposited in the Joint Accounts on a commingled basis. The Joint Accounts will not have a separate existence and will not have indicia of a separate legal entity. The sole function of the Joint Accounts will be to provide a convenient way of aggregating individual transactions that would otherwise require daily management by the Investment Advisers of Cash Collateral.

2. If a Lending Fund wishes to participate in a Joint Account that will be maintained by a custodian other than its regular custodian, the Lending Fund will appoint that custodian as its sub-custodian for the limited purpose of: (a) Receiving and disbursing cash; (b) holding any Short-Term Investment purchased by the Joint account; and (c) holding any collateral received from a transaction effected through the Joint Account. Any Lending Fund that appoints a sub-custodian will have taken all necessary actions to authorize that entity as its legal custodian, including all actions required under the Act.

3. Assets in the Joint Accounts will be invested in one or more of the following Short-Term Investments, as determined by the Investment Advisers: (a) Repurchase agreements ''collateralized fully'' (as defined in rule 2a-7 under the Act); (b) interest-bearing or discounted commercial paper, including dollar-denominated commercial paper of foreign issuers; and (c) any other short-term taxable and tax-exempt money market instruments, including variable rate demand notes, that constitute ''eligible securities'' (as defined in rule 2a-7 under the Act). Short-Term Investments that are repurchase agreements would have a remaining maturity of 60 days or less as calculated in accordance with rule 2a-7 under the Act. Cash Collateral in a Joint Account would be invested in Short-Term Investments that have a remaining maturity of 397 days or less, as calculated in accordance with rule 2a-7 under the Act. No Lending Fund will be permitted to invest in a Joint Account unless the Short-Term Investments in that Joint Account will comply with the investment policies and guidelines of that Lending Fund.

4. All assets held by the Joint Accounts will be valued on an amortized cost basis to the extent permitted by applicable SEC or staff releases, rules, letters, or orders.

5. Each participating Lending Fund valuing its net assets in reliance on rule 2a-7 under the Act will use the average maturity of the instruments in the Joint Account in which the Lending Fund has an interest (determined on a dollar-weighted basis) for the purpose of computing its average portfolio maturity with respect to its portion of the assets held in a Joint Account on that day.

6. In order to ensure that there will be no opportunity for any Lending Fund to use any part of a balance of a Joint Account credited to another Lending Fund, no Lending Fund will be allowed to create a negative balance in any Joint Account for any reason. Each Lending Fund will be permitted to draw down its entire balance in a Joint Account at any time, provided that the Investment Adviser determines that such draw-down will have no significant adverse impact on any other Lending Fund participating in that Joint Account. Each Lending Fund's decision to invest in a Joint Account will be solely at its option, and no Lending Fund will be obligated to invest in a Joint Account or to maintain any minimum balance in a Joint Account. In addition, each Lending Fund will retain the sole rights of ownership to any of its assets invested in a Joint Account, including interest payable on such assets invested in the Joint Account.

7. The Investment Advisers will be responsible for investing funds held by the Joint Accounts. The Administrator or Program Administrator will administer the Joint Accounts in accordance with the standards and procedures established by the directors or trustees of the Lending Funds as part of its duties under the existing or any future administrative contract with the Lending Funds. The Administrator, the Program Administrator and the Investment Advisers will not receive additional or separate fees for advising or administering the Joint Accounts.

8. The administration of the Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g-1 under the Act.

9. The Board of each Lending Fund will adopt procedures pursuant to which the Joint Accounts will operate, which will be reasonably designed to provide that the requirements of this application will be met. Each Board will make and approve such changes as it deems necessary to ensure that such procedures are followed. In addition, the Board of each Lending Fund will determine, no less frequently than annually, that the Joint Accounts have been operated in accordance with the adopted procedures and will only permit a Lending Fund to continue to participate therein if it determines that there is a reasonable likelihood that the Lending Fund and its shareholders will benefit from its continued participation.

10. Each Investing Portfolio of a lending fund will participate in a Joint Account on the same basis as any other Investing Portfolio of a Lending Fund in conformity with its respective fundamental investment objectives, policies, and restrictions. Any Investing Portfolio of a Future Lending Fund that participates in a Joint Account will be required to do so on the same terms and conditions as the existing Investing Portfolios of the Lending Funds.

11. Any Short-Term Investments made through the Joint Accounts will satisfy the investment criteria of all Lending Funds participating in that investment.

12. Each Lending Fund's investment in a Joint Account will be documented

daily on its books and on the books of its custodian. The Investment Adviser and the custodian of each participating Lending fund will maintain records documenting, for any given day, each Lending Fund's aggregate investment in a Joint Account and each Lending Fund's pro rata share of each investment made through such Joint Account. The records for each such Lending Fund shall be maintained in conformity with section 31 of the Act and the rules and regulations thereunder.

13. Every Lending Fund participating in the Joint Accounts will not necessarily have its Cash Collateral invested in every Short-Term Investment. However, to the extent that a Lending Fund's Cash Collateral is applied to a particular Short-Term Investment, the Lending Fund will participate in and own its proportionate share of such Short-Term Investment, and any income earned or accrued thereon, based upon the percentage of such investment purchased with monies contributed by the Lending Fund.

14. Short-Term Investments held in a Joint Account generally will not be sold prior to maturity unless: (a) The Investment Adviser believes the investment no longer presents minimal credit risk: (b) the investment no longer satisfies the investment criteria of all Lending funds participating in the investment because of a credit downgrading or otherwise; or (c) in the case of a repurchase agreement, the counterpart defaults. The Investment Adviser may, however, sell any Short-Term Investment (of a fractional portion thereof) on behalf of some or all participating Lending Funds prior to the maturity of the investment if the cost of such transactions will be borne solely by the selling Lending Funds and the transaction will not adversely affect other Lending Funds participating in that Joint Account. In no case will an early termination by less than all participating Lending Funds be permitted if it would reduce the principal amount or yield received by other Lending funds in a particular Joint Account or otherwise adversely affect the other participating Lending Funds. Each Fund participating in a Joint Account will be deemed to have consented to such sale and partition of the investments in the Joint Account.

15. Short-Term Investments held through a Joint Account will a remaining maturity of more than seven days, as calculated pursuant to rule 2a–7 under the Act, will be considered illiquid and subject to the restriction that the lending Fund may not invest more than 15%, or in the case of a money market fund, more than 10% (or such other percentage as set forth by the SEC from time to time) of its net assets in illiquid securities, if the Investment Adviser cannot sell the instrument, or the lending Fund's fractional interest in such instruments, pursuant to the preceding condition.

E. Payment of Fees to the Lending Agent, Program Administrator, Administrator and Servicing Agent

1. The approval of each Lending Fund's Board, including a majority of the disinterested directors, shall be required for: the initial and subsequent approvals of the Lending Agent's service as lending agent; for the Program Administrator's and the Administrator's services as administrator, and for the Servicing Agent's research and other services, respectively, for each Lending Fund pursuant to the Program; for the institution of all procedures relating to the Program as it relates to each lending Fund; and for any periodic review of loan transactions for which the lending Agent acted as lending agent pursuant to the program and the Program Administrator, and/or Administrator provided services as administrator and the Servicing Agent provided research and other services.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13779 Filed 6–1–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42829; File No. SR–SCCP–00–03]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Providing a Credit to Specialists

May 25, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 8, 2000, the Stock Clearing Corporation of Philadelphia (''SCCP'') 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 primarily by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to provide a credit of $.20 per trade to specialists trading equities through the Philadelphia Stock Exchange Automated Communication and Execution (''PACE'') System.[2] This credit will be effective on June 1, 2000.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, SCCP included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

SCCP has exceeded its budgetary volume projects this year and has thus generated revenue far in excess of its budget. SCCP anticipates that this trend will continue. Thus, in order to address this situation, the proposed credit would apply to specialists, who have generated much of this revenue, that trade through the PACE System. Specifically, specialists that clear through SCCP are the principal client base upon which SCCP relies to cover its expenses. For instance, PACE trades represent approximately 90 percent of the volume SCCP processes. Therefore, SCCP proposes to credit $.20 per trade to specialists using the PACE System. This credit will be applied to the fees of specialists trading through the PACE System and will be effective on June 1, 2000.

SCCP believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act[4] which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants.

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[1] 15 U.S.C. 78s(b)(1).

[2] PACE is a real time order routing and execution system.

[3] The Commission has modified parts of these statements.

[4] 15 U.S.C. 78q–1(b)(3)(D).

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [5] and Rule 19b–4(e)(2) thereunder.[6] At any time within sixty 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at SCCP. All submissions should refer to File No. SR–SCCP–00–03 and should be submitted by June 23, 2000.

[5] U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(e)(2).

For the Commission by the Division of Market Regulation, pursuant to delegated authority. [7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–13780 Filed 6–1–00; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice #3313]

U.S. Advisory Commission on Public Diplomacy; Notice of Meeting

The U.S. Advisory Commission on Public Diplomacy, reauthorized pursuant to P.L. 106–113 (H.R. 3194, Consolidated Appropriations Act, 2000), will meet on Thursday, June 15, 2000 in Room 600, 301 4th St., SW, Washington, D.C. from 2:00pm to 3:00pm.

The Commission will discuss its plans for assessing the consolidation of USIA into the State Department and the effectiveness of U.S. public diplomacy in the former Soviet Union.

Members of the general public may attend the meeting, though attendance of public members will be limited to the seating available. Access to the building is controlled, and individual building passes are required for all attendees. Persons who plan to attend should contact David J. Kramer, Executive Director, at (202) 619–4463.

Dated: May 30, 2000.

David J. Kramer,

Executive Director, U.S. Advisory Commission on Public Diplomacy, Department of State.

[FR Doc. 00–13871 Filed 6–1–00; 8:45 am]

BILLING CODE 4710–11–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 2000–7373]

Guidelines for Assessing Merchant Mariners' Proficiency Through Demonstrations of Skills for Ratings Forming Part of a Navigational Watch

AGENCY: Coast Guard, DOT.

ACTION: Notice of Availability and Request for comments.

SUMMARY: The Coast Guard announces the availability of, and seeks public comments on, the national performance measures proposed here for use as guidelines when mariners demonstrate their proficiency in skills for ratings forming part of a navigational watch. A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) developed and recommended national performance measures for this proficiency. The Coast Guard has adapted the measures recommended by MERPAC.

[7] 17 CFR 200.30–3(a)(12).

DATES: Comments and related material must reach the Docket Management Facility on or before August 1, 2000.

ADDRESSES: Please identify your comments and related material by the docket number of this rulemaking [USCG 2000–7373]. Then, to make sure they enter the docket just once, submit them by just one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at http://dms.dot.gov.

The Docket Management Facility maintains the public docket for this Notice. Comments and related material received from the public, as well as documents mentioned in this Notice, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at http://dms.dot.gov.

The measures proposed here are also available from Mr. Mark Gould, Maritime Personnel Qualifications Division, Office of Operating and Environmental Standards, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, telephone 202–267–0229.

FOR FURTHER INFORMATION CONTACT: For questions on this Notice or on the national performance measures proposed here, write or call Mr. Mark Gould where indicated under **ADDRESSES**. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

What Action Is the Coast Guard Taking?

Table A–II/4 of the Code accompanying the treaty on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended in 1995, articulates qualifications for merchant mariners' attaining the minimum standard of competence for ratings forming part of a navigational watch. The Coast Guard tasked MERPAC with referring to the Table, modifying and specifying it as it deemed necessary, and recommending national performance measures. The Coast Guard has adapted the measures recommended by MERPAC and is proposing them now for use as guidelines when assessing mariners' proficiency in skills for ratings forming part of a navigational watch.

Here follow the five skills that a mariner must demonstrate respecting ratings forming part of a navigational watch, with an example of a Performance Condition, a Performance Behavior, and four Performance Standards for one of those five skills:

Five Skills: Use magnetic and gyro-compasses; Respond to standard rudder orders (hard right [starboard] or left [port]; ease the rudder; midships; shift your rudder; meet her; steady as she goes; and steer on the range); Change over from automatic pilot to hand steering; Discharge certain responsibilities of the lookout (reporting sounds, lights and objects); and Know watch procedures that contribute to a safe watch (relief, maintenance and handover).

The Performance Condition for the skill entitled, ''Change over from automatic pilot to hand steering'' is: At sea speed, when hearing the command, ''Put the steering into hand steering, * * *.'' This calls for, in the case of this skill, one Performance Behavior.

The Performance Behavior for the same skill is: The candidate will change the steering mode from automatic pilot to hand steering. This calls for, in the case of this skill, four Performance Standards.

The Performance Standards for the same skill are: Repeat order; Switch the steering mode from automatic pilot to hand steering; Test that the new steering mode is responding; and State, ''She's in hand steering.''

If the mariner properly meets all of the Performance Standards, he or she passes the practical demonstration. If he or she fails to properly carry out any of the Performance Standards, he or she fails the demonstration.

Why Is the Coast Guard Taking This Action?

The Coast Guard is taking this action to comply with STCW, as amended in 1995 and incorporated into domestic law at 46 CFR parts 10, 12, and 15 in 1997. Guidance from the International Maritime Organization on shipboard assessments of proficiency suggests that Parties develop standards and measures of performance for practical tests as part of their programs for training and assessing seafarers.

How May I Participate in This Action?

You may participate in this action by submitting comments and related material on the national performance measures proposed here. (Although the Coast Guard does not seek public comment on the measures recommended by MERPAC, as distinct from the measures proposed here, those measures are available on the Internet at the Homepage of MERPAC, http://www.uscg.mil/hq/g-m/advisory/merpac/merpac.htm.) These measures are available on the Internet at http://dms.dot.gov. They are also available from Mr. Mark Gould where indicated under **ADDRESSES**. If you submit written comments please include—

- Your name and address;
- The docket number for this Notice [USCG 2000–7373];
- The specific section of the performance measures to which each comment applies; and
- The reason for each comment.

You may mail, deliver, fax, or electronically submit your comments and related material to the Docket Management Facility, using an address or fax number listed in **ADDRESSES.** Please do not submit the same comment or material more than once. If you mail or deliver your comments and material, they must be on 8½ by 11-inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments and material and would like to know whether the Docket Management Facility received them, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the 60-day comment period.

Once we have considered all comments and related material, we will publish a final version of the national performance measures for use as guidelines by the general public. Individuals and institutions assessing the competence of mariners may refine the final version of these measures and develop innovative alternatives. If you vary from the final version of these measures, however, you must submit your alternative to the National Maritime Center for approval by the Coast Guard under 46 CFR 10.303(e) before you use it as part of an approved course or training program.

Dated: May 16, 2000.

Howard L. Hime,

Acting, Director of Standards.

[FR Doc. 00–13869 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, U.S.C. Appendix 2), notice is hereby given for Program Management Committee (PMC) meeting to be held June 20, 2000, starting at 9 a.m. The meeting will be held at RTCA, Inc., 140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Welcome and Introductions; (2) Review and Approve Summary of Previous Meeting; (3) Consider and Approval Publication of: (a) Final Draft, Requirements Specification for Avionics Computer Resource (RTCA Paper No. 131–00/SC182–105), prepared by SC–182; (b) Final Draft, Minimum Human Factors Standards for Air Traffic Services Provided Via Data Communications Utilizing the Aeronautical Telecommunications Network (ATN), Builds I and IA (RTCA Paper No. 132–00/SC194–021), prepared by SC–194; (4) Review Action Item 00–04, Update on NEXCOM; (5) Discuss SC–159 Work Program—GNSS Application to Airport Surface Operations; (6) Discuss Document Production; (7) Other Business; (8) Date and Location of Next Meeting; (9) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 25, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00–13835 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 186; Automatic Dependent Surveillance—Broadcast (ADS–B)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee (SC)–186 meeting to be held June 19–23, 2000, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Welcome and Introductory Remarks; (2) Review of Meeting Agenda; (3) Review and Approval of the Previous Meeting Minutes; (4) Review SC–186 Activity Reports for the following Working Groups (WG): (a) WG–1, Operations & Implementation; (b) WG–2, Traffic Information Services—Broadcast (TIS–B) which is a new activity to develop Minimum Aviation System Performance Standards for TIS–B, (c) WG–3, 1090 MHz Minimum Operational Performance Standards (MOPS); (d) WG–4, Application Technical Requirements; (5) Free Flight Select Committee Surveillance Working Group Update; (6) Review EUROCARE WG–51 Reports for Subgroups 1 and 2; (7) Review/Approve MOPS for 1090 Mhz Automatic Dependant Surveillance—Broadcast (RTCA Paper No. 145–00/SC186–152); (8) Review/Approve MOPS for Cockpit Display of Traffic Information (RTCA Paper NO. 146–00/SC186–153); (9) Review Revision to Terms of Reference for SC–186; (10) Review Action Items/Work Program; (12) Date and Location of Next Meeting; (13) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 25, 2000.

Janice L. Peters,

Designated Official.

[FR Doc. 00–13836 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Draft Environmental Impact Statement: Dubois County, Indiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Dubois County, Indiana.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Dirks, Environmental Specialist, Federal Highway Administration, Room 254, Federal Office Building, 575 North Pennsylvania Street, Indianapolis, Indiana 46204, Telephone (317) 226–7492.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana Department of Transportation (INDOT), will prepare an EIS for a proposed project to improve the transportation system in the U.S. 231 corridor between Interstate 64 and State Road 56 in Dubois County, Indiana. The proposed project will involve the study of potential bypasses around Huntingburg and Jasper.

The proposed EIS and accompanying engineering analysis are the result of INDOT's identification of U.S. 231 in southwest Indiana for improvements as part of the current and ongoing transportation program. Given the current and projected traffic volumes and the existing geometric deficiencies, improvements to U.S. 231 are considered necessary to provide for a safe, efficient, and economical transportation network that will meet traffic demands in the area. The proposed improvements are also intended to be environmentally sound. System improvements will be examined based on the purposes of addressing roadway deficiencies, improving safety, reducing congestion, and enhancing system linkage.

Alternatives under consideration include: (1) Taking no action, (2) transportation system management, (3) upgrading and improving existing roadways, and (4) construction of two additional lanes adjacent to the existing two-lane roadway with bypasses of Huntingburg and Jasper on new alignment. Design variations of grade and alignment will be incorporated into and studied for the various build alternatives.

A scoping process has been initiated that involves all appropriate federal, state, and local agencies, and private organizations and citizens who have previously expressed or are known to have interest in this project. Several public meetings were held during the location study for the proposed project to engage the regional community in the decision making process and to obtain public comment. A resource agency scoping meeting will be held in Indianapolis when appropriate. Letters describing the proposed action and soliciting comments will be sent to all appropriate federal, state, and local agencies, and private organizations and citizens who have expressed or are known to have interest in this project. A public meeting will be held in Jasper when appropriate. In addition, public hearings will be held to present the findings of the draft EIS (DEIS) and engineering analysis. Public notice will be given of the time and place of informational meetings and public hearing. The DEIS will be available for public and agency review and comment prior to the public hearings.

To ensure the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12373 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: May 22, 2000.

Robert Dirks,

Environmental Specialist, Indianapolis, Indiana.

[FR Doc. 00–13870 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirement (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 burden. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on February 9, 2000 (65 FR 6438).

DATES: Comments must be submitted on or before July 3, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS–21, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 17, Washington, DC 20590 (telephone: (202) 493–6292), or Dian Deal, Office of Information Technology and Productivity Improvement, RAD–20, Federal Railroad Administration, 1120 Vermont Ave., NW, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493–6133). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 9, 2000, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 65 FR 6438. FRA received no comments in response to this notice.

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

Title: Filing of Dedicated Cars.
OMB Control Number: 2130–0502.
Type of Request: Extension of a currently approved collection.
Affected Public: Businesses.
Form(s): N/A.
Abstract: Title 49, Part 215 of the Code of Federal Regulations, prescribes certain conditions to be followed for the movement of freight cars that are not in compliance with this Part. These cars must be identified in a written report to FRA before they are assigned to dedicated service, and the words ''Dedicated Service'' must be stenciled on each side of the freight car body. FRA uses the information to determine that the equipment is safe to operate and that the operation qualifies for dedicated service. See 49 CFR 215.5 (c)(2), 215.5 (d).
Annual Estimated Burden Hours: 6 hours.

Title: Remotely Controlled Switch Operations.
OMB Control Number: 2130–0516.
Type of Request: Extension of a currently approved collection.
Affected Public: Businesses.
Form(s): N/A.
Abstract: Title 49, Section 218.30 of the Code of Federal Regulations (CFR), ensures that remotely controlled switches are lined to protect workers who are vulnerable to being struck by moving cars as they inspect or service equipment on a particular track or alternatively, occupy camp cars. FRA believes that production of notification requests promotes safety by minimizing mental lapses of workers who are simultaneously handling several tasks. Sections 218.30 and 218.67 require the operator of remotely controlled switches to maintain a record of each notification requesting blue signal protection for fifteen days. Operators of remotely controlled switches use the information as a record documenting blue signal protection of workers or camp cars. This record also serves as a valuable resource for railroad supervisors and FRA inspectors monitoring regulatory compliance.
Annual Estimated Burden Hours: 240,267 hours.

Title: Bad Order and Home Shop Card.
OMB Control Number: 2130–0519.
Type of Request: Extension of a currently approved collection.
Affected Public: Businesses.
Form(s): N/A.
Abstract: Under 49 CFR Part 215, each railroad is required to inspect freight cars placed in service and take the necessary remedial action when defects are identified. Part 215 defects are specific in nature and relate to items that have caused or could have caused accidents or incidents. Section 215.9 sets forth specific procedures that railroads must follow when it is necessary to move defective cars for repair purposes. For example, railroads must affix a ''bad order'' tag describing each defect to each side of the freight car. It is imperative that a defective car be tagged ''bad order'' so that it may be readily identified and moved to another location for repair purposes only. At the repair point, the ''bad order'' tag serves as a repair record. Railroads must retain each tag for 90 days to verify that proper repairs were made at the designated location. FRA and State inspectors review all pertinent records to determine whether defective cars presenting an immediate hazard are being moved in transportation.
Annual Estimated Burden Hours: 10,833 hours.

Title: Stenciling Reporting Mark on Freight Cars.
OMB Control Number: 2130–0520.
Type of Request: Extension of a currently approved collection.
Affected Public: Businesses.
Form(s): N/A.
Abstract: Title 49, Section 215.301 of the Code of Federal Regulations, sets forth certain requirements that must be followed by railroad carriers and private car owners relative to identification marks on railroad equipment. FRA, railroads, and the public refer to the stenciling to identify freight cars.
Annual Estimated Burden Hours: 26,250 hours.

Title: Disqualification Proceedings.
OMB Control Number: 2130–0529.
Type of Request: Extension of a currently approved collection.
Affected Public: Businesses.
Form(s): N/A.
Abstract: Under 49 U.S.C. 20111(c), FRA is authorized to issue orders disqualifying railroad employees, including supervisors, managers, and other agents, from performing safety-sensitive service in the rail industry for violations of safety rules, regulations, standards, orders, or laws evidencing unfitness. FRA's regulations, 49 CFR

Part 209, Subpart D, implements the statutory provision by requiring (i) a railroad employing or formerly employing a disqualified individual to disclose the terms and conditions of a disqualification order to the individual's new or prospective employing railroad; (ii) a railroad considering employing an individual in a safety-sensitive position to ask the individual's previous employing railroad whether the individual is currently serving under a disqualification order; and (iii) a disqualified individual to inform his new or prospective employer of the disqualification order and provide a copy of the same. Additionally, the regulations prohibit a railroad from employing a person serving under a disqualification order to work in a safety-sensitive position. This information serves to inform a railroad whether an employee or prospective employee is currently disqualified from performing safety-sensitive service based on the issuance of a disqualification order by FRA. Furthermore, it prevents an individual currently serving under a disqualification order from retaining and obtaining employment in a safety-sensitive position in the rail industry.

Annual Estimated Burden Hours: 5 hours.

Title: Grade Crossing Signal System Safety Regulations.

OMB Control Number: 2130–0534.

Type of Request: Extension of a currently approved collection.

Affected Public: Businesses.

Form(s): FRA F 6180.83.

Abstract: FRA believes that highway-rail grade crossing (grade crossing) accidents resulting from warning system failures and malfunctions can be reduced. Motorists lose faith in warning systems that constantly warn of an oncoming train when none is present. Therefore, the fail-safe feature of a warning loses its effectiveness if the system is not repaired within a reasonable period of time. A greater risk of an accident is present when a warning system fails to activate as a train approaches a grade crossing. FRA regulations require railroads to take specific responses in the event of an activation failure. FRA uses the information to develop better solutions to the problems of grade crossing device malfunctions.

With this information, FRA is able to correlate accident data and equipment malfunctions with the types of circuits and age of equipment. FRA can then identify the causes of grade crossing system failures and investigate them to determine whether periodic maintenance, inspection, and testing standards are effective. FRA also uses the information collected to alert railroad employees and appropriate law enforcement authorities of warning system failures and malfunctions so that they can take the necessary measures to protect motorists and railroad workers at the grade crossing until repairs have been made.

Annual Estimated Burden Hours: 601 hours.

Addressee: Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW, Washington, DC, 20503; Attention: FRA Desk Officer.

Comments are invited on the following: Whether the proposed collections of information are necessary for the proper performance of the functions of FRA, including whether the information will have practical utility; the accuracy of FRA's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections 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 of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, D.C. on May 26, 2000.

Margaret B. Reid,

Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 00–13837 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory 2000–2

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Safety Advisory 2000–2.

SUMMARY: The FRA is issuing a safety advisory addressing recommended replacement of certain components in Harmon Industries' ''Electro Code 4'' and ''Electro Code 4 Plus'' intermediate signal units.

FOR FURTHER INFORMATION CONTACT: William Goodman, Signal and Train Control Division, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Avenue, NW, Washington, DC 20590 (telephone 202–493–3625) or Mark Tessler, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW, Washington, DC 20590 (telephone 202–493–6061), e-mail ''mark.tessler@fra.dot.gov'.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1998, a Norfolk Southern Corporation (NS) freight train collided with a Consolidated Rail Corporation freight train in Butler, Indiana. The post-accident investigation of the accident revealed that an intermediate signal in the vicinity of the accident would randomly go dark. While it has been determined that the signal malfunction did not contribute to the accident, the malfunction was further investigated by the FRA, the National Transportation Safety Board (NTSB), NS and Harmon Industries (Harmon), manufacturer of the signal control equipment.

The investigation revealed that certain modules in Electro Code 4 and Electro Code 4 Plus intermediate signal units can contribute to intermittent dark signal occurrences.

On May 15, 1998, Harmon, through its Electro Pneumatic Corporation subsidiary, issued PIA [Product Improvement Announcement] 98–101 in which it recommended an upgrade to the ''211S, 211SRP, and 212A'' modules that are used in Electro Code 4 and Electro Code 4 Plus Intermediate signal units. Harmon offered to supply upgrades to the listed modules at no charge through December 31, 1999.

In its Product Improvement Announcement, Harmon discussed the 211S, 211SRP and 212A modules:

211S and 211SRP

The 211S and 211SRP modules are DC to DC converters that are used in Electro Code 4 and Electro Code 4 Plus Intermediate signal units. These modules provide isolated battery for signal lighting circuits and are located in the top of the chassis housing behind the front panel. A resistor in the module's mid stage driver circuit may be subject to excessive heating due to heavy lamp load and/or continuous duty cycle of the lamp-lighting circuits. Eventually this resistor can fail open. In the event this circumstance occurs, excessive noise can be passed through the converters to the balance of the lamp lighting circuits. Random noise on a lamp output can be interpreted by the dual microprocessors as false energy. In response, the processors will reset, resulting in a dark signal for a period lasting approximately 40 seconds. Ultimately, the processors will attempt to reinitialize the converters and restore the signal lighting. The frequency of the dark signal occurrence depends on many

variables and may be recognized many times during a single day, or sporadically during the course of one or several months.

212A

The 212A module is also part of the signal lighting circuits within Electro Code 4 and Electro Code 4 *Plus* equipment. AC signals from the processor modules are combined on the 212A to provide the excitation voltages to the 211 converter modules. It has been recognized that several of the electrolytic capacitors on the 212A modules have failed, resulting in symmetry distortion of the AC signal passed to the 211 modules. This distortion may exaggerate the noise condition as described with the 211S and 211SRP above.

Harmon further stated that ''[on the 211S and 211SRP modules, several components in addition to the resistor described above, will be replaced and added to the base design. This upgrade offer applies only to 211S and 211SRP converter modules * * * manufactured between March 1994 and March 1998 * * *''

Recommendation

In recognition of the need to assure safe reliable railroad signal operations, FRA strongly recommends that:

1. Each railroad having a signal system which uses any ''Electro Code 4'' or ''Electro Code 4 Plus'' Intermediate signal unit immediately identify each 211S, 211SRP, and 212A module within their signal system.
2. Each railroad replace or upgrade every 211S, 211SRP, or 212A module within their signal system as soon as possible.
3. Each railroad having 211S, 211SRP, or 212A modules contact Harmon Industries Riverside Operations, Attention Repair and Return, 7337 Central Avenue, Riverside, California 92504, phone no.: 800–854–4752 for further information pertaining to upgrades.

Issued in Washington, DC on May 25, 2000.

George Gavalla,

Associate Administrator for Safety.

[FR Doc. 00–13838 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2000–7268]

Denial of Petition for Import Eligibility Decision

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30141(a)(1)(A). The petition, which was submitted by Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne''), a registered importer of motor vehicles, requested NHTSA to decide that 1995–1996 Audi Cabriolet passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. In the petition, Champagne contended that these vehicles are eligible for importation on the basis that (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1995–1996 Audi Cabriolet), and (2) they are capable of being readily altered to conform to the standards.

NHTSA published a notice in the **Federal Register** on December 13, 1999 (64 FR 69583) that contained a thorough description of the petition, and solicited public comments upon it. One comment was received in response to the notice, from Volkswagen of America, Inc. (''Volkswagen''), the United States representative of Audi AG, the vehicle's manufacturer. In this comment, Volkswagen contended that non-U.S. certified 1995–1996 Audi Cabriolet passenger cars are ineligible for importation because they are not substantially similar to vehicles that were originally manufactured and certified for sale in the United States and are not capable of being readily altered to conform to the standards. Specifically, Volkswagen observed that the non-U.S. certified 1995–1996 Audi Cabriolet passenger cars that are the subject of the petition are equipped with a 2.6 liter V6 engine rated at 150 hp with front wheel drive and a manual 5-speed transmission. Volkswagen stated that the only engine installed on 1995–1996 Audi Cabriolet passenger cars certified for the U.S. market was a 2.8 liter V6 rated at 172 hp. As a consequence, Volkswagen asserted that the engine components of the non-U.S. certified 1995–1996 Audi Cabriolet were not certified to any of the Federal motor vehicle safety standards containing requirements that relate to engines. Volkswagen identified those standards as including Standard Nos. 103 *Windshield Defrosting and Defogging Systems,* 105 *Hydraulic Brake Systems,* 124 *Accelerator Control Systems,* and insofar as they require the dynamic crash testing of a vehicle, Standard Nos. 208 *Occupant Crash Protection,* 212 *Windshield Mounting,* 219 *Windshield Zone Intrusion, and* 301 *Fuel System Integrity.* Volkswagen additionally noted that the petitioner erroneously claimed that non-U.S. certified 1995–1996 Audi Cabriolet passenger cars comply with the Bumper Standard found at 49 CFR Part 581. Volkswagen observed that the bumper components on these vehicles differ from those installed on U.S. certified models.

NHTSA accorded Champagne an opportunity to respond to Volkswagen's comments. In its response, Champagne did not address any of the issues raised by Volkswagen, and requested that its petition be withdrawn. Because it had already solicited public comments on the petition, NHTSA could not accede to this request.

In light of Volkswagen's comments, NHTSA has concluded that the petition does not clearly demonstrate that non-U.S. certified 1995–1996 Audi Cabriolet passenger cars are eligible for importation. The petition must therefore be denied under 49 CFR 593.7(e).

In accordance with 49 U.S.C. 30141(b)(1), NHTSA will not consider a new import eligibility petition covering this vehicle until at least three months from the date of this notice.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.7; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 30, 2000.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 00–13886 Filed 6–1–00; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 153X)]

Union Pacific Railroad Company—Abandonment Exemption—in Monroe County, IA

On May 15, 2000, Union Pacific Railroad Company (UP), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–10905 to abandon a line of railroad known as the Oskaloosa Subdivision, extending between milepost 312.1 near Eddyville and milepost 322.9 near Maxon, a distance of 10.8 miles in Monroe County, IA. The line traverses U.S. Postal Service Zip Codes 52531 and 52553, and includes the non-agency stations of Bridgeport (milepost 313) and Maxon (milepost 322.9).

In addition to an exemption from 49 U.S.C. 10903, petitioner seeks exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). In support, UP contends that exemption from these provisions is necessary to permit its conveyance to the sole shipper on the line, Cargill, Inc. (Cargill), of a segment of the line between mileposts 312.1 and 315 for construction of a plant switching facility. The switching operation is necessary for construction by Cargill of a private rail line that will run south from the plant to The Burlington Northern and Santa Fe Railway Company's main line. UP also requests expedited consideration of the exemption petition, including effectiveness of the exemption on service of the final decision. UP avers that expedited action is necessary here because Cargill urgently needs the right-of-way. These requests will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 1, 2000.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 22, 2000. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 153X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001, and (2) James P. Gatlin, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830. Replies to the UP petition are due on or before June 22, 2000.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: May 25, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–13856 Filed 6–1–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 26, 2000.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before July 3, 2000, to be assured of consideration.

Departmental Offices/Office of International Investment

OMB Number: 1505–0121.

Form Number: None.

Type of Review: Extension.

Title: Regulations Pertaining to Mergers, Acquisitions and Takeovers by Foreign Persons.

Description: Treasury disseminates to other agencies that are members of the Committee on Foreign Investment in the United States (CFIUS) information collected under the regulations from parties involved in a foreign acquisition of a U.S. company in order to do a national security analysis of the acquisition.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 60 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,000 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 00–13877 Filed 6–1–00; 8:45 am]

BILLING CODE 4810–25–U

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket No. 00–12]

Notice of Request for Preemption Determination

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice and request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing for comment a written request for the OCC's determination of whether Federal law preempts certain provisions of the West Virginia Insurance Sales Consumer Protection Act (West Virginia Law). The purpose of this notice and request for comment is to provide interested persons with an opportunity to submit comments prior to the OCC's issuance of any final opinion in this matter.

DATES: Comments must be received on or before July 3, 2000.

ADDRESSES: Comments should be sent to the Communications Division, Office of the Comptroller of the Currency, 250 E

Street, SW, Third Floor, Attention: Docket No. 00–12, Washington, DC 20219. You may submit comments electronically to regs.comments@occ.treas.gov or by facsimile transmission to (202) 874–5274. You can inspect and photocopy the comments at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: MaryAnn Orr Nash, Senior Attorney, or Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090.

SUPPLEMENTARY INFORMATION:

Background

The OCC has received a request from the West Virginia Bankers Association (Requester) for a determination that Federal law preempts certain provisions of the West Virginia Law.

Section 114 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (section 114), Pub. L. 103–328 (12 U.S.C. 43) generally requires the OCC to publish in the **Federal Register** a descriptive notice of certain requests that the OCC receives for preemption opinions. Under section 114, the OCC must publish notice before it issues any opinion letter or interpretive rule concluding that Federal law preempts the application to a national bank of any State law in four designated areas: community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches. Pursuant to section 114, interested persons have at least 30 days to submit written comments. Without making a determination as to whether section 114 applies to this request, the OCC has decided that it is appropriate to use notice and comment procedures given the broad interest in the issues presented. The OCC will publish in the **Federal Register** any final opinion letter or interpretive rule that concludes that Federal law preempts State law.

Specific Request for OCC Preemption Determination

The OCC has been asked to determine whether section 104 the Gramm-Leach-Bliley Act (GLBA) preempts certain provisions of West Virginia Law.

Section 104(d)(2)(A) of GLBA provides that ''[i]n accordance with the legal standards for preemption set forth in the decision of the Supreme Court of the United States in Barnett Bank of Marion County N.A. v. Nelson, 517 U.S. 25 (1996), no State may, by statute, regulation, order, interpretation, or other action prevent or significantly interfere with the ability of a depository institution, or an affiliate thereof, to engage, directly or indirectly, either by itself or in conjunction with an affiliate or any other person, in any insurance sales, solicitation, or cross marketing activity.'' However, GLBA does not preempt state actions that are ''substantially the same as but no more burdensome or restrictive than'' any of the thirteen specific actions described in section 104(d)(2)(B) of GLBA (Safe Harbors). The Requester asserts that the following provisions contained in seven sections of the West Virginia Law are preempted by the GLBA—

(1) Section 33–11A–6 of the West Virginia Law, entitled ''Insurance sales separate from loan transaction,'' generally prohibits financial institution employees with lending responsibilities from soliciting the purchase or sale of insurance. Specifically, the law provides that:

(a) Solicitation for the purchase or sale of insurance by a financial institution shall be conducted only by individuals whose responsibilities do not include loan transactions or other transactions involving the extension of credit. Provided, That for a financial institution location having three or less individuals with lending authority, solicitation for the sale of insurance may be conducted by an individual with responsibilities for loan transactions or other transactions involving the extension of credit, as long as the individual primarily responsible for making the specific loan or extension of credit is not the same individual engaged in the solicitation of the purchase or sale of insurance for that same transaction.

(b) In the event that in any small office, the same individual is the licensed agent or broker and the sole individual with lending authority, the commissioner may grant a waiver of the requirements of this section upon a written request. Such request shall include documentation that, due to the small office staff, compliance is not possible, and include identification of other steps which will be taken to minimize the customer confusion prohibited by this article.

The Requester contends that Federal law preempts this provision because it does not fit within any of the Safe Harbors and, if given effect, would prevent or significantly interfere with the ability of financial institutions to engage in insurance activities. The Requester asserts that limitations on bank use of personnel will significantly interfere with the ability of community banks to offer insurance services to customers and generally will require the use of more personnel than may be needed to conduct the business. The Requester also contends that this provision will significantly limit the use of supermarket branches and developing technologies that are intended to minimize use of personnel.

(2) Section 33–11A–8 of the West Virginia Law, entitled ''Tying of products prohibited,'' generally prohibits a financial institution from requiring or implying that the purchase of an insurance product from that institution is required as a condition to the approval of a loan. Specifically, that section provides that:

(a) No person shall require or imply that the purchase of an insurance product from a financial institution by a customer or prospective customer of the institution is required as a condition of the lending of money or extension of credit.

(b) No financial institution may offer an insurance product in combination with its other products, unless all the products are available separately from the financial institution.

The Requester contends that this provision is not within the Safe Harbor set forth in section 104(d)(2)(B)(viii) of GLBA, which protects state restrictions prohibiting the tying of loan and insurance products. The Requester asserts that this provision is preempted because it essentially prohibits a loan officer from mentioning to a customer that insurance products may be available at a discount as part of a package of bank services, and thus, would significantly interfere with bank sales of insurance products. The Requester also contends that this provision is more restrictive than the anti-tying provisions of the Bank Holding Company Act, 12 U.S.C. 1972 and the implementing Federal regulation.

(3) Section 33–11A–9 of the West Virginia Law, entitled ''Disclosures,'' generally provides that a financial institution engaged in the sale of insurance must disclose to customers in writing the nature of the product sold. Specifically, the section provides that—

(a) A financial institution soliciting the purchase of or selling insurance, and any person soliciting the purchase of or selling insurance on the premises of, in connection with a product offering, or using a name identifiable with, a financial institution, shall prominently disclose to customers, in writing, in clear and concise language, including in any advertisement or promotional material, and orally during any

customer contact, that insurance offered, recommended, sponsored, or sold:

(1) Is not a deposit;

(2) Is not insured by the federal deposit insurance corporation or, where applicable, the National Credit Union Share Insurance Fund;

(3) Is not guaranteed by any insured depository institution; and

(4) Where appropriate, involves investment risk, including potential loss of principal.

(b) Any financial institution engaged in the making of loans or other extensions of credit and the sale of insurance shall prominently disclose to customers in writing, in clear and concise language, that the insurance product may be purchased from an agent or broker of the customer's choice, and the customer's choice of another insurance provider will not affect the customer's credit relationship with the person. For purposes of this subsection, loans and extensions of credit shall not include financing in connection with the insurance product offered or sold.

(c) Any person required under subsections (a) or (b) of this section to make disclosures to a customer shall obtain a written acknowledgment of receipt by the customer of such disclosures, including the date of receipt and the customer's name, address, and account number, prior to or at the time of any application for insurance sold by the person. Such acknowledgment shall be in a separate document.

(d) The commissioner may grant a waiver of the requirements of this section to any person required to give the disclosures required by this section solely because that person has a name identifiable with a financial institution upon a written request by such person demonstrating that his, her or its customer would not reasonably benefit from, or might in fact be confused by, these required disclosures.

The Requester contends that Federal law preempts subsection (a) of this section because the requirement that a financial institution include the disclosure ''in any advertisement or promotional material'' is more burdensome and restrictive than the disclosure requirement contained in section 104(d)(2)(B)(x) of the Safe Harbors. The Requester further contends that this requirement is not protected by section 104(d)(2)(B)(iii) of the Safe Harbors, which permits restrictions prohibiting a bank from using misleading advertising. The Requester asserts that Federal law also preempts subsection (c) of this section because the requirement that the bank obtain the written disclosures in a separate document is unduly burdensome and restrictive, and thus, would significantly interfere with bank insurance sales.

(4) Section 33–11A–10 of the West Virginia Law, entitled ''Timing of insurance solicitation,'' generally prohibits a financial institution from making an insurance-related referral or solicitation of a loan customer until after the loan has been approved. Specifically, the section provides that—

(a) No individual who is an employee or agent of a financial institution, or of a subsidiary or affiliate thereof, may, directly or indirectly, make an insurance-related referral to or solicit the purchase of any insurance from a customer knowing that such customer has applied for a loan or extension of credit from that financial institution before such times as the customer has received a written commitment with respect to such loan or extension of credit, or, in the event that no written commitment has or will be issued in connection with the loan or extension of credit, before such time as the customer receives notification of approval of the loan or extension of credit by the financial institution and the financial institution creates a written record of the loan or extension of credit approval.

(b) This provision shall not prohibit any individual subject to subsection (a) above from:

(1) Informing a customer that insurance is required in connection with a loan; or

(2) Contacting persons in the course of direct or mass mailing to a group of persons in a manner that bears no relation to the person's loan application or credit decision.

The Requester contends that Federal law preempts this provision because it does not fit within the Safe Harbors and would prevent or significantly interfere with the ability of a financial institution to engage in insurance sales activities by prohibiting loan officers from marketing the full range of products offered by an institution.

(5) Section 33–11A–11 of the West Virginia Law, entitled ''Insurance in connection with the loan,'' generally provides that extensions of credit and insurance sales be completed independently and through separate documents. Specifically, the section provides that—

(a) If insurance is required as a condition of obtaining a loan, the credit and insurance transactions shall be completed independently and through separate documents.

(b) A loan for premiums on required insurance shall not be included in the primary credit without the written consent of the customer.

(c) No title insurance shall be issued until the title insurance company has obtained a title opinion of an attorney licensed to practice law in West Virginia, which attorney is not an employee, agent, or owner of the insured bank or its affiliates. Said attorney shall have conducted or cause to have conducted under the attorney's direct supervision a reasonable examination of the title. In no event shall the authority of a state-chartered bank to sell title insurance exceed the authority of a nationally chartered bank to do so.

The Requester contends that the use of the term ''independently'' removes the provision from the protection of section 104(d)(2)(B)(xiii) of the Safe Harbors which requires the maintenance of separate and distinct books and records relating to insurance transactions. The Requester also contends that Federal law should preempt this provision because the West Virginia Law would impose burdens on the bank and require its customers to make separate trips to the bank and sign separate documents to purchase bank and insurance products, thus significantly interfering with bank insurance sales.

(6) Section 33–11A–13 of the West Virginia Law, entitled ''Confidentiality of insurance information obtained by financial institutions,'' generally prohibits a financial institution from using insurance information obtained in the making of a loan unless the customer consents to such use. Specifically, the section provides that—

(a) When a financial institution requires a borrower to provide insurance information in connection with the making of a loan or extension of credit, neither such financial institution nor an insurance agent or broker affiliated with such financial institution may later use the information so obtained to solicit or offer insurance to such borrower, unless the consent required in subsection (b) below is first obtained.

(b) A borrower may consent to the financial institution's disclosure of insurance information to an agent or broker affiliated with the financial institution, but any such consent must be in writing and be given at a time subsequent, which shall be no less than two days, to the time of the application for, approval of and making of the loan or extension of credit.

(c) Consent under subsection (b) of this section shall be obtained in a separate document, distinct from any

other transaction, and shall not be required as a condition for performance of other services for the customer.

The Requester contends that this provision is more burdensome and restrictive than section 104(d)(2)(B)(vi) of the Safe Harbors, which protects restrictions on the release of insurance information to non-affiliated third parties for the purpose of soliciting or selling insurance. The Requester states that the West Virginia Law goes beyond the protection of the Safe Harbor because it prohibits transfers to affiliated as well as non-affiliated third parties. The Requester further contends that Federal law should preempt this provision because it significantly interferes with national bank insurance sales by limiting an institution's ability to identify customer needs and suitable products to meet the needs of those customers.

(7) Section 33–11A–14 of the West Virginia Law, entitled ''Physical location of insurance sales,'' generally provides that the sale of an insurance product by a financial institution must take place in an office physically separated from the institution's lending and deposit-taking activities. Specifically, the section provides that —

The place of solicitation or sale of insurance by any financial institution or on the premises of any financial institution shall be clearly and conspicuously signed so as to be readily distinguishable by the public as separate and distinct from the financial institution's lending and deposit-taking activities. In the event that a person which would otherwise be subject to the requirements set forth in this provision does not have the physical space to so comply, the commissioner may grant a waiver of the requirements of this section upon a written request by such person demonstrating that, due to its small physical facilities, compliance is not possible, and including identification of other steps which will be taken to minimize customer confusion.

The Requester contends that Federal law preempts this provision because it does not fall within any Safe Harbor and would prevent or significantly interfere with the ability of a financial institution to engage in insurance sales activities by requiring physical separation of the insurance activities from core banking activities. The Requester states that this requirement would significantly interfere with bank sales of insurance products, particularly with regard to smaller institutions with limited space and personnel.

Request for Comments

The OCC requests comments on whether Federal law preempts the provisions of the West Virginia Law cited above.

Dated: May 25, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 00–13855 Filed 6–1–00; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 6039G

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 6039G, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending March 31, 2000.

Last name	First	Middle
ADAMS JR.	CLIFTON	
AHN	BYUNG	SUHN
AKA SISTER M. CHRISTOPHORIS	HELGA	IGLBRIND
ALATALO	ALVAR	
APPLEGATE	YANGSON	
ARCHER	MICHAEL	DIXON
ASHBROOK	JOHN	B.
AUYANG	WILLIAM	MANYUNG
BAKER	RICHARD	KARL
BANOS	MARIE	
BANOS	OSVALDO	
BARSAMIAN	SUZANNE	KOHAR
BENICY	FRANCOIS	J.
BERG	CHRISTIAN	
BERNARD	CHARLES	WILLIAM
BEUPRE	DENNISFF	ALBERT
BLOM	THOMAS	EDGAR
BOHANNON	CLINTON	NATHANIEL
BRADFORD	KEVIN	JOSEPH
BURKART	ELIZABETH	ANN
CAMU	PHILIPPE	LOUIS
CANDRAY	RONALD	CARLOS
CANTERBURY	DAVIDF	EDWARD
CARHART	JEFFREY	COLWILL
CATTIER	ANNE	SOPHIE
CHAN	KAM	TAI
CHANTLER	ANGELA	MARGARET-JENNIFER
CHIODO	ERIKA	ELISABETH
CHO	HYUN-CHAN	
CHO	YONG	CHA
CHO (AKA HYUN-CHAN CHO)	SUNGWOOK	
CLARK	JAMES	ADAMS
COCKSWORTH	GRAHAM	ROGER
CORNISH	FRANCESCA	SHARON

Last name	First	Middle
COWAN	JOHN	WILLIAM
CRAMER	ALICE	CAROL
CRAMER	RICHARD	ALLEN
CUNTZE	JENS	FRANK
DAIMOND	TRICIA	
DE GRASPE BEAUBIEN-MATTRICK	NANON	
DE HAES	ELIZABETH	SPERRY
DE PENTHENY O'KELLY	LINDA	ELIZABETH
DE WIT	CYNTHIA	ANN
DEL BONO	ALBERTO	
DEL GRANADO	RAFAEL	FRANCISCO
DROULERS	GABRIEL	
DUDKOWSKI	BRITTNEY	LUNDIN
ECKHART	DIANA	KAREN
ECKHART	SUZANN	
ELKINS	JOAN	
ETTER	VERENA	BARBARA
EVEN-ZOHAR	ADINA	MICHAL
FENSTERMAKER	ROBERT	FRANCIS
FILLER	KERRY	FLYNN
FIRMENICH	SEBASTIAN	BERNARD
FITTON-IRVINE	KATE	
FORSTER	IRAENE	ERIKA
FUJITA	SUMIKO	
GALANTO	JUTTA	EVA
GALLA	RAMACHANDRA	NAIDA
GARRISON	PAUL	EUGENE
GESMAR-LARSEN	SUZANNE	PATRICIA
GOURLAY	GILDA	RAMES
GRANT	ROBERT	MICHAELE
GRAY	JANICE	L.
GROS	CARLOS	RANDOLPHO
GROS	FRANCISCO	HENRIQUE
GUDEFIN	PHILIPPE	G.
HABIE-DENBERG	ELIZABETH	
HARRISON	MICHAEL	J.
HECKMANN	ANDREA	KAY-EISBETH
HEITZMANN	JOSEE	CHRISTINE
HEMMEN	GABRIELE	MARIA
HENDRICKSON	HARLAND	REESE
HERMANN	JOEL	PAUL
HICKS	SIGVARD	URIEL
HILGERS	PHILIP	
HILL	JOHN	KENNETH-LINN
HOFMANN	ALOIS	HEINRICH
HOWE	THOMAS	DAVID
IRVINE	KATE	PITTON
JACKSON-GOLDET	ALICE	
JALBERT	DORIS	ERIKA
JEFFERIS	JANE	EASON
JENSEN	ESTHER	MARIE
JENSEN	ESTHER	MARIE
JERNIGAN	STEPHEN	A.
JOHANSEN, NEE WAGNER	FLORENCE	ELIZABETH
JONES	TEIA	LUVON
KAN	YAIR	DAVID
KANG	DAEIN	
KANG	KEUN	SOON
KAPPELER	THOMAS	
KARNATZ	VERNON	LEE
KIM	CHAE	MIN
KIM	JONG	CHUL
KIM	SON	OK
KIM-BARRASS	MOON	HUI
KLOZ	MICHAEL	JON
KNABEN	BJORN-HELGE	
KOVALA	MINNA	HILJA
LAWRIE	AILEEN	MARGARET
LEE	AMITA	ILCHUL
LEE	HELEN	EUNYONG
LEE	SANDY	JA
LEGGIO	MARIO	
LEMOS	ADAMANTIOE	MICHAEL
LEWIS	DAVID	H.

Last name	First	Middle
LEWIS	DOUGLAS	WINDSOR
LEWIS	LILIAN	I.
LEYA	HEIDI	
LICHTERMAN	HOWARD	
LIM	JOHN	HAN
LOMBARD	ALEXIS	OLIVER
MACDONALD	DONALD	VICTOR
MARDSEN	JUDY	SUSAN
MAROCCO	PIA	LUISA
MARUS	JEFFREY	CHAMP
MARUS	NANCY	MUSE
MATHUR	ANITA	SIMLOT
MATTHAEUS	SUSANNE	
MC CAW	SEAN	JAMEL
MCINTOSH	ISABEL	HELEN
MEISSNER	SHARON	MINERVA
MERIZALDE	CAMILO	
MICKENS	DARRELL	DWAIN
MILTON	JOHN	CHARLES
MITCHELL	DORIS	ARLENE
MOORE	ALFRED	TURNEY
MORENO	PABLO	
MOSKO	GEORGE	JAMES
MURERO	MARIO	GERHART
MURRY JR.	WILLIAM	
NEWSON	SIMON	DAVID
NIPPA	JURGEN	HEINZ
OH	CHRISTOPHER	
OWENS	KARIN	BARBARA
OYASKI	JOSEPH	THOMAS
PAPANDREOU	GEORGE	JEFFREY
PEREZ-VELASCO	JULIEO	
PETERSEN	PER	NOVI
PETERSON	TANJA	SIGRID
PROSINGER	BERNHARD	AUGUST
RAKOBITSCH	AUGUSTINE	
REDOLFI	VERONIKA	
REID	BRUCE	HUNTER
RIIBER	SUZANNE	MAY
ROCKOWITZ	BRUCE	P.
ROEHR	KUNO	MANFRED
SABA	KFAR	
SAGIE	TOVA	
SAYHER	RONALD	BROOKS
SCHERRER	ERIC	RONALD
SHAH	SAMIR	SURENDRA
SHIU	MAN	HEI
SIMPSON	DONALD	MILLER
SINANAJ.NEE ALTHEIDE	MONA	MARIE
SMITH	KARIN	DOROTHY
SMITHEY	JEANIE	MARIA
SOBAK	STEVEN	JOHN
SPROWLS	SVEN	CHRISTOPHER
STEPHENSON	MANUELA	
STURMAN	VERA	
SUTTER	MARCIA	JEAN
TERWILLIGER	ERIC	WILLIAM
THULLEN	PATRICK	
TINTE JR.	JOACHIM	
TRETHOWAN	IRENE	SUSAN
TUEN	JUDY	ANN
UHM	SUNG	JIN
VAN GOETHEM	ROBERT	C.
VAN LOON	PHILIPPA	CATHERINE
VAN RIJCKEVORSEL	CEDRIC	ANDRE
VIERHEILIG	EVA	CHRISTINE
VON STRASDAS	HAI-TI	LEE
VON STRASDAS	VOLDEMAR	ARNOLD
WENMAN	CAROLE	L.
WICK	DOROTHY	BERYL
WILLIAMS JR.	CHARLES	EDWARD
WOLF	GREGOR	BALERIAN
WONG	WINSTON	SHUI WAH
YOUNG	PRATIMA	LEUNG-YUNG

Last name	First	Middle
ZAHM	HANS	
ZAHM	MINA	
ZAVADIL	CAROLYN	MARIE

Approved: May 14, 2000.

Doug Rogers,

Chief, Special Projects Branch, International District.

[FR Doc. 00–13775 Filed 6–1–00; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Submission for OMB Review; Comment Request

May 26, 2000.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Interested persons may obtain copies of the submission(s) by calling the OTS Clearance Officer listed. Send comments regarding this information collection to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

DATES: Submit written comments on or before July 3, 2000.

OMB Number: 1550—0011.

Form Number: Not applicable.

Type of Review: Regular.

Title: General Reporting and Recordkeeping by Savings Associations.

Description: This collection of information allows management of savings associations to exercise prudent controls and to provide OTS with a means of determining the integrity of savings association records and operations when examining for safety, soundness, and regulatory compliance.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Responses: 1,104.

Estimated Burden Hours Per Response: 3,369 hours.

Frequency of Response: Once per activity.

Estimated Total Reporting Burden: 3,718,911 hours.

Clearance Officer: Mary Rawlings-Milton, (202) 906–6028, Office of Thrift Supervision, 1700 Street, NW., Washington, DC 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

John E. Werner,

Director, Information and Management Services.

[FR Doc. 00–13752 Filed 6–1–00; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 65, No. 107

Friday, June 2, 2000

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 THE INTERIOR

Bureau of Land Management

[AZ-050-00-1430-EU; AZA 29964, AZA 29970-AZA 29975, AZA 29977, AZA 29979-AZA 29983, AZA 29985-AZA 29989]

Arizona: Notice of Realty Action; Competitive Sale of Public Land in Quartzsite, La Paz County, AZ

Correction

In notice document 00–6530 appearing on page 14315 in the issue of March 16, 2000 make the following corrections:

In the second column, six lines from the bottom, the directions in ''Sec. 23'' should read as follows:

Sec. 23,
N½SW¼,S½NE¼SW¼SW¼,
NW¼SW¼SW¼,N½SE¼SW¼,
SW¼ SE¼SW¼;

[FR Doc. C0–6530 Filed 6–1–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 00–7013; Notice 1]

RIN 2127–AG70

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

Correction

In rule document 00–11577 beginning on page 30680 in the issue of Friday, May 12, 2000, make the following correction:

§571.208 [Corrected]

On page 30751, in the second column, in §571.208, in paragraph S15.3.2 (a), after the last line, insert the following equation:

$$\left[\frac{1}{(t_2 - t_1)}\int_{t_1}^{t_2} a_r \, dt\right]^{2.5} (t_2 - t_1)$$

[FR Doc. C0–11577 Filed 6–1–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
June 2, 2000

Part II

Environmental Protection Agency

40 CFR Parts 69, 80, and 86

Control of Air Pollution From New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards; Highway Diesel Fuel Sulfur Control Requirements; Proposed Rules

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 69, 80, and 86

[AMS–FRL–6705–2]

RIN 2060–AL69

Control of Air Pollution From New Motor Vehicles: Proposed Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Diesel engines contribute considerable pollution to our nation's continuing air quality problems. Even with more stringent heavy-duty highway engine standards set to take effect in 2004, these engines will continue to emit large amounts of nitrogen oxides and particulate matter, both of which contribute to serious public health problems in the United States. These problems include premature mortality, aggravation of respiratory and cardiovascular disease, aggravation of existing asthma, acute respiratory symptoms, chronic bronchitis, and decreased lung function. Numerous studies also link diesel exhaust to increased incidence of lung cancer.

The diesel engine is a vital workhorse in the United States, moving much of the nation's freight, and carrying out much of its farm, construction, and other labor. Diesel engine sales have grown over the last decade, so that now about a million new diesel engines are put to work in the U.S. every year. Diesels overwhelmingly dominate the bus and large truck markets and have been capturing a growing share of the light heavy-duty vehicle market over the last decade.

We are proposing a comprehensive national control program that would regulate the heavy-duty vehicle and its fuel as a single system. We are proposing new emission standards that would begin to take effect in 2007, and would apply to heavy-duty highway engines and vehicles. These proposed standards are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. Because these devices are damaged by sulfur, we are also proposing to reduce the level of sulfur in highway diesel fuel significantly by the middle of 2006.

Diesel engines are more durable and get better fuel economy than gasoline engines, but also pollute significantly more. If this program is implemented as proposed, diesel trucks and buses will have dramatically reduced emission levels. This proposed program will bring heavy-duty diesel emissions on par with new cars. The results of this historic proposal would be comparable to the advent of the catalytic converter on cars, as the proposed standards would, for the first time, result in the widespread introduction of exhaust emission control devices on diesel engines.

By 2007, we estimate that heavy-duty trucks and buses will account for as much as 30 percent of nitrogen oxides emissions from transportation sources and 14 percent of particulate matter emissions. In some urban areas, the contribution will be even greater. The standards for heavy-duty vehicles proposed in this rule would have a substantial impact on the mobile source inventories of oxides of nitrogen and particulate matter. Beginning the program in the 2007 model year ensures that emission reductions start early enough to counter the upward trend in heavy-duty vehicle emissions that would otherwise occur because of the increasing number of vehicle miles traveled each year.

This proposed program would result in particulate matter and oxides of nitrogen emission levels that are 90% and 95% below current standards levels, respectively. In order to meet these more stringent standards for diesel engines, the proposal calls for a 97% reduction in the sulfur content of diesel fuel. As a result, diesel vehicles would achieve gasoline-like exhaust emission levels, in addition to their inherent advantages over gasoline vehicles with respect to fuel economy, lower greenhouse gas emissions, and lower evaporative hydrocarbon emissions. We are also proposing more stringent standards for heavy-duty gasoline vehicles.

The clean air impact of this program would be dramatic when fully implemented. By 2030, this program would reduce annual emissions of nitrogen oxides, nonmethane hydrocarbons, and particulate matter by a projected 2.8 million, 305,000 and 110,000 tons, respectively. We project that these reductions and the resulting significant environmental benefits of this program would come at an average cost increase of about $1,700 to $2,800 per new vehicle in the near term and about $1000 to $1600 per new vehicle in the long term, depending on the vehicle size. In comparison, new vehicle prices today can range up to $250,000 for larger heavy-duty vehicles. The cost of reducing the sulfur content of diesel fuel would result in an estimated increase of approximately four cents per gallon.

DATES: *Comments:* We must receive your comments by August 14, 2000.

Hearings: We will hold public hearings on June 19, 20, 22, 27, and 29, 2000. See **ADDRESSES** below for the locations of the hearings.

ADDRESSES: *Comments:* You may send written comments in paper form and/or by e-mail. We must receive them by the date indicated under ''DATES'' above. Send paper copies of written comments (in duplicate if possible) to the contact person listed below. Send e-mail comments to diesel@epa.gov.

EPA's Air Docket makes materials related to this rulemaking available for review in Docket No. A–99–06 located at U.S. Environmental Protection Agency (EPA), Air Docket (6102), Room M–1500, 401 M Street, SW, Washington, DC 20460 (on the ground floor in Waterside Mall) from 8 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 260–7548 and by facsimile at (202) 260–4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR part 2.

Hearings: We will hold five public hearings at the following locations:

June 19, 2000, Crowne Plaza Hotel, 1605 Broadway, New York, NY, 10019

June 20, 2000, Rosemont Convention Center, 5555 N. River Rd., Rosemont, IL 60018

June 22, 2000, Renaissance Atlanta Hotel, 590 W. Peachtree St, NW, Atlanta, GA, 30308

June 27, 2000, Hyatt Regency, 711 S. Hope Street, Los Angeles, CA, 90017

June 29, 2000, Doubletree Hotel, 3203 Quebec St., Denver, CO, 80207

We request that parties who want to testify at a hearing notify the contact person listed below ten days before the date of the hearing. Please see section X, ''Public Participation'' below for more information on the comment procedure and public hearings.

FOR FURTHER INFORMATION CONTACT: Margaret Borushko, U.S. EPA, National Vehicle and Fuel Emissions Laboratory, 2000 Traverwood, Ann Arbor MI 48105; Telephone (734) 214–4334, FAX (734) 214–4816, E-mail borushko.margaret@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

This proposed action would affect you if you produce or import new

heavy-duty engines which are intended for use in highway vehicles such as trucks and buses or heavy-duty highway vehicles, or convert heavy-duty vehicles or heavy-duty engines used in highway vehicles to use alternative fuels. It would also affect you if you produce, distribute, or sell highway diesel fuel.

The table below gives some examples of entities that may have to follow the proposed regulations. But because these are only examples, you should carefully examine the proposed and existing regulations in 40 CFR parts 69, 80, and 86. If you have questions, call the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Category	NAICS Codes [a]	SIC Codes [b]	Examples of potentially regulated entities
Industry	336112 336120	3711	Engine and truck manufacturers.
Industry	811112 811198	7533 7549	Commercial importers of vehicles and vehicle components.
Industry	324110	2911	Petroleum refiners.
Industry	422710 422720	5171 5172	Diesel fuel marketers and distributors.
Industry	484220 484230	4212 4213	Diesel fuel carriers.

[a] North American Industry Classification System (NAICS).
[b] Standard Industrial Classification (SIC) system code.

Access to Rulemaking Documents Through the Internet

Today's proposal is available electronically on the day of publication from the Environmental Protection Agency Internet Web site listed below. Electronic copies of the preamble, regulatory language, Draft Regulatory Impact Analysis, and other documents associated with today's proposal are available from the EPA Office of Transportation and Air Quality (formerly the Office of Mobile Sources) Web site listed below shortly after the rule is signed by the Administrator. This service is free of charge, except any cost that you incur for connecting to the Internet.

Environmental Protection Agency Web Site:

http://www.epa.gov/fedrgstr/

(Either select a desired date or use the Search feature.)

Office of Transportation and Air Quality (OTAQ) Web Site:

http://www.epa.gov/otaq/

(Look in ''What's New'' or under the ''Heavy Trucks/Busses'' topic.)

Please note that due to differences between the software used to develop the document and the software into which document may be downloaded, changes in format, page length, etc. may occur.

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I. A Brief Overview

This proposal covers the second of two phases in a comprehensive nationwide program for controlling emissions from heavy-duty engines (HDEs) and vehicles. It builds upon the phase 1 program we proposed last October (64 FR 58472, October 29, 1999). That action reviewed and proposed to confirm the 2004 model year emission standards set in 1997 (62 FR 54693, October 21, 1997), proposed stringent new emission standards for gasoline-fueled heavy-duty vehicles (HDVs), and proposed other changes to the heavy-duty program, including provisions to ensure in-use emissions control. Today's proposal takes the provisions of the October 1999 proposal as a point of departure.

This second phase of the program looks beyond 2004, based on the use of high-efficiency exhaust emission control devices and the consideration of the vehicle and its fuel as a single system. In developing this proposal, we took into consideration comments received in response to an advance notice of proposed rulemaking (ANPRM) published in May of last year (64 FR 26142, May 13, 1999), and comments we received in response to our discussion of future standards in the heavy-duty 2004 standards proposal last October. We welcome comment on all facets of this proposal and its supporting analyses, including the levels and timing of the proposed emissions standards and diesel fuel quality requirements. We ask that commenters provide any technical information that supports the points made in their comments.

This proposed program would result in particulate matter (PM) and oxides of nitrogen (NO_X) emission levels that are 90% and 95% below current standards levels, respectively. In order to meet these more stringent standards for diesel engines, the proposal calls for a 97% reduction in the sulfur content of diesel fuel. This proposal would make clean diesel fuel available in time for implementation of the light-duty Tier 2 standards. The heavy-duty engine standards would be effective starting in the 2007 model year and the low sulfur diesel fuel needed to facilitate the standards would be widely available by the middle of 2006. As a result, diesel vehicles would achieve gasoline-like exhaust emission levels, in addition to their inherent advantages over gasoline vehicles with respect to fuel economy, lower greenhouse gas emissions, and lower evaporative hydrocarbon emissions. We are also proposing more stringent standards for heavy-duty gasoline vehicles.

The standards proposed would result in substantial benefits to public health and welfare and the environment through significant reductions in emissions of NO_X, PM, nonmethane hydrocarbons (NMHC), carbon monoxide (CO), sulfur oxides (SO_X), and air toxics. We project that by 2030, this proposed phase 2 program would reduce annual emissions of NO_X, NMHC, and PM by 2.8 million, 305,000 and 110,000 tons, respectively. Especially in the early years of this program, large reductions in the amount of direct and secondary PM caused by the existing fleet of heavy-duty vehicles would occur because of the improvement in diesel fuel quality.

A. What Is Being Proposed?

There are two basic parts to this proposal: (1) New exhaust emission standards for heavy-duty highway engines and vehicles, and (2) new quality standards for highway diesel fuel. The systems approach of combining the engine and fuel standards into a single program is critical to the success of our overall efforts to reduce emissions, because the emission standards would not be feasible without the fuel change. This is because the emission standards, if promulgated, are expected to result in the use of high-efficiency exhaust emission control devices that would be damaged by sulfur in the fuel. This proposal, by providing extremely low sulfur diesel fuel, would also enable cleaner diesel passenger vehicles and light-duty trucks. This is because the same pool of highway diesel fuel also services these light-duty diesel vehicles, and these vehicles can employ technologies similar to the high-efficiency heavy-duty exhaust emission control technologies that would be enabled by the fuel change. We believe these technologies are needed for diesel vehicles to comply with our recently adopted Tier 2 emissions standards for light-duty highway vehicles (65 FR 6698, February 10, 2000).

We believe that this systems approach is a comprehensive way to enable promising new technologies for clean diesel affecting all sizes of highway diesel engines and, eventually, diesel engines used in nonroad applications too. The fuel change, in addition to enabling new technologies, would also produce emissions and maintenance benefits in the existing fleet of highway diesel vehicles. These benefits would include reduced sulfate and sulfur oxides emissions, reduced engine wear and less frequent oil changes, and longer-lasting exhaust gas recirculation (EGR) components on engines equipped with EGR. Heavy-duty gasoline vehicles would also be expected to reach cleaner levels due to the transfer of recent technology developments for light-duty applications, and the recent action taken to reduce sulfur in gasoline as part of the Tier 2 rule.

The basic elements of the proposal are outlined below. Detailed provisions and justifications for our proposal are discussed in subsequent sections.

1. Heavy-Duty Emission Standards

We are proposing a PM emissions standard for new heavy-duty engines of 0.01 grams per brake-horsepower-hour (g/bhp-hr), to take full effect in the 2007 HDE model year. We are also proposing standards for NO_X and NMHC of 0.20 g/bhp-hr and 0.14 g/bhp-hr, respectively. These NO_X and NMHC standards would be phased in together between 2007 and 2010, for diesel engines. The phase-in would be on a percent-of-sales basis: 25 percent in 2007, 50 percent in 2008, 75 percent in 2009, and 100 percent in 2010. Because of the more advanced state of gasoline engine emissions control technology, gasoline engines would be fully subject to these standards in the 2007 model year, although we request comment on phasing these standards in as well. A potential delay in the implementation date of the gasoline engine and vehicle standards to the 2008 model year arising from issues connected with the 2004 model year standards is discussed in section III.D.2. In addition, we are proposing a formaldehyde (HCHO) emissions standard of 0.016 g/bhp-hr for all heavy-duty engines, to be phased in with the NO_X and NMHC standards, and the inclusion of turbocharged diesels in the existing crankcase emissions prohibition, effective in 2007.

Proposed standards for complete HDVs would be implemented on the same schedule as for engine standards. For certification of complete vehicles between 8500 and 10,000 pounds gross vehicle weight rating (GVWR), the proposed standards are 0.2 grams per mile (g/mi) for NO_X, 0.02 g/mi for PM, 0.195 g/mi for NMHC, and 0.016 g/mi for formaldehyde.[1] For vehicles between 10,000 and 14,000 pounds, the proposed standards are 0.4 g/mi for NO_X, 0.02 g/mi for PM, 0.230 g/mi for NMHC, and 0.021 g/mi for formaldehyde. These standards levels are roughly comparable to the proposed engine-based standards in these size ranges. Note that these standards would not apply to vehicles above 8500 pounds that we classify as medium-duty passenger vehicles as part of our Tier 2 program.

Finally, we are proposing to revise the evaporative emissions standards for heavy-duty engines and vehicles, effective on the same schedule as the gasoline engine and vehicle exhaust emission standards. The proposed standards for 8500 to 14,000 pound vehicles are 1.4 and 1.75 grams per test for the 3-day diurnal and supplemental 2-day diurnal tests, respectively. Slightly higher standards levels of 1.9 and 2.3 grams per test would apply for vehicles over 14,000 pounds. These proposed standards represent more than a 50 percent reduction in the numerical standards as they exist today.

2. Fuel Quality Standards

We are proposing that diesel fuel sold to consumers for use in highway vehicles be limited in sulfur content to a level of 15 parts per million (ppm), beginning June 1, 2006. This proposed sulfur standard is based on our assessment of how sulfur-intolerant advanced exhaust emission control technologies will be, and a corresponding assessment of the feasibility of low-sulfur fuel production and distribution. We are seeking comment on voluntary options for providing refiners with flexibility in complying with the low sulfur highway diesel fuel program. In addition, we request comment on some potential flexibility provisions to assist small refiners in complying with the program.

With minor exceptions, existing compliance provisions for ensuring diesel fuel quality that have been in effect since 1993 would remain unchanged (55 FR 34120, August 21, 1990).

B. Why Is EPA Making This Proposal?

1. Heavy-Duty Vehicles Contribute to Serious Air Pollution Problems

As will be discussed in detail in section II, emissions from heavy-duty vehicles contribute greatly to a number of serious air pollution problems, and will continue to do so into the future absent further controls to reduce these emissions. First, heavy-duty vehicles contribute to the health and welfare effects of ozone, PM, NO_X, SO_X, and volatile organic compounds (VOCs), including toxic compounds such as formaldehyde. These adverse effects include premature mortality, aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions and emergency room visits, school absences, work loss days, and restricted activity days), changes in lung function and increased respiratory symptoms, changes to lung tissues and structures, altered respiratory defense mechanisms, chronic bronchitis, and decreased lung function. Ozone also causes crop and forestry losses, while PM also causes damage to materials, and soiling. Second, both NO_X and PM contribute to substantial visibility impairment in many parts of the U.S. Third, NO_X emissions from heavy-duty trucks contribute to the acidification, nitrification and eutrophication of water bodies.

Millions of Americans live in areas with unhealthful air quality that currently endangers public health and welfare. Without emission reductions from the proposed standards for heavy-duty vehicles, there is a significant risk that an appreciable number of areas across the country will violate the 1-hour ozone national ambient air quality standard (NAAQS) during the period when these standards will take effect. Furthermore, our analysis shows that PM_{10} concentrations in 10 areas with a combined population of 27 million people face a significant risk of exceeding the PM_{10} NAAQS without significant additional controls in 2007 or thereafter. Under the mandates and authorities in the Clean Air Act, federal, State, and local governments are working to bring ozone and particulate levels into compliance with the 1-hour ozone and PM_{10} NAAQS through State Implementation Plan (SIP) attainment and maintenance plans, and to ensure that future air quality reaches and continues to achieve these health-based standards. The reductions proposed in this rulemaking would play a critical part in these important efforts.

Emissions from heavy-duty vehicles account for substantial portions of the country's ambient PM and NO_X levels. (NO_X is a key precursor to ozone formation). By 2007, we estimate that heavy-duty vehicles will account for 29 percent of mobile source NO_X emissions and 14 percent of mobile source PM emissions. These proportions are even higher in some urban areas, such as in Albuquerque, where HDVs contribute 37 percent of the mobile source NO_X emissions and 20 percent of the mobile source PM emissions. The PM and NO_X standards for heavy-duty vehicles proposed in this rule would have a substantial impact on these emissions. By 2030, NO_X emissions from heavy-duty vehicles under today's proposed standards would be reduced by 2.8 million tons, and PM emissions would decline by about 110,000 tons, dramatically reducing this source of NO_X and PM emissions. Urban areas, which include many poorer neighborhoods, can be disproportionately impacted by HDV emissions, and these neighborhoods would thus receive a relatively larger portion of the benefits expected from new HDV emissions controls. Over time,

[1] Vehicle weight ratings in this proposal refer to GVWR (the curb weight of the vehicle plus its maximum recommended load of passengers and cargo) unless noted otherwise.

the relative contribution of diesel engines to air quality problems will go even higher if diesel-equipped light-duty vehicles become more popular, as is expected by some automobile manufacturers.

In addition to its contribution to PM inventories, diesel exhaust PM is of special concern because it has been implicated in an increased risk of lung cancer and respiratory disease in human studies. The EPA draft Health Assessment Document for Diesel Emissions is currently being revised based on comments received from the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board. The current EPA position is that diesel exhaust is a likely human carcinogen and that this cancer hazard applies to environmental levels of exposure.[2] In the draft Health Assessment Document for Diesel Emissions, EPA provided a qualitative perspective that the upper bounds on environmental cancer risks may exceed 10^{-6} and could be as high as 10^{-3}. Several other agencies and governing bodies have designated diesel exhaust or diesel PM as a ''potential'' or ''probable'' human carcinogen. In addition, diesel PM poses nonmalignant respiratory hazards to humans, not unlike, in some respects, hazards from exposure to ambient $PM_{2.5}$, to which diesel PM contributes. State and local governments, in their efforts to protect the health of their citizens and comply with requirements of the Clean Air Act (CAA or ''the Act''), have recognized the need to achieve major reductions in diesel PM emissions, and have been seeking Agency action in setting stringent new standards to bring this about.[3]

2. Technology-Based Solutions

Although the air quality problems caused by diesel exhaust are formidable, we believe they can be resolved through the application of high-efficiency emissions control technologies. As discussed in detail in section III, the development of diesel emissions control technology has advanced in recent years so that very large emission reductions (in excess of 90 percent) are possible, especially through the use of catalytic emission control devices installed in the vehicle's exhaust system (and integrated with the engine controls). These devices are often referred to as ''exhaust emission control'' or ''aftertreatment'' devices. Exhaust emission control devices, in the form of the well-known catalytic converter, have been used in gasoline-fueled automobiles for 25 years, but have had only limited application in diesel vehicles.

Because the Clean Air Act requires us to set heavy-duty engine standards that reflect the greatest degree of emission reduction achievable through the application of available technology (subject to a number of criteria as discussed in section I.B.3), this notice proposes these standards, and proposes a justification for their adoption based on the air quality need, their technological feasibility, costs, and other criteria listed in the Act (see section III of this document). As part of this proposal, we are also proposing changes to diesel fuel quality in order to enable these advanced technologies (section IV). Heavy-duty gasoline engines would also be able to reach the significantly cleaner levels envisioned in this proposal by relying on the transfer of recent technology developments for light-duty applications, given the recent action taken to reduce sulfur in gasoline (65 FR 6698, February 10, 2000).

We believe the proposed standards would require the application of high-efficiency PM and NO_X exhaust emission controls to heavy-duty diesel vehicles. High-efficiency PM exhaust emission control technology has been available for several years, although engine manufacturers have generally not needed this technology in order to meet our PM emission standards. This technology has continued to improve over the years, especially with respect to durability and robust operation in use. It has also proven extremely effective in reducing exhaust hydrocarbon emissions. Thousands of such advanced-technology systems are now in use in fleet programs, especially in Europe. However, as discussed in detail in section III, these advanced-technology systems are very sensitive to sulfur in the fuel. For the technology to be viable and capable of meeting the proposed standards, we believe, based on information currently available, that it will require diesel fuel with sulfur content at the 15 ppm level.

Similarly, high-efficiency NO_X exhaust emission control technology will be needed if heavy-duty vehicles are to attain the proposed standards. We believe this technology, like the PM technology, is dependent on 15 ppm diesel fuel sulfur levels to be feasible, marketable, and capable of achieving the proposed standards. High-efficiency NO_X exhaust emission control technology has been quite successful in gasoline direct injection engines that operate with an exhaust composition fairly similar to diesel exhaust. However, as discussed in section III, application of this technology to diesels has some additional challenges and so has not yet gotten to the field trial stage. We are confident that the certainty of low-sulfur diesel fuel that would be provided by promulgation of the proposed fuel standard would allow the application of this technology to diesels to progress rapidly, and would result in systems capable of achieving the proposed standards. However, we acknowledge that our proposed NO_X standard represents an ambitious target for this technology, and so we are asking for comment on the appropriateness of a technology review of diesel NO_X exhaust emission controls.

The need to reduce the sulfur in diesel fuel is driven by the requirements of the exhaust emission control technology that we project would be needed to meet the proposed standards. The challenge in accomplishing the sulfur reduction is driven by the feasibility of needed refinery modifications, and by the costs of making the modifications and running the equipment. In consideration of the impacts that sulfur has on the efficiency, reliability, and fuel economy impact of diesel engine exhaust emission control devices, we believe that controlling the sulfur content of highway diesel fuel to the 15 ppm level will be necessary. Furthermore, although the refinery modifications and process changes needed to meet a 15 ppm restriction are expected to be substantial, we propose that this level is both feasible and cost effective. However, we are asking for comment on various concepts to provide implementation flexibility for refiners.

3. Basis for Action Under the Clean Air Act

Section 202(a)(1) of the Act directs us to establish standards regulating the emission of any air pollutant from any class or classes of new motor vehicles or engines that, in the Administrator's judgment, cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. Section 202(a)(3) requires that EPA set standards for heavy-duty trucks that reflect the greatest degree of emission reduction achievable through the application of technology which we determine will be available for the

[2] Environmental Protection Agency (1999) Health Assessment Document for Diesel Emissions: SAB Review Draft. EPA/600/8–90/057D Office of Research and Development, Washington, D.C. The document is available electronically at www.epa.gov/ncea/diesel.htm

[3] For example, see letter dated July 13, 1999 from John Elston and Richard Baldwin on behalf of the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (docket A–99–06, item II–D–78).

model year to which the standards apply. We are to give appropriate consideration to cost, energy, and safety factors associated with the application of such technology. We may revise such technology-based standards, taking costs into account, on the basis of information concerning the effects of air pollution from heavy-duty vehicles or engines and other sources of mobile source related pollutants on the public health and welfare. Section 202(a)(3)(C) requires that promulgated standards apply for no less than three years and go into effect no less than 4 years after promulgation. This proposal has been developed in conformance with these statutory requirements.

We believe the evidence provided in section III and the draft Regulatory Impact Analysis (RIA) indicates that the stringent technology-forcing standards proposed today are feasible and reflect the greatest degree of emission reduction achievable in the model years to which they apply. We have given appropriate consideration to costs in choosing these standards. Our review of the costs and cost-effectiveness of these proposed standards indicate that they would be reasonable and comparable to the cost-effectiveness of other emission reduction strategies that have been required or could be required in the future. We have also reviewed and given appropriate consideration to the energy factors of this rule in terms of fuel efficiency and effects on diesel production and distribution, as discussed below, as well as any safety factors associated with these proposed standards.

The information regarding air quality and the contribution of heavy-duty engines to air pollution in section II and the Draft RIA provides strong evidence that emissions from such engines significantly and adversely impact public health or welfare. First, there is a significant risk that several areas will fail to attain or maintain compliance with the NAAQS for 1-hour ozone concentrations or PM_{10} concentrations during the period that these proposed new vehicle and engine standards would be phased into the vehicle population, and that heavy-duty engines contribute to such concentrations, as well as to concentrations of other NAAQS-related pollutants. Second, EPA currently believes that diesel exhaust is a likely human carcinogen. The risk associated with exposure to diesel exhaust includes the particulate and gaseous components. Some of the toxic air pollutants associated with emissions from heavy-duty vehicles and engines include benzene, formaldehyde, acetaldehyde, dioxin, acrolein, and 1,3-butadiene. Third, emissions from heavy-duty engines contribute to regional haze and impaired visibility across the nation, as well as acid deposition, POM deposition, eutrophication and nitrification, all of which are serious environmental welfare problems.

Based on this evidence, EPA believes that, for purposes of section 202(a)(1), emissions of NO_X, VOCs, SO_X and PM from heavy-duty trucks can reasonably be anticipated to endanger the public health or welfare. In addition, this evidence indicates that it would not be appropriate to modify the technology based standards pursuant to section 202(a)(3)(B). EPA believes that it is required under section 202(a)(3)(A) to set technology based standards that meet the criteria of that provision, and is not required to make an affirmative determination under section 202(a)(1). Instead EPA is authorized to take air quality into consideration under section 202(a)(3)(B) in deciding whether to modify or not set standard under section 202(a)(3)(A). In this case, however, EPA believes the evidence would fully support a determination under section 202(a)(1) to set standards, and a determination not to modify such standards under section 202(a)(3)(B).

In addition, there is significant evidence that emissions from heavy-duty trucks contribute to levels of ozone such that large segments of the national population are expected to experience prolonged exposure over several hours at levels that present serious concern for the public health and welfare. The same is true for exposure to fine PM. These public health and welfare problems are expected to occur in many parts of the country, including areas that are in compliance with the 1-hour ozone and PM_{10} NAAQS (PM_{10} is particulate matter that is 10 microns or smaller). This evidence is an additional reason why the controls proposed today are justified and appropriate under the Act. While EPA sees this as additional support for this action, EPA also believes that the evidence of air pollution problems summarized above and described in greater detail elsewhere is an adequate justification for this rule independent of concern over prolonged exposure to ozone levels.

Section 211(c) of the CAA allows us to regulate fuels where emission products of the fuel either: (1) Cause or contribute to air pollution that reasonably may be anticipated to endanger public health or welfare, or (2) will impair to a significant degree the performance of any emission control device or system which is in general use, or which the Administrator finds has been developed to a point where in a reasonable time it would be in general use were such a regulation to be promulgated. This proposal meets each of these criteria. The discussion of the first test is substantially the same as the above discussion for the heavy-duty engine standards, because SOx emissions from heavy-duty diesel vehicles are due to sulfur in diesel fuel. The substantial adverse effect of high diesel sulfur levels on diesel control devices or systems expected to be used to meet the heavy-duty standards is discussed in depth in section III.F and in the Draft RIA. In addition, our authority under section 211(c) is discussed in more detail in appendix A to the draft RIA.

C. Putting This Proposal in Perspective

There are several helpful perspectives to establish in understanding the context for this proposal: the growing popularity of diesel engines, past progress and new developments in diesel emissions control, Tier 2 light-duty emission standards and other related EPA initiatives (besides the above-discussed rulemaking for highway heavy-duty engine emission standards in 2004), and recent actions and plans to control diesel emissions by the States and in other countries.

1. Diesel Popularity

The diesel engine is increasingly becoming a vital workhorse in the United States, moving much of the nation's freight, and carrying out much of its farm, construction, and other labor. Diesel engine sales have grown impressively over the last decade, so that now about a million new diesel engines are put to work in the U.S. every year. Unfortunately, these diesel engines emit large quantities of harmful pollutants annually.

Furthermore, although diesel emissions in this country come mostly from heavy-duty trucks and nonroad equipment, an additional source may grow out of auto manufacturers' plans to greatly increase the sales of diesel-powered light-duty vehicles (LDVs) and especially of light-duty trucks (LDTs), a category that includes the fast-selling sport-utility vehicles, minivans, and pickup trucks. These plans reflect the continuation of an ongoing dieselization trend, a trend recently most evident in the growing popularity of diesel-powered light heavy-duty trucks (8500 to 19,500 pounds). Diesel market penetration is working its way from larger to smaller highway applications and to a broader array of nonroad equipment applications. Finally, especially in Europe where diesels have

already gained a broad consumer acceptance, the diesel engine is increasingly viewed as an attractive technology option for reducing emissions of gases that contribute to global warming, because it has greater operating efficiency than a gasoline engine.

2. Past Progress and New Developments

Since the 1970's, highway diesel engine designers have employed numerous strategies to meet our emissions standards, beginning with smoke controls, and focusing in the 1990's on increasingly stringent NO_X, hydrocarbon, and PM standards. These strategies have generally focused on reducing engine-out emissions and not on exhaust emission controls, although low-efficiency oxidation catalysts have been applied in some designs to reduce PM (and even their effectiveness has been limited by sulfur in the fuel). On the fuel side, we set quality standards that provided emissions benefits by limiting the amount of sulfur and aromatics in highway diesel fuel beginning in 1993 (55 FR 34120, August 21, 1990). Our most recent round of standard setting for heavy-duty highway diesels occurred in 1997 (62 FR 54693, October 21, 1997), effective with the 2004 model year. These standards were recently reviewed in a proposed rulemaking (64 FR 58472, October 29, 1999), which proposed to confirm them. These actions will result in engines that emit only a fraction of the NO_X, hydrocarbons, and PM produced by engines manufactured just a decade ago. We consider this an important first phase of our current initiative to reconcile the diesel engine with the environment.

Nevertheless, certain characteristics inherent in the way diesel fuel combustion occurs have prevented achievement of emission levels comparable to those of today's gasoline-fueled vehicles. Although diesel engines provide advantages in terms of fuel economy, durability, and evaporative emissions, and have inherently low exhaust emissions of hydrocarbons and carbon monoxide, controlling NO_X emissions is a greater challenge for diesel engines than for gasoline engines, primarily because of the ineffectiveness of three-way catalysis in the oxygen-rich and relatively cool diesel exhaust environment. Similarly, PM emissions, which are inherently low for properly operating gasoline engines, are more difficult to control in diesel engines, because the diesel combustion process tends to form soot particles. The challenge is somewhat complicated by the fact that historical diesel NO_X control approaches tend to increase PM, and vice versa, but both are harmful pollutants that need to be controlled.

Considering the air quality impacts of diesel engines and the potential for growth of diesels in the lighter-duty portion of the market, it is imperative that progress in diesel emissions control continue. Fortunately, encouraging progress is now being made in the design of exhaust emission control devices for diesel applications, driven in part by the challenge presented by the stringent Tier 2 standards for light-duty vehicles. As discussed in detail in section III, promising new exhaust emission control technologies for NO_X, PM, and hydrocarbon reduction show potential for a major advancement in diesel emissions control of a magnitude comparable to that ushered in by the automotive catalytic converter in the 1970's. However, changes in diesel fuel quality will be needed to enable these high-efficiency exhaust emission control devices. With these promising technologies, diesel vehicles have potential to achieve gasoline-like exhaust emission levels, in addition to their inherent advantages over gasoline vehicles with respect to fuel economy, lower greenhouse gas emissions, and lower evaporative hydrocarbon emissions.

3. Tier 2 Emissions Standards

Auto manufacturers' design plans for new light-duty diesel vehicle models will be greatly affected by our recent adoption of stringent new emission standards for light-duty highway vehicles (referred to as ''Tier 2'' standards) that will phase in between 2004 and 2009. These Tier 2 standards will require significant improvements in electronic engine controls and catalysts on gasoline vehicles. (We anticipate that these advances will be transferred over to heavy-duty gasoline vehicles in meeting the standards proposed in this document). The Tier 2 NO_X and PM standards (that apply equally to gasoline and diesel vehicles) are far more challenging for diesel engine designers than the most stringent light- or heavy-duty vehicle standards promulgated to date, and so will require the use of advanced emission control technologies. However, the low sulfur highway diesel fuel proposed in this notice would make it possible for designers to employ advanced exhaust emission control technologies in these light-duty applications, and the timing of the proposed fuel change provides for the use of these devices in time to satisfy Tier 2 phase-in requirements.

The Tier 2 program phases in interim and final standards over a number of years, providing manufacturers the option of delaying some of their production of final Tier 2 designs until later in the phase-in. For vehicles up to 6000 lbs GVWR (LDVs) and light light-duty trucks (LLDTs)), the interim standards begin in 2004 and phase out by 2007, as they are replaced by the final Tier 2 standards. For vehicles between 6000 and 8500 lbs (heavy light-duty trucks (HLDTs)), the interim standards begin in 2004 and phase out by 2009 as they are replaced by the final Tier 2 standards. A new category of vehicles between 8,500 and 10,000 lbs, medium-duty passenger vehicles (MDPVs), will follow the same phase-in schedule as HLDTs.

Our assessment in the Tier 2 final rule is that the interim standards are feasible for diesel vehicles without a need for fuel quality changes. Manufacturers can take advantage of the flexibilities provided in the Tier 2 program to delay the need for light-duty diesels to meet the final Tier 2 levels until late in the phase-in period (as late as 2007 for LDVs and LLDTs, and 2009 for HLDTs and MDPVs). However, low sulfur fuel is expected to be needed for diesel vehicles designed to meet the final NO_X and PM standards, because these vehicles are likely to employ light-duty versions of the sulfur-sensitive exhaust emission control technologies discussed in Section III. The gasoline quality changes and light-duty gasoline engine developments that will result from the Tier 2 rule would also help make it feasible for heavy-duty gasoline engines to meet the standards proposed in this document.

4. Mobile Source Air Toxics Rulemaking

Passenger cars, on-highway trucks, and nonroad equipment emit hundreds of different compounds and elements. Several of these are considered to be known, likely, or possible human carcinogens. These include diesel exhaust, plus several VOCs such as acetaldehyde, benzene, 1,3-butadiene, formaldehyde, and acrolein. Trace metals may also be present in heavy-duty diesel engine emissions, resulting from metals in fuels and lubricating oil, and from engine wear. Several of these metals have carcinogenic and mutagenic effects.

These and other mobile source air toxics are already controlled under existing programs established under Clean Air Act sections 202(a) (on-highway engine requirements), 211 (the fuel requirements), and 213 (nonroad engine requirements). Although these programs are primarily designed for control of criteria pollutants, especially ozone and PM_{10}, they also achieve

important reductions in air toxics through VOC and hydrocarbon controls.

In addition to these programs, section 202(l)(2) of the Act directs us to consider additional controls to reduce emissions of hazardous air pollutants from motor vehicles, their fuels, or both. Those standards are to reflect the greatest degree of emission reduction achievable through the application of technology which will be available, taking into account existing standards, costs, noise, energy, and safety factors. We anticipate that this section 202(l)(2) rulemaking, which we expect to propose in July 2000 and finalize in December 2000, will consist of three parts. First, we will identify a list of hazardous air pollutants emitted from motor vehicles and determine which of these endanger human health and welfare. Diesel particulate matter will be considered as part of this determination because, as discussed in section II, human epidemiological studies have suggested that diesel exhaust is associated with increased risk of adverse respiratory effects and lung cancer. Second, we will consider more comprehensively the contribution of mobile sources to the nation's air toxics inventory and evaluate the toxics benefits of existing and proposed emission control programs. The benefits of the program proposed in today's action will be included in this analysis. Finally, we will consider whether additional controls are appropriate at this time, given technological feasibility, cost, and the other criteria specified in the Act.

5. Nonroad Engine Standards and Fuel

Although this proposal covers only highway diesel engines and fuel, it is clear that potential requirements for nonroad diesel engines and fuel are related. It is expected that nonroad diesel fuel quality, currently unregulated, may need to be controlled in the future in order to reduce the large contribution of nonroad engines to NO_X and PM inventories. Refiners, fuel distributors, states, environmental organizations, and others have asked that we provide as much information as possible about the future specifications for both types of fuel as early as possible.

We do plan to give further consideration to further control of nonroad engine emissions. As discussed below in section IX, an effective control program for these engines requires the resolution of several major issues relating to engine emission control technologies and how they are affected by fuel sulfur content. The many issues connected with any rulemaking for nonroad engines and fuel warrant serious attention, and we believe it would be premature today for us to attempt to propose resolutions to them. We plan to initiate action in the future to formulate thoughtful proposals covering both nonroad diesel fuel and engines.

6. Actions in California

The California Air Resources Board (ARB) and local air quality management districts within California are also pursuing measures to better control diesel emissions. Key among these efforts is work resulting from the Board's designation of particulate emissions from diesel-fueled engines as a toxic air contaminant (TAC) on August 27, 1998. TACs are air pollutants that may cause or contribute to an increase in death or serious illness or may pose a present or future hazard to human health. The TAC designation was based on research studies showing that emissions from diesel-fueled engines may cause cancer in animals and humans, and that workers exposed to higher levels of emissions from diesel-fueled engines are more likely to develop lung cancer.

The ARB has now begun a public process to evaluate the need to further reduce the public's exposure to organic gases and PM emissions from diesel-fueled engines, and the feasibility and cost of doing so.[4] This evaluation is being done in consultation with the local air districts, affected industries, and the public, and will result in a report on the appropriate degree of control. Based on this report, if cost effective measures are identified that will reduce public exposure, then specific control measures applicable in California will be developed in a public process.

The ARB also recently adopted stringent new emission requirements for urban transit buses and is considering similar requirements for school buses.[5] This program is aimed at encouraging the use of clean alternative fuels and high-efficiency diesel emission control technologies. Their program includes requirements for zero-emissions buses, fleet average NO_X levels, and retrofits for PM control, as well as model year 2007 NO_X and PM standards levels of 0.2 and 0.01 g/bhp-hr, respectively (equal to the levels proposed in this document). It also requires that all diesel fuel used by transit agencies after July 1, 2002 must meet a cap of 15 ppm sulfur. This is the same as the sulfur level proposed in this document, but in batch amounts and on a much earlier schedule to support the ARB's proposed PM retrofit schedule.

California's urban bus program is focused on only a portion of the highway diesel fleet and fuel, characterized by short-range trips and captive fuel supplies. The large amount of interstate truck traffic in California and the fact that these trucks can travel many miles between refuelings would dramatically reduce the effectiveness of a more comprehensive State program, and would also subject California businesses to competitive disadvantages. As a result, the ARB has stressed the need for action at a Federal level, and is depending on our efforts to control HDV NO_X and PM emissions and to regulate diesel fuel. We agree that a national program is appropriate to ensure the effectiveness of such a program.

7. Retrofit Programs

Many States facing air quality improvement challenges have expressed strong interest in programs that would reduce emissions from existing highway and nonroad diesel engines through the retrofitting of these engines with improved emission control devices. The urban bus program proposed by the California ARB includes such a retrofit requirement as one of its major components (see section I.C.6). These retrofit programs are appealing because the slow turnover of the diesel fleet to the new low-emitting engines makes it difficult to achieve near-term air quality goals through new engine programs alone. Some of the exhaust emission control technologies discussed in this proposal are especially appealing for use in retrofits because they can be fitted to an existing vehicle as add-on devices without major engine modifications, although some of the more sophisticated systems that require careful control of engine parameters may be more challenging.

Because of the uncertainty at this time in how and when such programs may be implemented, this proposal does not calculate any benefits from them. Nevertheless, we believe that this proposed program can enable the viability of these retrofit technologies. We expect that large emission benefits from the existing fleet could be realized as a result of the fuel changes we are proposing here, combined with retrofit versions of the technologies that would be developed in response to the proposed engine standards. These

[4] Regularly updated information on this effort can be obtained at a website maintained by the ARB staff: www.arb.ca.gov/toxics/diesel/diesel.htm

[5] "Notice of Public Hearing To Consider the Adoption of a Public Transit Bus Fleet Rule and Emission Standards For New Urban Buses", California ARB, November 30, 1999, and ARB Resolution 00–2, dated February 24, 2000.

benefits would be especially important in the early years of the program when new vehicles standards are just beginning to have an impact, and when States and local areas need to gain large reductions to attain air quality goals.

8. Actions in Other Countries

There is substantial activity taking place in many countries of the world related to the regulation of diesel fuel and engines. The large light-duty vehicle market share enjoyed by diesels in many European countries has helped to stir innovation in dealing with diesel emissions problems. Advanced emissions control technologies are being evaluated there in the in-use fleet and experience gained from these trials is helping to inform the diesel emissions control discussion in the U.S. In addition, several European countries have low sulfur diesel fuel, with maximum sulfur levels varying from 10 to 50 ppm, and so experience gained from the use of these fuels, though not completely transferable to the U.S. situation, also helps to inform the discussion. European Union countries will limit sulfur in diesel fuel to 50 ppm by 2005, and even more aggressive plans are being discussed or implemented. The United Kingdom made a rapid conversion to 50 ppm maximum sulfur diesel fuel last year by offering tax incentives. This change occurred with much smaller refinery investments than had been predicted, and some refinery production there is actually at levels well below the 50 ppm cap. Germany is moving forward with plans to introduce a 10 ppm sulfur cap for diesel fuel by 2003, also via tax incentives, and is attempting to get the 50 ppm specification that was adopted by the European Commission revised downward to the 10 ppm cap level.

One European country has had extensive experience with the transition to low sulfur diesel fuel. In the early 1990's, Sweden decided to take advantage of the environmental benefits of 10 ppm sulfur/low aromatics fuel by introducing it with a reduction in the diesel fuel tax. The program has been quite successful, and in excess of 90 percent of the road fuel used there is of this 10 ppm maximum sulfur class.[6] The ability of the Swedish fuel distributors to maintain these low sulfur levels at the fuel stations has also been quite good.

Section VII.H discusses how differences between the future fuel specifications in the U.S. and those in Canada and Mexico may affect the emissions control program proposed in this document.

II. The Air Quality Need and Projected Benefits

A. Overview

Heavy-duty vehicle emissions contribute to air pollution with a wide range of adverse health and welfare impacts. Emissions of VOC, CO, NO_X, SO_X, and PM from HD vehicles contribute a substantial percentage to ambient concentrations of ozone, PM, sulfur and nitrogen compounds, aldehydes, and substances known or considered likely to be carcinogens. VOC and diesel PM emissions include some specific substances known or suspected to cause cancer, and diesel exhaust emissions are associated with non-cancer health effects. These ambient concentrations in turn cause human health effects and many welfare effects including visibility reductions, acid rain, nitrification and eutrophication of water bodies.

Emissions from heavy-duty vehicles, which are predominantly diesel-powered, account for substantial portions of the country's ambient PM and ground-level ozone levels. (NO_X is a key precursor to ozone formation). By 2007, we estimate that heavy-duty vehicles would account for 29 percent of mobile source NO_X emissions, and 14 percent of mobile source PM emissions. These proportions are even higher in some urban areas, such as New York and Los Angeles. Urban areas, which include many poorer neighborhoods, can be disproportionately impacted by HDV emissions because of heavy traffic in and out of densely populated urban areas. Of particular concern is human epidemiological evidence linking diesel exhaust to an increased risk of lung cancer. Based on information provided in the draft Health Assessment Document for Diesel Emissions[7] and other sources of information, we believe that emissions from heavy-duty diesel vehicles contribute to air pollution that warrants regulatory attention under section 202(a)(3) of the Act.

Thirty-six metropolitan areas with a total population of 111 million people have recently violated or are currently violating the 1-hour ozone NAAQS, and have ozone modeling or other factors which indicate a risk of NAAQS violations in 2007 or beyond. Another six areas with 11 million people have recently experienced ozone concentrations within 10 percent of exceeding the NAAQS between 1996 and 1998 and have some evidence of a risk of future violations. Ten PM_{10} nonattainment areas with 27 million people face a significant risk of experiencing particulate matter levels that violate the PM_{10} standard during the time period when this proposal would take effect. Without reductions from these proposed standards, there is a significant risk that an appreciable number of these areas would violate the 1-hour ozone and PM_{10} standards during the time period when these proposed standards would apply to heavy-duty vehicles. Under the mandates and authorities in the Clean Air Act, federal, State, and local governments are working to bring ozone and particulate levels into compliance with the 1-hour ozone and PM_{10} NAAQS through SIP attainment and maintenance plans, and to ensure that future air quality continues to achieve these health-based standards. The reductions proposed in this rulemaking would assist these efforts.

The proposed heavy-duty vehicle and engine emission standards, along with the diesel fuel sulfur standard proposed today, would have a dramatic impact in reducing the large contribution of HDVs to air pollution. The proposed standards would result in substantial benefits to public health and welfare through significant annual reductions in emissions of NO_X, PM, NMHC, carbon monoxide, sulfur dioxide, and air toxics. For example, we project a 2 million ton reduction in NO_X emissions from HD vehicles in 2020, which would increase to 2.8 million tons in 2030 when the current HD vehicle fleet is completely replaced with newer HD vehicles that comply with these proposed emission standards. When coupled with the emission reductions projected to result from the Phase 1 (model year 2004) HDV standards, the emission reductions from heavy-duty vehicles are projected to be as large as the substantial reductions the Agency expects from light-duty vehicles as a result of its recently promulgated Tier 2 rulemaking.

B. Public Health and Welfare Concerns

The following subsections present the available information on the air pollution situation that is likely to exist without this rule for each ambient pollutant. We also present information on the improvement that would result from this rule. The Agency's analysis and this proposal are supported by the numerous letters received from States and environmental organizations calling for significant emission reductions from heavy-duty vehicles in order to enable

[6] Memo from Thomas M. Baines to Docket A–99–06, October 29, 1999, Docket #A–99–06, Item II–G–12.

[7] EPA is revising this draft document in response to comments by the CASAC.

these areas to achieve and sustain clean, healthful air.[8]

1. Ozone and Its Precursors

a. Health and Welfare Effects From Short-Term Exposures to Ozone

NO_X and VOC are precursors in the photochemical reaction which forms tropospheric ozone. A large body of evidence shows that ozone can cause harmful respiratory effects including chest pain, coughing, and shortness of breath, which affect people with compromised respiratory systems most severely. When inhaled, ozone can cause acute respiratory problems; aggravate asthma; cause significant temporary decreases in lung function of 15 to over 20 percent in some healthy adults; cause inflammation of lung tissue; may increase hospital admissions and emergency room visits; and impair the body's immune system defenses, making people more susceptible to respiratory illnesses. Children and outdoor workers are likely to be exposed to elevated ambient levels of ozone during exercise and, therefore, are at greater risk of experiencing adverse health effects. Beyond its human health effects, ozone has been shown to injure plants, reducing crop yields.

b. Current and Future Nonattainment Status With the 1-Hour Ozone NAAQS

Exposure to levels of ozone that are not in compliance with the 1-hour ozone NAAQS are a serious public health and welfare concern. The following sections discuss the present situation and outlook regarding attainment in areas of the country where ozone levels presently fail to comply with this NAAQS, or where they have come close to failing to comply in recent years.

Over the last decade, emissions have declined and national air quality has improved for all six criteria pollutants, including ozone.[9] Some of the greatest emissions reductions have taken place in densely-populated urban areas, where emissions are heavily influenced by mobile sources such as cars and trucks. For example, VOC and NO_X emissions in several urban areas in the Northeast declined by 15 percent and 14 percent from 1990 to 1996.[10] However, when ozone trends are normalized for annual weather variations between 1989 and 1998, they reveal a downward trend in the early 1990's followed by a leveling off, or an upturn in ozone levels, over the past several years in many urban areas.[11]

Despite impressive improvements in air quality over the last decade, present concentrations of ground-level ozone continue to endanger public health and welfare in many areas. As of December, 1999, 92 million people (1990 census) lived in 32 metropolitan areas designated nonattainment under the 1-hour ozone NAAQS.[12] In addition, there are 14 areas with a 1996 population of 17 million people not currently listed as non-attainment areas because the 1-hour ozone standard was revoked for these areas (we have proposed to re-instate the standard).[13] These 14 areas are relevant to this proposal because ozone concentrations above the health-based ozone standard, should they occur, endanger public health and welfare independent of the applicability of the 1-hour standard or an area's official attainment or nonattainment status. Ozone also has negative environmental impacts. For example, exposure of vegetation to ozone can inhibit photosynthesis, and alter carbohydrate allocation, which in turn can suppress the growth of crops, trees, shrubs and other plants.

The next two sections present lists of metropolitan areas, in two tables, with potential for violating the ozone standard in the future. The first section presents a table with 33 metropolitan areas that were predicted by Tier 2 modeling to have exceedances in either 2007 or 2030, and accompanying text identifies an additional nine areas for which we have other evidence of a risk of future exceedances. The second section discusses the air quality prospects for these 42 areas, which are divided into several groups. These groups are presented in Table II.B–2.

i. Ozone Predictions Made in the Tier 2 Rulemaking and Other Information on Ozone Attainment Prospects

In conjunction with its Tier 2 rulemaking efforts, the Agency performed ozone air quality modeling for nearly the entire Eastern U.S. covering metropolitan areas from Texas to the Northeast, and for a western U.S. modeling domain. The ozone modeling we did as part of the Tier 2 rulemaking predicted that without further emission reductions, a significant number of areas recently experiencing ozone exceedances across the nation are at risk of failing to meet the 1-hour ozone NAAQS in 2007 and beyond, even with Tier 2 and other controls currently in place.

The general pattern observed from the Tier 2 ozone modeling is a broad reduction between 1996 and 2007 in the geographic extent of ozone concentrations above the 1-hour NAAQS, and in the frequency and severity of exceedances. Despite this improvement from 1996 to 2007, many ozone exceedances were predicted to occur in 2007 even with reductions from Tier 2 standards and other controls currently in place, affecting 33 metropolitan areas across the nation. Assuming no additional emission reductions beyond those that will be achieved by current control programs,[14] a slight decrease below 2007 levels in modeled concentrations and frequencies of exceedances was predicted for 2030 for most areas. Exceedances were still predicted in 2030 in most of the areas where they were predicted in 2007.[15]

Although we did not model ozone concentrations for years between 2007 and 2030, we may expect that they would broadly track the national emissions trends. Based on these emission trends alone, national ozone concentrations, on average, would be projected to decline after 2007 largely due to penetration of Tier-2 compliant vehicles into the light duty vehicle fleet, but begin to increase around 2015 or 2020 due to economic growth until they reach the 2030 levels just described. However, the change in ozone levels from the expected NO_X reduction is relatively small compared to the effects of variations in ozone due to meteorology. Furthermore, in some areas, where growth exceeds national averages, emissions levels would begin increasing sooner and reach higher levels in 2030.

[8] Letters from States and environmental organizations are located in the docket for this proposal.

[9] National Air Quality and Emissions Trends Report, 1997, US EPA, December 1998.

[10] National Emissions Trends database.

[11] Trends in Daily Maximum 1-hour Ozone in Selected Urban Areas, 1989–1998.

[12] Memorandum to Air Docket, January 12, 2000. Information on ozone nonattainment areas and population as of December 13, 1999 from US EPA website www.epa.gov/airs/nonattn.html, USA Air Quality Nonattainment Areas, Office of Air Quality Planning and Standards. The reader should note that the 32 areas mentioned here are designated nonattainment areas, while the 36 areas noted in the overview section have recent (1995–1998) or current violations, and predicted exceedances in 2007 or 2030 based on air quality modeling or other evidence discussed in more detail later in this preamble, and in the draft RIA.

[13] 64 FR 57424 (October 25, 1999)

[14] Current control programs assumed for the predictions summarized here included the Tier 2/ Gasoline Sulfur program and some specific programs that are legally required but not yet fully adopted, such as the regional Ozone Transport Rule and not-yet-adopted MACT standards that will affect VOC emissions.

[15] Achieving attainment with the ozone standard is only one measure of air quality improvement. EPA found that the Tier 2 program significantly lowers the model-predicted number of exceedances of the ozone standard by one tenth in 2007, and by almost one-third in 2030 across the nation (Tier 2 RIA).

Table II.B–1 lists the 33 areas with predicted 1-hour ozone exceedances in 2007 and/or 2030 based on the Tier 2 modeling, after accounting for the emission reductions from the Tier 2 program and other controls. [16] There are areas that are not included in this table that will be discussed shortly. A factor to consider with respect to the ozone predictions in Table II.B–1 is that recent improvements to our estimates of the current and future mobile source NO_X inventory have resulted in an increase in our estimate of aggregate NO_X emissions from all sources by more than eight percent since the air quality modeling performed for the Tier 2 rule. The adjusted NO_X inventory level in 2015 is greater than the NO_X inventory used in the Tier 2 air quality analysis for 2030. If we were to repeat the ozone modeling now for the 2015 time frame, using the new emissions estimates, it would most likely predict exceedances in 2015 for all the areas that had 2030 exceedances predicted in the modeling done for the Tier 2 rulemaking. As summarized in Table II.B–1, the Tier 2 modeling predicted that there will be 33 areas in 2007 or 2030 with about 89 million people predicted to exceed the 1-hour ozone standard, even after Tier 2 and other controls currently in place. Additional information on ozone modeling is found in the draft RIA and the technical support document for the Tier 2 rule, which is in the docket for this rulemaking. We request comment on the inventory estimates and ozone air quality modeling analysis described in this proposal.

TABLE II.B–1.—METROPOLITAN AREAS WITH PREDICTED EXCEEDANCES IN 2007 OR 2030 FROM TIER 2 AIR QUALITY MODELING INCLUDING EMISSION REDUCTIONS FROM TIER 2 AND OTHER CURRENT/COMMITTED CONTROLS

CMSA/MSAs	2007 Control case	2030 Control case	1996 Population (millions)
Boston, MA CMSA	X	X	5.6
Chicago, IL CMSA	X	X	8.6
Cincinnati, OH CMSA**	X		1.9
Cleveland, OH CMSA*	X	X	2.9
Detroit, MI CMSA*	X	X	5.3
Houston, TX CMSA	X	X	4.3
Milwaukee, WI CMSA	X	X	1.6
New York City, NY CMSA	X	X	19.9
Philadelphia, PA CMSA	X	X	6.0
Washington,-Baltimore, DC-VA-WV-MD CMSA	X	X	7.2
Atlanta, GA MSA	X	X	3.5
Barnstable, MA MSA	X	X	0.2
Baton Rouge, LA MSA	X	X	0.6
Benton Harbor, MI MSA	X	X	0.2
Biloxi, MS MSA*	X	X	0.3
Birmingham, AL MSA	X	X	0.9
Charlotte, NC MSA	X	X	1.3
Grand Rapids, MI MSA	X	X	1.0
Hartford, CT MSA	X	X	1.1
Houma, LA MSA	X	X	0.2
Huntington, WV MSA	X		0.3
Indianapolis, IN MSA	X		1.5
Louisville, KY MSA	X	X	1.0
Memphis, TN MSA	X	X	1.1
Nashville, TN MSA	X	X	1.1
New London, CT MSA	X	X	1.3
New Orleans, LA MSA*	X	X	0.3
Pensacola, FL MSA*	X		0.4
Pittsburgh, PA MSA	X		2.4
Providence, RI MSA	X	X	1.1
Richmond, VA MSA	X		0.9
St. Louis, MO MSA	X	X	2.5
Tampa, FL MSA*	X	X	2.2
33 areas / 88.7 million people	32 areas/86.3 million people	28 areas/83.7 million people	

* These areas have registered recent (1995–1998) ozone levels within 10% of the 1-hour ozone standard.
** Based on more recent air quality monitoring data not considered in the Tier 2 analysis, and on 10-year emissions projections, we expect to redesignate Cincinnati-Hamilton to attainment soon.

Ozone modeling for the Tier 2 rulemaking did not look at the effect on ozone attainment and maintenance beyond current/committed controls and the Tier 2/Gasoline Sulfur Program itself. Therefore, Table II.B–1 should be interpreted as indicating what areas are at risk of ozone violations in 2007 or 2030 without federal or state measures that may be adopted and implemented after this rulemaking is proposed. We expect many of the areas listed in Table

[16] Table II.B–1 excludes areas for which the Tier 2 modeling predicted exceedances in 1996 but for which the actual ozone design values in 1995–1997 and 1996–1998 were both less than 90 percent of the NAAQS. For these areas, we considered the ozone model's predictions of 2007 or 2030 exceedances to be too uncertain to play a supportive role in our rulemaking determinations. Also, 2007 ozone was not modeled for western areas. For 2030, all areas were modeled for fewer episode days which, along with a general model under-prediction bias, may result in an underestimation of 2030 exceedances. Without these factors, there could have been more western areas listed in Table II.B–1, and more areas with predicted exceedances in 2030.

II.B-1 to adopt additional emission reduction programs, but the Agency is unable to quantify the future reductions from additional State programs since they have not yet been adopted.

In addition, Table II.B–1 reflects only the ozone predictions made in the modeling for the Tier 2 rulemaking. The Tier 2 modeling did not predict (or did not provide information regarding) 2007 or 2030 violations for a number of areas for which other available ozone modeling has shown 2007 violations, or for which the history and current degree of nonattainment indicates some risk of ozone violations in 2007 or beyond. These nine areas had a 1996 population of 30 million people. They include seven ozone nonattainment areas in California (Los Angeles, San Diego, Southeast Desert, Sacramento, Ventura County, San Joaquin Valley, and San Francisco), and two Texas areas (Beaumont-Port Arthur and Dallas). A more detailed discussion is presented in the Draft RIA. The following section will discuss the air quality prospects of these 42 areas (*i.e.,* the 33 shown in Table II.B–1, plus the nine additional areas identified in this paragraph).

For the final rule, the Agency plans to use the same modeling system as was used in its Tier 2 air quality analysis with updated inventory estimates for 2030 and a further characterization of the inventory estimates for the interim period between 2007 and 2030 We plan to release the products of these revised analyses into the public record on a continuous basis as they are developed. Interested parties should check docket number A–99–06 periodically for updates.

ii. Areas At Risk of Exceeding the 1-Hour Ozone Standard

This section presents the Agency's conclusions about the risk of future nonattainment for the 42 areas identified above. These areas are listed in Table II.B–2, and are subdivided into three groups. The following discussion follows the groupings from top to bottom. A more detailed discussion is found in the Draft RIA.

In general, EPA believes that the proposed new standards for heavy-duty vehicles are warranted by a sufficient risk that without these standards, some areas would experience violations of the 1-hour NAAQS at some time during the period when this rulemaking would achieve its emission reductions, despite efforts that EPA, States and localities are now making through SIPs to reach attainment and to preserve attainment by developing and implementing maintenance plans. Because ozone concentrations causing violations of the 1-hour ozone standard are well established to endanger public health and welfare, this indicates that it is appropriate for the Agency to propose setting new standards for heavy-duty vehicles.

Our belief regarding the risk of future violations of the 1-hour NAAQS is based upon our consideration of predictive ozone air quality modeling and analysis we performed for U.S. metropolitan areas for the recent Tier 2 rulemaking, and the predictive ozone modeling and other information that has come to us through the SIP process, and other local air quality modeling for certain areas. We have assessed this information in light of our understanding of the factors that influence ozone concentrations, taking due consideration of current and future federal, state and local efforts to achieve and maintain the ozone standard through air quality planning and implementation.

Ten metropolitan areas that fall within ozone nonattainment areas have statutorily-defined attainment dates of 2007 or 2010, or have requested attainment date extensions to 2007 (including two requests on which we have not yet proposed any action). These 10 areas are listed at the top of Table II.B–2, and are New York City, Houston, Hartford, New London, Chicago, Milwaukee, Dallas, Beaumont-Port Arthur, Los Angeles, and Southeast Desert. The Los Angeles (South Coast Air Basin) ozone attainment demonstration is fully approved, but it is based in part on reductions from new technology measures and actions that have yet to be identified. Accordingly, the State will be able to benefit from, and will need, the reductions from this proposed rule in order to meet the NO_X and VOC shortfalls identified in the South Coast Air Basin's SIP. The 2007 attainment demonstration for the Southeast Desert area is also approved. However, because ozone travels from the South Coast to the Southeast Desert, attainment in the Southeast Desert may depend on progress in reducing ozone levels in the South Coast Air Basin.

The process of developing adequate attainment plans has been difficult. While the efforts by EPA and the States have been more prolonged than expected, they are nearing completion. Of the remaining eight areas discussed above, two—Chicago and Milwaukee—do not have EPA-identified shortfalls in their 1998 attainment demonstrations. However, these two areas are revising their local ozone air quality modeling, which will be taken into account in the final rule. We have recently proposed to approve attainment plans for New York, Houston, Hartford and New London, and we hope to receive attainment plans and propose such approval soon for Dallas and Beaumont-Port Arthur. EPA has proposed, or expects to propose, that attainment in 2007 in each of these six areas depends upon either achieving specified additional emission reductions in the area itself, or achieving ozone reductions in an upwind nonattainment area that has such a shortfall. Those areas with shortfalls will be able to take credit for the expected reductions from the proposed rule in their attainment demonstrations, once the rule is promulgated. We expect to rely in part on these reductions in reaching our final conclusion as to whether each of the eight areas for which we have reviewed an attainment demonstration, or expect to review an attainment demonstration soon, is more likely than not to attain on its respective date, whether or not the State formally relies on these reductions as part of its strategy to fill the identified shortfall in its attainment demonstration, if any.

The proposed new standards for heavy-duty vehicles would help address some of the uncertainties and risks that are inherent in predicting future air quality over a long period. Actual ozone levels may be affected by increased economic growth, unusually severe weather conditions, and unexpectedly large changes in vehicle miles traveled. For example, the emissions and air quality modeling that forms the basis for the 2007-to-2030 emissions and ozone trend described earlier used a 1.7 percent national VMT growth rate. Historical growth in national VMT for LDVs over the last 30 years has averaged 2.7 percent per year, but over the past 10 years, annual VMT growth has fluctuated from 1.2 percent to 3.5 percent. The growth rates can also vary from locality to locality. The reported annual VMT growth rate experienced in Atlanta, a fast-growing metropolitan area, was six percent from 1986–1997, or more than twice the 30-year national average, and year-to-year variations in Atlanta's reported annual VMT ranged from a 12% increase to no increase over the same period. While some factors influencing previous VMT growth rates, such as increased participation of women in the workforce, may be declining, other factors, such as widening suburbanization, more suburb-to-suburb commuting and the rise of healthier and wealthier older age drivers, may result in increased VMT growth rates.[17] Activity by other source

[17] See Tier 2 Response to Comments document for a longer decision.

types also varies due to economic factors. Actual future VMT and other economic growth in specific areas may vary from the best predictions that have been used in each attainment demonstration. Over a number of years, differences in annual growth can cause substantial differences in total emissions. These uncertainties, and others, dictate that a prudent course for the Agency is to protect public health by increasing our confidence that the necessary reductions will be in place. This proposed rulemaking would provide significant and needed reductions to those areas at risk of violating the 1-hour ozone standard during the time period when this rule would take effect.

The reductions from this proposal would begin in 2007 and would continue to grow over time as the existing heavy-duty fleet is replaced by newer vehicles meeting the proposed emission standards. Even assuming attainment is achieved, areas that wish a redesignation to attainment may rely on further reductions generated by this rulemaking to support their 10-year maintenance plan. Even if an area does not choose to seek redesignation, the continuing reductions from this proposed rulemaking would help ensure maintenance with the 1-hour standard after attainment is reached.

Thus, a total of six metropolitan areas need additional measures to meet the shortfalls in the applicable attainment demonstrations, or are subject to ozone transport from an upwind area that has an identified shortfall. In addition, two areas are expected to need additional emission reductions to demonstrate attainment in future SIPs. EPA believes that the States responsible may need, among other reductions, the level of reductions provided by this rule in order to fill the shortfalls. We expect to rely in part on these reductions in reaching our final conclusion as to whether each of the eight areas for which we have reviewed an attainment demonstration is more likely than not to attain on its respective date, whether or not the State formally relies on these reductions as part of its strategy to fill the identified shortfall in its attainment demonstration. As to all ten areas, even if all shortfalls were filled by the States, there is some risk that at least some of the areas will not attain the standards by their attainment dates of 2007, or 2010 for Los Angeles. In that event, the reductions associated with this proposed program, which increase substantially after 2007, would help assure that any residual failures to attain are remedied. Finally, there is also some risk that the areas will be unable to maintain attainment after 2007. Considered collectively, there is a significant risk that some areas would not be in attainment throughout the period when the proposed rule would reduce heavy-duty vehicle emissions.

The next group of 26 areas have required attainment dates prior to 2007, or have no attainment date but are subject to a general obligation to have a SIP that provides for attainment and maintenance. EPA and the States are pursuing the established statutory processes for attaining and maintaining the ozone standard where it presently applies. EPA has also proposed to re-apply the ozone standard to the remaining areas. The Agency believes that there is a significant risk that future air quality in a number of these areas would exceed the ozone standard at some time in the 2007 and later period. This belief is based on three factors: (1) Recent exceedances in 1995–1997 or 1996–1998, (2) predicted exceedances in 2007 or 2030 after accounting for reductions from Tier 2 and other local or regional controls currently in place or required, and (3) our assessment of the magnitude of recent violations, the variability of meteorological conditions, transport from areas with later attainment dates, and other variables inherent in predicting future attainment such as the potential for some areas to experience unexpectedly high economic growth rates, growth in vehicle miles traveled, varying population growth from area to area, and differences in vehicle choice.

Only a subset of these areas have yet adopted specific control measures that have allowed the Agency to fully approve an attainment plan. For some of these areas, we have proposed a finding, based on all the available evidence, that the area will attain on its attainment date. In one case, we have proposed that an area will maintain over the required 10-year time period. However, in many cases, these proposals depend on the State adopting additional emission reduction measures. The draft RIA provides more information on our recent proposals on attainment demonstrations and maintenance plans.[18] Until the SIPs for these areas are actually submitted, reviewed and approved, there is some risk that these areas will not adopt fully approvable SIPs. Furthermore, some of these areas are not under a current requirement to obtain EPA approval for an attainment plan. The mechanisms to get to attainment in areas without a requirement to submit an attainment demonstration are less automatic, and more uncertain. Even with suitable plans, implementation success is uncertain, and therefore there is some risk that 2007 attainment, or maintenance thereafter, would not happen.

Finally, there are six additional metropolitan areas, with another 11.4 million people in 1996, for which the available ozone modeling and other evidence is less clear regarding the need for additional reductions. These areas include Biloxi-Gulfport-Pascagoula, MS, Cleveland-Akron, OH, Detroit-Ann Arbor-Flint, MI, New Orleans, LA, Pensacola, FL, and Tampa, FL. Our own ozone modeling predicted these six areas to need further reductions to avoid exceedances in 2007 or 2030. The recent air quality monitoring data for these six areas shows ozone levels with less than a 10 percent margin below the NAAQS. This suggests that ozone concentrations in these areas may remain below the NAAQS for some time, but we believe there is still a risk of that future ozone levels will be above the NAAQS because meteorological conditions may be more severe in the future.

In sum, without these reductions, there is a significant risk that an appreciable number of the 42 areas, with a population of 123 million people in 1996, will violate the 1-hour ozone standard during the time period when these proposed standards will apply to heavy-duty vehicles. The 42 areas consist of the 27 areas with predicted exceedances in 2007 or 2030 under Tier 2 air quality modeling and recent violations of the 1-hour ozone standard, plus seven California areas (South Coast Air Basin, San Diego, Ventura County, Southeast Desert, San Francisco, San Joaquin Valley, Sacramento), two Texas areas (Dallas and Beaumont-Port Arthur), and six areas that have recent ozone concentrations within 10% of exceeding the standard and predicted exceedances. Additional information about these areas is provided in the draft RIA.

iii. Conclusion

We have reviewed the air quality situation of three broad groups of areas: (1) Those areas with recent violations of the ozone standard and attainment dates in 2007 or 2010, (2) those areas with recent violations and attainment dates (if any) prior to 2007, and (3) those areas with recent ozone concentrations within 10% of a violation of the 1-hour ozone

[18] We have recently proposed favorable action, in some cases with a condition that more emission reductions be obtained, on attainment demonstrations in these areas with attainment dates prior to 2007: Philadelphia, Washington-Baltimore, Atlanta, and St. Louis. We expect to give final approval soon to a maintenance plan and redesignation to attainment for Cincinnati.

standard, with predicted exceedances, and without proposed or approved SIP attainment demonstrations. In general, the evidence summarized in this section, and presented in more detail in the draft RIA, supports the Agency's belief that emissions of NO_X and VOC from heavy-duty vehicles in 2007 and later will contribute to a national ozone air pollution problem that warrants regulatory attention under section 202(a)(3) of the Act.

TABLE II.B–2

Metropolitan area/State	Proposed reinstatement of ozone standard	1996 population (in millions)
Areas with 2007/2010 Attainment Dates (Established or Requested):		
New York City, NY-NJ-CT		19.9
Houston, TX		4.3
Hartford, CT		1.1
New London, CT		1.3
Chicago, IL-IN		8.6
Milwaukee, WI		1.6
Dallas, TX		4.6
Beaumont-Port Arthur, TX		0.4
Los Angeles, CA		15.5
Southeast Desert, CA		0.4
Subtotal of 10 areas		57.7
Areas with Pre-2007 Attainment Dates or No Specific Attainment Date, with a Recent History of Nonattainment:**		
Atlanta, GA		3.5
Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD		6.0
Sacramento, CA		1.5
San Joaquin Valley, CA *possible future reclassification and change of attainment date to 2005		2.7
Ventura County, CA		0.7
Washington-Baltimore, DC-MD-VA-WV		7.2
Charlotte-Gastonia, NC	X	1.3
Grand Rapids, MI	X	1.0
Huntington-Ashland, WV-KY	X	0.3
Indianapolis, IN	X	1.5
Memphis, TN	X	1.1
Nashville, TN	X	1.1
Barnstable-Yarmouth, MA	X	0.2
Boston-Worcester-Lawrence, MA	X	5.6
Houma, LA	X	0.2
Providence-Fall River-Warwick, RI-MA	X	1.1
Richmond-Petersburg, VA	X	1.0
Benton Harbor, MI	X	0.2
Baton Rouge, LA		0.6
Birmingham, AL		0.9
Cincinnati-Hamilton, OH-KY-IN*		1.9
Louisville, KY-IN		0.3
Pittsburgh, PA MSA		2.4
San Diego, CA		2.8
San Francisco Bay Area, CA		6.2
St. Louis, MO-IL		2.5
Subtotal of 26 areas		53.8
Areas with Pre-2007 Attainment Dates and Recent Concentrations within 10% of an Exceedance, But With No Recent History of Nonattainment:		
Biloxi-Gulfport-Pascagoula, MS MSA	X	0.3
Cleveland-Akron, OH CMSA	X	2.9
Detroit-Ann Arbor-Flint, MI CMSA	X	5.3
New Orleans, LA MSA	X	0.3
Pensacola, FL MSA	X	0.4
Tampa, FL MSA	X	2.2
Subtotal of 6 areas		11.4
Total 1996 Population of All Areas at Risk of Exceeding the Ozone Standard in 2007 or Thereafter:		
42 Areas—total population		122.9

*Based on more recent air quality monitoring data not considered in the Tier 2 analysis, and on 10-year emissions projections, we expect to redesignate Cincinnati-Hamilton to attainment soon.

**The list includes certain areas that are currently not violating the 1-hour NAAQS.

c. Public Health and Welfare Concerns From Prolonged and Repeated Exposures to Ozone

A large body of scientific literature regarding health and welfare effects of ozone has associated health effects with certain patterns of ozone exposures that do not include any hourly ozone concentration above the 0.12 parts per million (ppm) level of the 1-hour NAAQS. The science indicates that there are health effects attributable to prolonged and repeated exposures to lower ozone concentrations. Studies of 6 to 8 hour exposures showed health effects from prolonged and repeated exposures at moderate levels of exertion to ozone concentrations as low as 0.08

ppm. Prolonged and repeated ozone concentrations at these levels are common in areas throughout the country, and are found in areas that are exceeding, and areas that are not exceeding, the 1-hour ozone standard. For example, in 1998, almost 62 million people lived in areas with 2 or more days with concentrations of 0.09 ppm or higher, excluding areas currently violating the 1-hour NAAQS. Since prolonged exposures at moderate levels of ozone are more widespread than exceedances of the 1-hour ozone standard, and given the continuing nature of the 1-hour ozone problem described above, adverse health effects from this type of ozone exposure can reasonably be anticipated to occur in the future in the absence of this rule. Adverse welfare effects can also be anticipated, primarily from damage to vegetation. See the draft RIA for further details.

Studies of acute health effects have shown transient pulmonary function responses, transient respiratory symptoms, effects on exercise performance, increased airway responsiveness, increased susceptibility to respiratory infection, increased hospital and emergency room visits, and transient pulmonary respiratory inflammation. Such acute health effects have been observed following prolonged exposures at moderate levels of exertion at concentrations of ozone well below the current standard of 0.12 ppm. The effects are more pronounced at concentrations above 0.09 ppm, affecting more subjects or having a greater effect on a given subject in terms of functional changes or symptoms. A more detailed discussion may be found in the Draft RIA.

With regard to chronic health effects, the collective data have many ambiguities, but provide suggestive evidence of chronic effects in humans. There is a biologically plausible basis for considering the possibility that repeated inflammation associated with exposure to ozone over a lifetime, as can occur with prolonged exposure to moderate ozone levels below peak levels, may result in sufficient damage to respiratory tissue that individuals later in life may experience a reduced quality of life, although such relationships remain highly uncertain.

We believe that the evidence in the Draft RIA regarding the occurrence of adverse health effects due to prolonged and repeated exposure to ozone concentrations in the range discussed above, and regarding the populations that are expected to receive exposures at these levels, supports a conclusion that emissions of NO_X, and VOC from heavy-duty vehicles in 2007 and later will be contributing to a national air pollution problem that warrants regulatory attention under section 202(a)(3) of the Act.

Ozone has many welfare effects, with damage to plants being of most concern. Plant damage affects crop yields, forestry production, and ornamentals. The adverse effect of ozone on forests and other natural vegetation can in turn cause damage to associated ecosystems, with additional resulting economic losses. Ozone concentrations of 0.10 ppm can be phytotoxic to a large number of plant species, and can produce acute injury and reduced crop yield and biomass production. Ozone concentrations at or below 0.10 ppm have the potential over a longer duration of creating chronic stress on vegetation that can result in reduced plant growth and yield, shifts in competitive advantages in mixed populations, decreased vigor, and injury from other environmental stresses. The forestry, crop and other environmental damage from ozone in times and places where the 1-hour NAAQS is attained adds support to the Agency's belief that there will be air pollution in 2007 and thereafter that warrants regulatory attention under section 202(a)(3) of the Act.

2. Particulate Matter

a. Health and Welfare Effects

i. Particulate Matter Generally

Particulate matter (PM) represents a broad class of chemically and physically diverse substances. It can be principally characterized as discrete particles that exist in the condensed (liquid or solid) phase spanning several orders of magnitude in size. All particles equal to and less than 10 microns are called PM_{10}. Fine particles can be generally defined as those particles with an aerodynamic diameter of 2.5 microns or less (also known as $PM_{2.5}$), and coarse fraction particles are those particles with an aerodynamic diameter greater than 2.5 microns, but equal to or less than a nominal 10 microns. The health and environmental effects of PM are strongly related to the size of the particles.

The emission sources, formation processes, chemical composition, atmospheric residence times, transport distances and other parameters of fine and coarse particles are distinct. Fine particles are directly emitted from combustion sources and are formed secondarily from gaseous precursors such as sulfur dioxide, nitrogen oxides, or organic compounds. Fine particles are generally composed of sulfate, nitrate, chloride and ammonium compounds; organic and elemental carbon; and metals. Combustion of coal, oil, diesel, gasoline, and wood, as well as high temperature process sources such as smelters and steel mills, produce emissions that contribute to fine particle formation. In contrast, coarse particles are typically mechanically generated by crushing or grinding and are often dominated by resuspended dusts and crustal material from paved or unpaved roads or from construction, farming, and mining activities. Fine particles can remain in the atmosphere for days to weeks and travel through the atmosphere hundreds to thousands of kilometers, while coarse particles deposit to the earth within minutes to hours and within tens of kilometers from the emission source.

Particulate matter, like ozone, has been linked to a range of serious respiratory health problems. Scientific studies suggest a likely causal role of ambient particulate matter (which is attributable to a number of sources including diesel) in contributing to a series of health effects. The key health effects categories associated with ambient particulate matter include premature mortality, aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions and emergency room visits, school absences, work loss days, and restricted activity days), aggravated asthma, acute respiratory symptoms, including aggravated coughing and difficult or painful breathing, chronic bronchitis, and decreased lung function that can be experienced as shortness of breath. For additional information on health effects, see the draft RIA. Both fine and coarse particles can accumulate in the respiratory system. Exposure to fine particles is most closely associated with such health effects as premature mortality or hospital admissions for cardiopulmonary disease. PM also causes damage to materials and soiling. It is a major cause of substantial visibility impairment in many parts of the U.S.

Diesel particles are a component of both coarse and fine PM, but fall mostly in the fine range. Noncancer health effects associated with exposure to diesel PM overlap with some health effects reported for ambient PM including respiratory symptoms (cough, labored breathing, chest tightness, wheezing), and chronic respiratory disease (cough, phlegm, chronic bronchitis and some evidence for decreases in pulmonary function).

ii. Special Considerations for Diesel PM

Primary diesel particles mainly consist of carbonaceous material, ash (trace metals), and sulfuric acid. Many of these particles exist in the atmosphere as a carbon core with a coating of organic carbon compounds, sulfuric acid and ash, sulfuric acid aerosols, or sulfate particles associated with organic carbon.

Most diesel particles are in the fine and ultrafine size range. Diesel PM contains small quantities of numerous mutagenic and carcinogenic compounds. While representing a very small portion (less than one percent) of the national emissions of metals, and a small portion of diesel particulate matter (one to five percent), we note that several trace metals of toxicological significance are also emitted by diesel engines in small amounts including chromium, manganese, mercury and nickel. In addition, small amounts of dioxins have been measured in diesel exhaust, some of which may partition into the particle phase, though the impact of these emissions on human health is not clear.

Because the chemical composition of diesel PM includes these hazardous air pollutants, or air toxics, diesel PM emissions are of concern to the agency beyond their contribution to general ambient PM. Moreover, as discussed in detail in the draft RIA, there have been health studies specific to diesel PM emissions which indicate potential hazards to human health that appear to be specific to this emissions source. For chronic exposure, these hazards included respiratory system toxicity and carcinogenicity. Acute exposure also causes transient effects (a wide range of physiological symptoms stemming from irritation and inflammation mostly in the respiratory system) in humans though they are highly variable depending on individual human susceptibility.

b. Potential Cancer Effects of Diesel Exhaust

The EPA draft Health Assessment Document for Diesel Emissions (draft Assessment) is currently being revised based on comments received from the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board.[19] The current EPA position is that diesel exhaust is a likely human lung carcinogen and that this cancer hazard exists for occupational and environmental levels of exposure.[20]

In evaluating the available research for the draft Assessment, EPA found that individual epidemiological studies numbering about 30 show increased lung cancer risks associated with diesel emissions within the study populations of 20 to 89 percent depending on the study. Analytical results of pooling the positive study results show that on average the risks were increased by 33 to 47 percent. Questions remain about the influence of other factors (e.g., effect of smoking), the quality of the individual epidemiology studies, exposure levels, and consequently the precise magnitude of the increased risk of lung cancer. From a weight of the evidence perspective, EPA believes that the epidemiology evidence, as well as supporting data from certain animal and mode of action studies, support the Agency's proposed conclusion that exposure to diesel exhaust is likely to pose a human health hazard at occupational exposure levels, as well as to the general public exposed to typically lower environmental levels of diesel exhaust.

Risk assessments on epidemiological studies in the peer-reviewed literature which have attempted to assess the lifetime risk of lung cancer in workers occupationally exposed to diesel exhaust suggests that lung cancer risk may range from 10^{-4} to 10^{-}.[21 22 23] The Agency recognizes the significant uncertainties in these studies, and has not used these estimates to assess the possible cancer unit risk associated with ambient exposure to diesel exhaust.

While available evidence supports EPA's conclusion that diesel exhaust is a likely human lung carcinogen, and thus is likely to pose a cancer hazard to humans, the absence of quantitative estimates of the lung cancer unit risk for diesel exhaust limits our ability to quantify with confidence the actual magnitude of the cancer risk. In the draft 1999 Assessment, EPA acknowledged these limitations and provided a discussion of the possible cancer risk consistent with general occupational epidemiological findings of increased lung cancer risk and relative exposure ranges in the occupational and environmental settings.[24] The Agency believes that the techniques that were used in the draft Assessment to qualitatively gauge the potential for and possible magnitude of risk are reasonable. The details of this approach are provided in the draft RIA.

In the absence of a quantitative unit cancer risk to assess environmental risk, EPA has considered the relevant epidemiological studies and principles for their assessment, the risk from occupational exposure as assessed by others, and relative exposure margins between occupational and ambient environmental levels of diesel exhaust exposure. Based on this epidemiological and other information, there is the potential that upper bounds on environmental cancer risks from diesel exhaust may exceed 10^{-6} and could be as high as 10^{-3}.[25] While uncertainty exists in estimating risk, the likely hazard to humans together with the potential for significant environmental risks leads the Agency to believe that diesel exhaust emissions should be reduced in order to protect the public's health. We believe that this is a prudent measure in light of the designation of diesel exhaust as a likely human carcinogen, the exposure of almost the entire population to diesel exhaust, the significant and consistent finding of an increase in lung cancer risk in workers exposed to diesel exhaust, and the potential overlap and/or small difference between some occupational and environmental exposures.

As discussed in section I.C.6, ''Actions in California'', the Office of Environmental Health Hazard

[19] U.S. EPA (1999) Health Assessment Document for Diesel Emissions: SAB Review Draft. EPA/600/8–90/057D Office of Research and Development, Washington, DC. The document is available electronically at www.epa.gov/ncea/diesel.htm.

[20] The EPA designation of diesel exhaust as a likely human carcinogen is subject to further comment by CASAC in 2000. The designation of diesel exhaust as a likely human carcinogen under the 1996 Proposed Guidelines for Carcinogen Risk Assessment is very similar to the current 1986 Guidelines for Carcinogen Risk Assessment that designate diesel exhaust as a probable carcinogen (B–1 carcinogen). The new guidelines, once finalized, will incorporate a narrative approach to assist the risk manager in the interpretation of the carcinogen's mode of action, the weight of evidence, and any risk related exposure-response or protective exposure recommendations.

[21] California Environmental Protection Agency, Office of Health Hazard Assessment (CAL-EPA, OEHHA) (1998) Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant. Appendix III Part B Health Risk Assessment for Diesel Exhaust. April 22, 1998.

[22] Steenland, K., Deddens, J., Stayner, L. (1998) Diesel Exhaust and Lung Cancer in the Trucking Industry: Exposure-Response Analyses and Risk Assessment. Am. J Indus. Medicine 34:220–228.

[23] Harris, J.E. (1983) Diesel emissions and Lung Cancer. Risk Anal. 3:83–100.

[24] See Chapter 8.3 and 9.6 of the draft Health Assessment for Diesel Exhaust. U.S. EPA (1999) Health Assessment Document for Diesel Emissions: SAB Review Draft. EPA/600/8–90/057D Office of Research and Development, Washington, D.C. The document is available electronically at www.epa.gov/ncea/diesel.htm.

[25] As used in this proposal, environmental risk is defined as the risk (i.e. a mathematical probability) that lung cancer would be observed in the population after a lifetime exposure to diesel exhaust. Exposure levels may be occupational lifetime or environmental lifetime exposures. A population risk in the magnitude of 10^{-6} translates as the probability of lung cancer being evidenced in one person in one million over a lifetime exposure.

Assessment (OEHHA, California EPA) has identified diesel PM as a toxic air contaminant.[26] California is in the process of determining the need for, and appropriate degree of control measures for diesel PM. Apart from the EPA draft Assessment and California EPA's actions, several other agencies and governing bodies have designated diesel exhaust or diesel PM as a ''potential'' or ''probable'' human carcinogen.[27 28 29] The International Agency for Research on Cancer (IARC) considers diesel exhaust a ''probable'' human carcinogen and the National Institutes for Occupational Safety and Health have classified diesel exhaust a ''potential occupational carcinogen.'' Thus, the concern for the health hazard resulting from diesel exhaust exposures is widespread.

c. Noncancer Effects of Diesel Exhaust

The noncancer effects of diesel exhaust emissions are also of concern to the Agency. EPA believes that chronic diesel exhaust exposure, at sufficient exposure levels, increases the hazard and risk of an adverse consequence (including respiratory tract irritation/inflammation and changes in lung function). The draft 1999 Assessment discussed an existing inhalation reference concentration (RfC) for chronic effects that EPA intends to revise in the next draft Assessment in response to CASAC comments. The revised RfC will be reviewed by CASAC at a future meeting. An RfC provides an estimate of the continuous human inhalation exposure (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious noncancer effects during a lifetime.

d. Attainment and Maintenance of the PM_{10} NAAQS

Under the CAA, we are to regulate HD emissions if they contribute to air pollution that can reasonably be anticipated to endanger public health and welfare. We have already addressed the question of what concentration patterns of PM endanger public health, in setting the NAAQS for PM_{10} in 1987. The PM NAAQS were revised in 1997, largely by adding new standards for fine particles ($PM_{2.5}$) and modifying the form of the daily PM_{10} standard. On judicial review, the revised standards were remanded for further proceedings, and the revised PM_{10} standards were vacated. EPA has sought Supreme Court review of that decision; pending final resolution of the litigation, the 1987 PM_{10} standards continue to apply.

i. Current PM_{10} Nonattainment

The most recent PM_{10} monitoring data indicates that 12 designated PM_{10} nonattainment areas, with a population of 19 million in 1990, violated the PM_{10} NAAQS in the period 1996–1998. Table II.B–3 lists the 12 areas. The table also indicates the classification and 1990 population for each area.

TABLE II.B–3.—PM_{10} NONATTAINMENT AREAS VIOLATING THE PM_{10} NAAQS IN 1996–1998[a]

Area	Classification	1990 population (millions)
Clark Co., NV	Serious	0.741
El Paso, TX[b]	Moderate	0.515
Hayden/Miami, AZ	Moderate	0.003
Imperial Valley, CA[b]	Moderate	0.092
Owens Valley, CA	Serious	0.018
San Joaquin Valley, CA	Serious	2.564
Mono Basin, CA	Moderate	0.000
Phoenix, AZ	Serious	2.238
Fort Hall Reservation, ID	Moderate	0.001
Los Angeles South Coast Air Basin, CA	Serious	13.00
Nogales, AZ	Moderate	0.019
Wallula, WA[c]	Moderate	0.048
Total population		19.24

[a] In addition to these designated nonattainment areas, there are 15 unclassified counties, with a 1996 population of 4.2 million, for which States have reported PM_{10} monitoring data for this period indicating a PM_{10} NAAQS violation. Although we do not believe that we are limited to considering only designated nonattainment areas as part of this rulemaking, we have focused on the designated areas in the case of PM_{10}. An official designation of PM_{10} nonattainment indicates the existence of a confirmed PM_{10} problem that is more than a result of a one-time monitoring upset or a result of PM_{10} exceedances attributable to natural events. We have not yet excluded the possibility that one or the other of these is responsible for the monitored violations in 1996–1998 in the 15 unclassified areas. We adopted a policy in 1996 that allows areas whose PM_{10} exceedances are attributable to natural events to remain unclassified if the State is taking all reasonable measures to safeguard public health regardless of the source of PM_{10} emissions. Areas that remain unclassified areas are not required to submit attainment plans, but we work with each of these areas to understand the nature of the PM_{10} problem and to determine what best can be done to reduce it.

[b] EPA has determined that PM_{10} nonattainment in these areas is attributable to international transport. While reductions in heavy-duty vehicle emissions cannot be expected to result in attainment, they will reduce the degree of PM_{10} nonattainment to some degree.

[c] The violation in this area has been determined to be attributable to natural events.

ii. Risk of Future Exceedances of the PM_{10} Standard

The proposed new standards for heavy-duty vehicles will benefit public health and welfare through reductions in direct diesel particles and NO_X, VOCs, and SO_X which contribute to secondary formation of particulate matter. Because ambient particle concentrations causing violations of the PM_{10} standard are well established to endanger public health and welfare, this information supports the proposed new standards for heavy-duty vehicles. The Agency's recent PM modeling analysis

[26] Office of Environmental Health Hazard Assessment (1998) Health risk assessment for diesel exhaust, April 1998. California Environmental Protection Agency, Sacramento, CA.

[27] National Institute for Occupational Safety and Health (NIOSH) (1988) Carcinogenic effects of exposure to diesel exhaust. NIOSH Current Intelligence Bulletin 50. DHHS, Publication No. 88–116. Centers for Disease Control, Atlanta, GA.

[28] International Agency for Research on Cancer (1989) Diesel and gasoline engine exhausts and some nitroarenes, Vol. 46. Monographs on the evaluation of carcinogenic risks to humans. World Heath Organization, International Agency for Research on Cancer, Lyon, France.

[29] World Health Organization (1996) Diesel fuel and exhaust emissions: International program on chemical safety. World Health Organization, Geneva, Switzerland.

performed for the Tier 2 rulemaking predicts that a significant number of areas across the nation are at risk of failing to meet the PM_{10} NAAQS even with Tier 2 and other controls currently in place. These reductions will assist states as they work with the Agency through SIP development and implementation of local controls to move their areas into attainment by the applicable deadline, and maintain the standards thereafter.

The Agency believes that the PM_{10} concentrations in 10 areas shown in Table II.B–4 have a significant risk of exceeding the PM_{10} standard without further emission reductions during the time period when this rulemaking would take effect. This belief is based on the PM_{10} modeling conducted for the Tier 2 rulemaking. Table II.B–4 presents information about these 10 areas and subdivides them into two groups. The first group of six areas are designated PM_{10} nonattainment areas which had recent monitored violations of the PM_{10} NAAQS in 1996–1998 and were predicted to be in nonattainment in 2030 in our PM_{10} air quality modeling. These areas have a population of over 19 million. Included in the group are the nonattainment areas that are part of the Los Angeles, Phoenix, and Las Vegas metropolitan areas, where traffic from heavy-duty vehicles is substantial. These six areas would clearly benefit from the reductions in emissions that would occur from the proposed new standards for heavy-duty vehicles.

The second group of four counties listed in Table II.B–4 with a total of 8 million people in 1996 also had predicted exceedances of the PM_{10} standard. However, while these four areas registered, in either 1997 or 1998, single-year annual average monitored PM_{10} levels of at least 90 percent of the PM_{10} NAAQS, these areas did not exceed the formal definition of the PM_{10} NAAQS over the three-year period ending in 1998.[30] Unlike the situation for ozone, for which precursor emissions are generally declining over the next 10 years or so before beginning to increase, we estimate that emissions of PM_{10} will rise steadily unless new controls are implemented. The small margin of attainment which the four areas currently enjoy will likely erode; the PM air quality modeling suggests that it will be reversed. We therefore consider these four areas to each individually have a significant risk of exceeding the PM_{10} standard without further emission reductions. The emission reductions from the proposed new standards for heavy-duty vehicles would help these areas with attainment and maintain in conjunction with other processes that are currently moving these areas towards attainment.

TABLE II.B–4.—AREAS WITH SIGNIFICANT RISK OF EXCEEDING THE PM_{10} NAAQS WITHOUT FURTHER EMISSION REDUCTIONS

Area	1990 population (millions)
Areas Currently Exceeding the PM_{10} Standard:	
Clark Co., NV	0.741
El Paso, TX [a]	0.515
Imperial Valley, CA [a]	0.092
San Joaquin Valley, CA	2.564
Phoenix, AZ	2.238
Los Angeles South Coast Air Basin, CA	13.00
Subtotal for 6 Areas	19.15
Areas within 10% of Exceeding the PM_{10} Standard:	
New York Co., NY	1.49
Cuyahoga Co., OH	1.41
Harris, Co., TX	2.83
San Diego Co., CA	2.51
Subtotal for 4 Areas	8.24
Total 1996 Population of All 10 Areas at Risk of Exceeding the PM_{10} Standard: 10 Areas, Total 1990 Population	27.39

[a] EPA has determined that PM_{10} nonattainment in these areas is attributable to international transport. While reductions in heavy-duty vehicle emissions cannot be expected to result in attainment, they will reduce the degree of PM_{10} nonattainment to some degree.

Future concentrations of ambient particulate matter may be influenced by the potentially significant influx of diesel-powered cars and light trucks into the light duty vehicle fleet. At the present time, virtually all cars and light trucks being sold are gasoline fueled. However, the possibility exists that diesels will become more prevalent in the car and light-duty truck fleet, since automotive companies have announced their desire to increase their sales of diesel cars and light trucks. For the Tier 2 rulemaking, the Agency performed a sensitivity analysis using A.D.Little's ''most likely'' increased growth scenario of diesel penetration into the light duty vehicle fleet which culminated in a 9 percent and 24 percent penetration of diesel vehicles in the LDV and LDT markets, respectively, in 2015 (see Tier 2 RIA, Table III.A.–13). This scenario is relevant for the purpose of this rulemaking because, according to the analysis performed in Tier 2, an increased number of diesel-powered light duty vehicles will increase LDV PM emissions by about 13 percent in 2010 rising to 19 percent in 2030, even with the stringent new PM standards established under the Tier 2 rule. If manufacturers elect to certify a portion of their diesel-powered LDVs to the least-stringent PM standard available under the Tier 2 bin structure, the increase in LDV PM emissions could be

[30] In fact, in two of these areas, New York Co., NY and Harris Co., TX, the average PM_{10} level in 1998 was above the 50 micrograms per cubic meter value of the NAAQS. These two areas are not characterized in Table II.B–4 as areas with a high risk of failing to attain and maintain because lower PM_{10} levels in 1996 and 1997 caused their three-year average PM_{10} level to be lower than the NAAQS. Official nonattainment determinations for the annual PM_{10} NAAQS are made based on the average of 12 quarterly PM_{10} averages.

even greater, thus potentially exacerbating PM_{10} nonattainment problems.

EPA recognizes that the SIP process is ongoing and that many of the six current nonattainment areas in Table II.B–4 are in the process of, or will be adopting additional control measures to achieve the PM_{10} NAAQS in accordance with their attainment dates under the Clean Air Act. EPA believes, however, that as in the case of ozone, there are uncertainties inherent in any demonstration of attainment that is premised on forecasts of emission levels and meteorology in future years. Therefore, even if these areas adopt and submit SIPs that EPA is able to approve as demonstrating attainment of the PM_{10} standard, the modeling conducted for Tier 2 and the history of PM_{10} levels in these areas indicates that there is still a significant risk that these areas would need the reductions from the proposed heavy-duty vehicle standards to maintain the PM_{10} standards in the long term. The other four areas in Table II.B–4 also have a significant risk of experiencing violations of the PM_{10} standard.

In sum, the Agency believes that all 10 areas have a significant risk of experiencing particulate matter levels that violate the PM_{10} standard during the time period when this proposed rule would take effect. These 10 areas have a combined population of 27 million, and are located throughout the nation. In addition, this list does not fully consider the possibility that there are other areas which are now meeting the PM_{10} NAAQS that have at least a significant probability of requiring further reductions to continue to maintain it.

e. Public Health and Welfare Concerns From Exposure to Fine PM

Many epidemiologic studies have shown statistically significant associations of ambient PM levels with a variety of human health endpoints in sensitive populations, including mortality, hospital admissions and emergency room visits, respiratory illness and symptoms measured in community surveys, and physiologic changes in mechanical pulmonary function. These effects have been observed in many areas with ambient PM levels at or below the current PM_{10} NAAQS. The epidemiologic science points to fine PM as being more strongly associated with some health effects, such as premature mortality, than coarse fraction PM.

Associations of both short-term and long-term PM exposure with most of the above health endpoints have been consistently observed. (A more detailed discussion may be found in the RIA.) The general internal consistency of the epidemiologic data base and available findings have led to increasing public health concern, due to the severity of several studied endpoints and the frequent demonstration of associations of health and physiologic effects with ambient PM levels at or below the current PM_{10} NAAQS. The weight of epidemiologic evidence suggests that ambient PM exposure has affected the public health of U.S. populations. Specifically, increased mortality associated with fine PM was observed in cities with longer-term average fine PM concentrations in the range of 16 to 21 ug/m3. For example, over 113 million people (46 percent of continental US population, 1990) lived in areas in 1996 where long term ambient fine particulate matter levels were at or above 16 $\mu g/m^3$, which is the long term average $PM_{2.5}$ concentration that prevailed in Boston during the study which found that acute mortality was statistically significantly associated with daily fine PM concentrations.[31] It is reasonable to anticipate that sensitive populations exposed to similar or higher levels, now and in the 2007 and later time frame, will also be at increased risk of premature mortality associated with exposures to fine PM. In addition, statistically significant relationships have also been observed in U.S. cities between PM levels and increased respiratory symptoms and decreased lung functions in children.

While uncertainty remains in the published data base regarding specific aspects about the nature and magnitude of the overall public health risk imposed by ambient PM exposure, we believe that the body of health evidence is supportive of our view that PM exposures that can reasonably be anticipated to occur in the future are a serious public health concern warranting a requirement to reduce emissions from heavy-duty vehicles, even at levels below the PM_{10} NAAQS. EPA believes the risk is significant from an overall public health perspective because of the large number of individuals in sensitive populations that we expect to be exposed to ambient fine PM in the 2007 and later time frame, as well as the importance of the negative health affects.

We believe the evidence regarding the occurrence of adverse health effects due to exposure to fine PM concentrations, and regarding the populations that are expected to receive exposures at these levels, supports a proposed conclusion that emissions from heavy-duty vehicles that lead to the formation of fine PM in 2007 and later will be contributing to a national air pollution problem that warrants action under section 202(a)(3).

f. Visibility and Regional Haze Effects of Ambient PM

Visibility impairment, also called regional haze, is a complex problem caused by a variety of sources, both natural and anthropogenic (*e.g.,* motor vehicles). Regional haze masks objects on the horizon and reduces the contrast of nearby objects. The formation, extent, and intensity of regional haze are functions of meteorological and chemical processes, which sometimes cause fine particle loadings to remain suspended in the atmosphere for several days and to be transported hundreds of kilometers from their sources (NRC, 1993).

Visibility has been defined as the degree to which the atmosphere is transparent to visible light (NRC, 1993). Visibility impairment is caused by the scattering and absorption of light by particles and gases in the atmosphere. Fine particles (0.1 to 1.0 microns in diameter) are more effective per unit mass concentration at impairing visibility than either larger or smaller particles (NAPAP, 1991). Most of the diesel particle mass emitted by diesel engines falls within this fine particle size range. Light absorption is often caused by elemental carbon, a product of incomplete combustion from activities such as burning diesel fuel or wood. These particles cause light to be scattered or absorbed, thereby reducing visibility.

Heavy-duty vehicles contribute a significant portion of the emissions of direct PM, NO_X, and SO_X that result in ambient PM that contributes to regional haze and impaired visibility. The Grand Canyon Visibility Transport Commission's report found that reducing total mobile source emissions is an essential part of any program to protect visibility in the Western U.S. The Commission identified mobile source pollutants of concern as VOC, NO_X, and elemental and organic carbon. The Western Governors Association, in later commenting on the Regional Haze Rule and on protecting the 16 Class I

[31] In the absence of quality-assured $PM_{2.5}$ monitoring data, we have used an air quality model called Regional Modeling System for Aerosols and Deposition (REMSAD) to estimate recent $PM_{2.5}$ concentrations across the U.S. for 1996. Essentially, REMSAD is a three-dimensional grid-based Eulerian air quality model designed to simulate long-term (*e.g.,* annual) concentrations and deposition of atmospheric pollutants (*e.g.,* particulates and toxics) over large spatial scales (e.g., over the contiguous United States). A more detailed explanation of the methodology is found in the draft RIA.

areas on the Colorado Plateau, stated that the federal government, and particularly EPA, must do its part in regulating emissions from mobile sources that contribute to regional haze in these areas. As described more fully later in this section, today's proposal would result in large reductions in these pollutants. These reductions are expected to provide an important step towards improving visibility across the nation. Emissions reductions being achieved to attain the 1-hour ozone and PM_{10} NAAQS will assist in visibility improvements, but not substantially. Moreover, the timing of the reductions from the proposed standards fits very well with the goals of the regional haze program. We will work with the regional planning bodies to make sure they have the information to take account of the reductions from any final rule resulting from this proposal in their planning efforts.

The Clean Air Act contains provisions designed to protect national parks and wilderness areas from visibility impairment. In 1999, EPA promulgated a rule that will require States to develop plans to dramatically improve visibility in national parks. Although it is difficult to determine natural visibility levels, we believe that average visual range in many Class I areas in the United States is significantly less (about 50–66% of natural visual range in the West, about 20% of natural visual range in the East) than the visual range that would exist without anthropogenic air pollution. The final Regional Haze Rule establishes a 60-year time period for planning purposes, with several near term regulatory requirements, and is applicable to all 50 states. One of the obligations is for States to conduct visibility monitoring in mandatory Class I Federal areas and determine baseline conditions using data for year 2000 to 2004. Reductions of particles, NO_X, sulfur, and VOCs from this rulemaking would have a significant impact on moving all states towards achieving long-term visibility goals, as outlined in the 1999 Regional Haze Rule.

g. Other Welfare Effects Associated With PM

The deposition of airborne particles reduces the aesthetic appeal of buildings, and promotes and accelerates the corrosion of metals, degrades paints, and deteriorates building materials such as concrete and limestone. This materials damage and soiling are related to the ambient levels of airborne particulates, which are emitted by heavy-duty vehicles. Although there was insufficient data to relate materials damage and soiling to specific concentrations, and thereby to allow the Agency to establish a secondary PM standard for these impacts, we believe that the welfare effects are real and that heavy-duty vehicle PM, NO_X, SO_X, and VOC contribute to materials damage and soiling.

h. Conclusions Regarding PM

There is a significant risk that, despite statutory requirements and EPA and state efforts towards attainment and maintenance, some areas of the U.S. will violate the PM_{10} NAAQS in 2007 and thereafter. We believe that the information provided in this section shows that there will be air pollution that warrants regulatory attention under section 202(a)(3) of the Act. Heavy-duty vehicles contribute substantially to PM_{10} levels, as shown in section II.C below.

It is also reasonable to anticipate that concentrations of fine PM, as represented for example by $PM_{2.5}$ concentrations, will endanger public health and welfare also even if all areas attain and maintain the PM_{10} NAAQS. Heavy-duty vehicles will also contribute to this air pollution problem.

There are also important environmental impacts of PM_{10}, such as regional haze which impairs visibility. Furthermore, while the evidence on soiling and materials damage is limited and the magnitude of the impact of heavy-duty vehicles on these welfare effects is difficult to quantify, these welfare effects support our belief information that this proposal is necessary and appropriate.

3. Other Criteria Pollutants

The standards being proposed today would help reduce levels of three other pollutants for which NAAQS have been established: carbon monoxide (CO), nitrogen dioxide (NO_2), and sulfur dioxide (SO_2). The extent of nonattainment for these three pollutants is small, so the primary effect of today's proposal would be to provide areas concerned with maintaining their attainment status a greater margin of safety. As of 1998, every area in the United States has been designated to be in attainment with the NO_2 NAAQS. As of 1997, only one area (Buchanan County, Missouri) did not meet the primary SO_2 short-term standard, due to emissions from the local power plant. In 1997, only 6 of 537 monitoring sites reported ambient CO levels in excess of the CO NAAQS. There are currently 20 designated CO nonattainment areas, with a combined population of 34 million. There are also 23 designated maintenance areas with an additional combined population of 34 million. The broad trends indicate that ambient levels of CO are declining.

4. Other Air Toxics

In addition to NO_x and particulates, heavy-duty vehicle emissions contain several other substances that are known or suspected human or animal carcinogens, or have serious noncancer health effects. These include benzene,1,3-butadiene, formaldehyde, acetaldehyde, acrolein, and dioxin. For some of these pollutants, heavy-duty engine emissions are believed to account for a significant proportion of total nation-wide emissions. Although these emissions will decrease in the short term, they are expected to increase in 2007–2020 without the proposed emission limits, as the number of miles traveled by heavy-duty trucks increases. In the Draft RIA, we present current and projected exposures to benzene, 1,3-butadiene, formaldehyde, and acetaldehyde from all on-highway motor vehicles.

By reducing hydrocarbon and other organic emissions, both in gas phase and bound to particles, the emission control program proposed in today's action would have a significant impact on direct emissions of air toxics from HDVs. We are also proposing a new formaldehyde standard for heavy-duty vehicles. Today's action would reduce exposure to these substances and therefore help reduce the impact of HDV emissions on cancer and non-cancer health effects. We are currently conducting a risk assessment to assess the risk of cancer in the population that can be attributed to motor vehicle emissions of benzene, 1,3-butadiene, formaldehyde, and acetaldehyde.

a. Benzene

Highway mobile sources account for 52 percent of nationwide emissions of benzene and HDVs account for 7 percent of all highway vehicle benzene emissions.[32] The EPA has recently reconfirmed that benzene is a known human carcinogen by all routes of exposure (including leukemia at high, prolonged air exposures), and is associated with additional health effects including genetic changes in humans and animals and increased proliferation

[32] 1990 Emissions Inventory of Forty Potential Section 112(k) Pollutants: Supporting Data for EPA's Section 112(k) Regulatory Strategy—Final Report. Emission Factors and Inventory Group, Office of Air Quality Planning and Standards, May, 1999.

of bone marrow cells in mice.[33 34 35] EPA believes that the data indicate a causal relationship between benzene exposure and acute lymphocytic leukemia and suggest a relationship between benzene exposure and chronic non-lymphocytic leukemia and chronic lymphocytic leukemia. Respiration is the major source of human exposure and at least half of this exposure is attributable to gasoline vapors and automotive emissions. A number of adverse noncancer health effects including blood disorders, such as preleukemia and aplastic anemia, have also been associated with low-dose, long-term exposure to benzene.

b. 1,3-Butadiene

Highway mobile sources account for 51 percent of the annual emissions of 1,3-butadiene and HDVs account for 15 percent of the highway vehicle portion. Today's program would play an important role in reducing in the mobile contribution of 1,3-butadiene. This compound causes a variety of reproductive and developmental effects in mice and rats exposed to long-term, low doses. There is, however, no human data on 1,3-butadiene. EPA's recently prepared draft health assessment document presents evidence that suggests this substance is a known human carcinogen.[36] The Environmental Health Committee of EPA's Science Advisory Board, in reviewing EPA's draft Health Assessment for 1,3-butadiene, recommended that 1,3-butadiene should be classified as a probable human carcinogen.[37]

c. Formaldehyde

Highway mobile sources contribute 27 percent of the national emissions of formaldehyde, and HDVs account for 35 percent of the highway portion. EPA has classified formaldehyde as a probable human carcinogen based on evidence in humans and in rats, mice, hamsters, and monkeys.[38] Epidemiological studies in occupationally exposed workers suggest that long-term inhalation of formaldehyde may be associated with tumors of the nasopharyngeal cavity (generally the area at the back of the mouth near the nose), nasal cavity, and sinus. Formaldehyde exposure also causes a range of noncancer health effects, including irritation of the eyes (tearing of the eyes and increased blinking) and mucous membranes. Sensitive individuals may experience these adverse effects at lower concentrations than the general population and in persons with bronchial asthma, the upper respiratory irritation caused by formaldehyde can precipitate an acute asthmatic attack.

d. Acetaldehyde

Highway mobile sources contribute 20 percent of the national acetaldehyde emissions and HDVs are responsible for approximately 33 percent of these highway mobile source emissions. Acetaldehyde is classified as a probable human carcinogen and is considered moderately toxic by the inhalation, oral, and intravenous routes. The primary acute effect of exposure to acetaldehyde vapors is irritation of the eyes, skin, and respiratory tract. At high concentrations, irritation and pulmonary effects can occur, which could facilitate the uptake of other contaminants.

e. Acrolein

HDVs are responsible for approximately 53 percent of the mobile source highway emissions and about 8% of the total inventory (1996 NTI). Acrolein is extremely toxic to humans when inhaled, with acute exposure resulting in upper respiratory tract irritation and congestion. The Agency has developed a reference concentration for inhalation (RfC) of acrolein of 0.02 micrograms/m^3.[39] Although no information is available on its carcinogenic effects in humans, based on laboratory animal data, EPA considers acrolein a possible human carcinogen.

f. Dioxins

Recent studies have confirmed that dioxins are formed by and emitted from heavy-duty diesel trucks. These trucks are estimated to account for 1.2 percent of total dioxin emissions. In general, dioxin exposures of concern have primarily been noninhalation exposures associated with human ingestion of certain foods (*e.g.,* beef, vegetables, and dairy products contaminated by dioxin). EPA has classified dioxin as a probable human carcinogen. Acute and chronic effects have also been reported for dioxin from oral and inhalation routes of exposure.[40]

5. Other Environmental Effects

a. Acid Deposition

Acid deposition, or acid rain as it is commonly known, occurs when SO_2 and NO_X react in the atmosphere with water, oxygen, and oxidants to form various acidic compounds that later fall to earth in the form of precipitation or dry deposition of acidic particles.[41] It contributes to damage of trees at high elevations and in extreme cases may cause lakes and streams to become so acidic that they cannot support aquatic life. In addition, acid deposition accelerates the decay of building materials and paints, including irreplaceable buildings, statues, and sculptures that are part of our nation's cultural heritage. To reduce damage to automotive paint caused by acid rain and acidic dry deposition, some manufacturers use acid-resistant paints, at an average cost of $5 per vehicle—a total of $61 million per year if applied to all new cars and trucks sold in the U.S.

Acid deposition primarily affects bodies of water that rest atop soil with a limited ability to neutralize acidic compounds. The National Surface Water Survey (NSWS) investigated the effects of acidic deposition in over 1,000 lakes larger than 10 acres and in thousands of miles of streams. It found that acid deposition was the primary cause of acidity in 75 percent of the acidic lakes and about 50 percent of the acidic streams, and that the areas most sensitive to acid rain were the Adirondacks, the mid-Appalachian highlands, the upper Midwest and the high elevation West. The NSWS found that approximately 580 streams in the Mid-Atlantic Coastal Plain are acidic primarily due to acidic deposition. Hundreds of the lakes in the Adirondacks surveyed in the NSWS

[33] International Agency for Research on Cancer, IARC monographs on the evaluation of carcinogenic risk of chemicals to humans, Volume 29, Some industrial chemicals and dyestuffs, International Agency for Research on Cancer, World Health Organization, Lyon, France, p. 345–389, 1982.

[34] Irons, R.D., W.S. Stillman, D.B. Calogiovanni, and V.A. Henry, Synergistic action of the benzene metabolite hydroquinone on myelopoietic stimulating activity of granulocyte/macrophage colony-stimulating factor *in vitro*, Proc. Natl. Acad. Sci. 89:3691–3695, 1992.

[35] Environmental Protection Agency, Carcinogenic Effects of Benzene: An Update, National Center for Environmental Assessment, Washington, DC. 1998.

[36] Environmental Protection Agency, Health Risk Assessment of 1,3-Butadiene. EPA/600/P–98/001A, February 1998.

[37] An SAB Report: Review of the Health Risk Assessment of 1,3-Butadiene. EPA–SAB–EHC–98, August, 1998.

[38] Environmental Protection Agency, Assessment of health risks to garment workers and certain home residents from exposure to formaldehyde, Office of Pesticides and Toxic Substances, April 1987.

[39] U.S. EPA (1993) Environmental Protection Agency, Integrated Risk Information System (IRIS), Office of Health and Environmental Assessment, Environmental Criteria and Assessment Office, Cincinnati, OH.

[40] U.S. EPA (1994) Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) and Related Compounds: Volume III Summary Draft Document. EPA/600/BP–92/001c.

[41] Much of the information in this subsection was excerpted from the EPA document, Human Health Benefits from Sulfate Reduction, written under Title IV of the 1990 Clean Air Act Amendments, U.S. EPA, Office of Air and Radiation, Acid Rain Division, Washington, DC 20460, November 1995.

have acidity levels incompatible with the survival of sensitive fish species. Many of the over 1,350 acidic streams in the Mid-Atlantic Highlands (mid-Appalachia) region have already experienced trout losses due to increased stream acidity. Emissions from U.S. sources contribute to acidic deposition in eastern Canada, where the Canadian government has estimated that 14,000 lakes are acidic. Acid deposition also has been implicated in contributing to degradation of high-elevation spruce forests that populate the ridges of the Appalachian Mountains from Maine to Georgia. This area includes national parks such as the Shenandoah and Great Smoky Mountain National Parks.

The SO_X and NO_X reductions from today's proposal would help reduce acid rain and acid deposition, thereby helping to reduce acidity levels in lakes and streams throughout the country and help accelerate the recovery of acidified lakes and streams and the revival of ecosystems adversely affected by acid deposition. Reduced acid deposition levels would also help reduce stress on forests, thereby accelerating reforestation efforts and improving timber production. Deterioration of our historic buildings and monuments, and of buildings, vehicles, and other structures exposed to acid rain and dry acid deposition also would be reduced, and the costs borne to prevent acid-related damage may also decline. While the reduction in sulfur and nitrogen acid deposition would be roughly proportional to the reduction in SO_X and NO_X emissions, respectively, the precise impact of today's proposal would differ across different areas.

b. Eutrophication and Nitrification

Nitrogen deposition into bodies of water can cause problems beyond those associated with acid rain. The Ecological Society of America has included discussion of the contribution of air emissions to increasing nitrogen levels in surface waters in a recent major review of causes and consequences of human alteration of the global nitrogen cycle in its Issues in Ecology series.[42] Long-term monitoring in the United States, Europe, and other developed regions of the world shows a substantial rise of nitrogen levels in surface waters, which are highly correlated with human-generated inputs of nitrogen to their watersheds. These nitrogen inputs are dominated by fertilizers and atmospheric deposition.

Human activity can increase the flow of nutrients into those waters and result in excess algae and plant growth. This increased growth can cause numerous adverse ecological effects and economic impacts, including nuisance algal blooms, dieback of underwater plants due to reduced light penetration, and toxic plankton blooms. Algal and plankton blooms can also reduce the level of dissolved oxygen, which can also adversely affect fish and shellfish populations. This problem is of particular concern in coastal areas with poor or stratified circulation patterns, such as the Chesapeake Bay, Long Island Sound, or the Gulf of Mexico. In such areas, the ''overproduced'' algae tends to sink to the bottom and decay, using all or most of the available oxygen and thereby reducing or eliminating populations of bottom-feeder fish and shellfish, distorting the normal population balance between different aquatic organisms, and in extreme cases causing dramatic fish kills.

Collectively, these effects are referred to as eutrophication, which the National Research Council recently identified as the most serious pollution problem facing the estuarine waters of the United States (NRC, 1993). Nitrogen is the primary cause of eutrophication in most coastal waters and estuaries.[43] On the New England coast, for example, the number of red and brown tides and shellfish problems from nuisance and toxic plankton blooms have increased over the past two decades, a development thought to be linked to increased nitrogen loadings in coastal waters. Airborne NO_X contributes from 12 to 44 percent of the total nitrogen loadings to United States coastal water bodies. For example, approximately one-quarter of the nitrogen in the Chesapeake Bay comes from atmospheric deposition.

Excessive fertilization with nitrogen-containing compounds can also affect terrestrial ecosystems.[44] Research suggests that nitrogen fertilization can alter growth patterns and change the balance of species in an ecosystem. In extreme cases, this process can result in nitrogen saturation when additions of nitrogen to soil over time exceed the capacity of the plants and microorganisms to utilize and retain the nitrogen. This phenomenon has already occurred in some areas of the U.S.

Deposition of nitrogen from heavy-duty vehicles contributes to these problems. In the Chesapeake Bay region, modeling shows that mobile source deposition occurs in relatively close proximity to highways, such as the I–95 corridor which covers part of the Bay surface. The proposed new standards for heavy-duty vehicles would reduce total NO_X emissions by 2.8 million tons in 2030. The NO_X reductions should reduce the eutrophication problems associated with atmospheric deposition of nitrogen into watersheds and onto bodies of water, particularly in aquatic systems where atmospheric deposition of nitrogen represents a significant portion of total nitrogen loadings.

c. POM Deposition

EPA's Great Waters Program has identified 15 pollutants whose deposition to water bodies has contributed to the overall contamination loadings to the these Great Waters.[45] One of these 15 pollutants, a group known as polycyclic organic matter (POM), are compounds that are mainly adhered to the particles emitted by mobile sources and later fall to earth in the form of precipitation or dry deposition of particles. The mobile source contribution of the 7 most toxic POM is at least 62 tons/year and represents only those POM that adhere to mobile source particulate emissions.[46] The majority of these emissions are produced by diesel engines.

POM is generally defined as a large class of chemicals consisting of organic compounds having multiple benzene rings and a boiling point greater than 100°C. Polycyclic aromatic hydrocarbons are a chemical class that is a subset of POM. POM are naturally occurring substances that are byproducts of the incomplete combustion of fossil fuels and plant and animal biomass (e.g., forest fires). Also, they occur as byproducts from steel and

[42] Vitousek, Peter M., John Aber, Robert W. Howarth, Gene E. Likens, et al. 1997. Human Alteration of the Global Nitrogen Cycle: Causes and Consequences. Issues in Ecology. Published by Ecological Society of America, Number 1, Spring 1997.

[43] Much of this information was taken from the following EPA document: Deposition of Air Pollutants to the Great Waters-Second Report to Congress, Office of Air Quality Planning and Standards, June 1997, EPA–453/R–97–011. A Third Report to Congress on Deposition of Air Pollutants to the Great Waters will be forthcoming the the next month. We will update this section with information from the Third Report in the final rule.

[44] Terrestrial nitrogen deposition can act as a fertilizer. In some agricultural areas, this effect can be beneficial.

[45] Much of this information was taken from the following EPA document: Deposition of Air Pollutants to the Great Waters-Second Report to Congress, Office of Air Quality Planning and Standards, June 1997, EPA–453/R–97–011. You are referred to that document for a more detailed discussion. A Third Report to Congress on Deposition of Air Pollutants to the Great Waters will be forthcoming the the next month. We will update this section with information from the Third Report in the final rule.

[46] The 1996 National Toxics Inventory, Office of Air Quality Planning and Standards, October 1999.

coke productions and waste incineration.

Evidence for potential human health effects associated with POM comes from studies in animals (fish, amphibians, rats) and in human cells culture assays. Reproductive, developmental, immunological, and endocrine (hormone) effects have been documented in these systems. Many of the compounds included in the class of compounds known as POM are classified by EPA as probable human carcinogens based on animal data.

The particulate reductions from today's proposal would help reduce not only the particulate emissions from highway diesel engines but also the deposition of the POM adhering to the particles, thereby helping to reduce health effects of POM in lakes and streams, accelerate the recovery of affected lakes and streams, and revive the ecosystems adversely affected.

C. Contribution from Heavy-Duty Vehicles

Nationwide, heavy-duty vehicles contribute about 15 percent of the total NO_X inventory, and 29 percent of the mobile source inventory. Heavy-duty NO_X emissions also contribute to fine particulate concentrations in ambient air due to the transformation in the atmosphere to nitrates. The NO_X reductions resulting from today's proposed standards would therefore have a considerable impact on the national NO_X inventory. Light and heavy-duty mobile sources account for 24 percent of the PM_{10} (excluding the contribution of miscellaneous and natural sources), and heavy-duty vehicles account for 14 percent of the mobile source portion of national PM_{10} emissions. The heavy-duty portion of the inventory is often greater in the cities, and the reductions proposed in this rulemaking would have a relatively greater benefit in those areas.

1. NO_X Emissions

Heavy-duty vehicles are important contributors to the national inventories of NO_X emissions, and they contribute moderately to national VOC pollution. The Draft RIA for this proposal describes in detail recent emission inventory modeling completed by EPA. HDVs are expected to contribute approximately 15 percent of annual NO_X emissions in 2007 (Table II.C–1).

TABLE II.C–1.—2007 HEAVY-DUTY VEHICLE CONTRIBUTION TO URBAN NO_X INVENTORIES

[Amounts in percent]

Metropolitan statistical area	Portion of total NO_X	Portion of mobile source NO_X
National	15%	29%
Albuquerque	25%	38%
Atlanta	23%	36%
San Francisco	23%	29%
Spokane	23%	29%
Seattle	22%	26%
Dallas	22%	28%
Charlotte	21%	34%
Washington	20%	37%
Los Angeles	20%	26%
San Antonio	20%	31%
New York	19%	30%
Miami	18%	23%
Phoenix	18%	28%
Philadelphia	18%	30%
Cleveland	17%	30%
St. Louis	16%	34%

The contribution of heavy-duty vehicles to NO_X inventories in many MSAs is significantly greater than that reflected in the national average. For example, HDV contributions to NO_X in Albuquerque, Atlanta, San Francisco, Spokane, Seattle, and Dallas are projected to be 22 to 25 percent of the MSA-specific inventories in 2007, which is significantly higher than the national average. These data are based largely on our Tier 2 inventories and have been adjusted to reflect new information regarding the VMT split between light-duty and heavy-duty vehicles as discussed in the draft RIA. These data will be further updated for the final rule to reflect more recent modeling.

2. PM Emissions

Nationally, we estimate that primary emissions of PM_{10} to be about 33.2 million tons/year in 2007. Fugitive dust, other miscellaneous sources and crustal material (wind erosion) comprise approximately 90 percent of the 2007 PM_{10} inventory. However, there is evidence from ambient studies that emissions of these materials may be overestimated and/or that once emitted they have less of an influence on monitored PM concentration than this inventory share would suggest. Mobile sources account for 24 percent of the PM_{10} inventory (excluding the contribution of miscellaneous and natural sources) and highway heavy-duty engines, the subject of today's action, account for 14 percent of the mobile source portion of national PM_{10} emissions.

The contribution of heavy-duty vehicle emissions to total PM emissions in some metropolitan areas is substantially higher than the national average. This is not surprising, given the high density of these engines operating in these areas. For example, in Albuquerque, Pittsburgh, St. Louis, and Atlanta, the estimated 2007 highway heavy-duty vehicle contribution to mobile source PM_{10} ranges from 16 to 21 percent, and the national percent contribution to mobile sources for 2007 is projected to be about 14 percent. As illustrated in Table II.C–2 , heavy-duty vehicles operated Washington, Fairbanks, Billings, and Detroit also account for a slightly higher portion of the mobile source PM inventory than the national average. These data are based largely on our Tier 2 inventories and have been adjusted to reflect new information regarding the VMT split between light-duty and heavy-duty vehicles as discussed in the draft RIA. These data will be further updated for the final rule to reflect more recent modeling. Importantly, these estimates do not include the contribution from secondary PM which is an important component of diesel PM.

TABLE II.C–2.—2007 HEAVY-DUTY VEHICLE CONTRIBUTION TO URBAN MOBILE SOURCE PM INVENTORIES

Metropolitan statistical area	PM_{10} contribution from HDVs (in percent)
National	14
Albuquerque	21
Pittsburgh	18
St. Louis	17
Atlanta	16
Washington	15
Fairbanks	15
Billings	15
Detroit	15

In addition to the national inventories, investigations have been conducted in certain urban areas which provide information about the contribution of HD diesel vehicles and engines to ambient $PM_{2.5}$ concentrations. This is particularly relevant as diesel PM, for the most part, is composed of fine particles under 2.5 microns. Information about ambient concentrations of diesel PM and the relative contribution of diesel engines to ambient PM levels is available from source-receptor models, dispersion models, and elemental carbon measurements. The most commonly used receptor model for quantifying concentrations of diesel PM at a

receptor site is the chemical mass balance model (CMB). Input to the CMB model includes PM measurements made at the receptor site as well as measurements made of each of the source types suspected to impact the site. Because of problems involving the elemental similarity between diesel and gasoline emission profiles and their co-emission in time and space, it is necessary to carefully quantify chemical molecular species that provide markers for separation of these sources. Recent advances in chemical analytical techniques have facilitated the development of sophisticated molecular source profiles, including detailed speciation of organic compounds, which allow the apportionment of PM to gasoline and diesel sources with increased certainty. Older studies that made use of only elemental source profiles have been published and are summarized here, but are subject to more uncertainty. It should be noted that since receptor modeling is based on the application of source profiles to ambient measurements, this estimate of diesel PM concentrations does not distinguish between on-road and non-road sources for diesel PM. In addition, this model accounts for primary emissions of diesel PM only; the contribution of secondary aerosols is not included.

Dispersion models estimate ambient levels of PM at a receptor site on the basis of emission factors for the relevant sources and the investigator's ability to model the advection, mixing, deposition, and chemical transformation of compounds from the source to the receptor site. Dispersion models can provide the ability to distinguish on-highway from off-highway diesel source contributions and can be used to estimate the concentrations of secondary aerosols from diesel exhaust. Dispersion modeling is being conducted by EPA to estimate county-specific concentrations of, and exposures to, several toxic species, including diesel PM. Results from this model are expected in 2000.

Elemental carbon is a major component of diesel exhaust, contributing approximately 60-80 percent of diesel particulate mass, depending on engine technology, fuel type, duty cycle, lube oil consumption, and state of engine maintenance.[47 48 49 50] In most ambient environments, diesel PM is one of the major contributors to elemental carbon, with other potential sources including gasoline exhaust; combustion of coal, oil, or wood; charbroiling; cigarette smoke; and road dust. Because of the large portion of elemental carbon in diesel PM, and the fact that diesel exhaust is one of the major contributors to elemental carbon in most ambient environments, diesel PM concentrations can be bounded using elemental carbon measurements. One approach for calculating diesel PM concentrations from elemental carbon measurements is presented in the draft Health Assessment Document for Diesel Emissions. The surrogate diesel PM calculation is a useful approach for estimating diesel PM in the absence of a more sophisticated modeling analysis for locations where elemental carbon concentrations are available.

Ambient concentrations of diesel PM reported for the period before 1990 when no nationwide PM controls were in place for HDVs suggest that annually averaged diesel PM levels in urban and suburban environments ranged from approximately 1.9 to 11.6 micrograms/m^3 (Table II.C–3a and Table II.C–3b). On individual days, diesel PM concentrations as high as 22 micrograms/m^3 were reported. Studies reporting annual average diesel PM concentrations in urban and suburban areas after 1990 indicate that diesel PM concentrations range from approximately 0.5 to 3.6 micrograms/m^3, with studies over short periods amidst dense bus traffic averaging 29.2 micrograms/m^3 and ranging up to 46.7 micrograms/m^3 (Table II.C–3a and Table II.C–3b). Dispersion modeling conducted in Southern California reported that the highway contribution to the reported diesel PM levels ranged from 63–89 percent of the total diesel PM (Table II.C–3b). In the two dispersion model studies reporting diesel PM in Southern California in August 1987 and September 1996, secondary formation of diesel PM accounted for 27 percent to 67 percent of the total diesel PM (Table II.C–3b). Using elemental carbon as a surrogate for diesel PM suggests that diesel PM concentrations measured in some urban and rural areas in the 1990s range from approximately 0.4 to 4.5 micrograms/m^3 in urban environments and 0.2 to 1.3 micrograms/m^3 in rural environments (Table II.C–3c).

TABLE II.C–3a.—AMBIENT DIESEL PM CONCENTRATIONS AND CONTRIBUTION TO TOTAL AMBIENT PM_{10} AND $PM_{2.5}$ FROM CHEMICAL MASS BALANCE STUDIES

Location	Year of sampling	Diesel $PM_{2.5}$ µg/m^3	Diesel PM % of total PM
West LA, CA	1982, annual	4.4	13
Pasadena, CA	1982, annual	5.3	19
Rubidoux, CA	1982, annual	5.4	13
Downtown LA, CA [a]	1982, annual	11.6	36
Phoenix area, AZ [b]	1989–90, Winter	*4–22	50
Phoenix, AZ [c]	1994–95, Winter	0–5.3	0–27
California, 15 Air Basins [d]	1988–92, annual	*0.2–3.6	†
Manhattan, NY [e]	1993, Spring, 3 d	*13.2–46.7	31–68
Welby and Brighton, CO [f]	1996–97, Winter, 60 d	0–7.3	0–26

* PM_{10}. The reader should note that 80–95% of diesel PM is $PM_{2.5}$.

† Not Available.

[a] Schauer, J.J., Rogge, W.F., Hildemann, L.M., Mazureik, M.A., Cass, G.R., and B.R.T. Simoneit (1996) Source Apportionment of Airborne particulate Matter Using Organic Compounds as Tracers. Atmos. Environ. 30(22):3837–3855.

[47] Zaebst, D.D., Clapp D.E., Blake L.M., Marlow D.A., Steenland K., Hornung R.W., Scheutzle D. and J. Butler (1991) Quantitative Determination of Trucking Industry Workers Exposures to Diesel Exhaust Particles. Am. Ind. Hyg. Assoc. J., 52:529–541.

[48] Graboski, M. S., McCormick, R.L., Yanowitz, J., and L.B.A. Ryan (1998) Heavy-Duty Diesel Testing for the Northern Front Range Air Quality Study. Colorado Institute for Fuels and Engine Research.

[49] Warner-Selph, M. A., Dietzmann, H.E. (1984) Characterization of Heavy-Duty Motor Vehicle Emissions Under Transient Driving Conditions. Southwest Research Institute. EPA–600/3–84–104.

[50] Pierson, W.R., Brachazek, W. W. (1983) Particulate Matter Associated with Vehicles on the Road. Aerosol Sci. & Tech. 2:1–40.

[b] Chow, J.C., Watson, J.G., Richards, L.W., Haase, D.L., McDade, C., Dietrich, D.L., Moon, D., and C. Sloane (1991) The 1989–1990 Phoenix PM_{10} Study. Volume II: Source Apportionment. Final Report. DRI Document No. 8931.6F1, prepared for Arizona Department of Environmental Air Quality, Phoenix, AZ, by Desert Research Institute, Reno, NV.

[c] Maricopa Association of Governments. The 1999 Brown Cloud Project for the Maricopa Association of Governments Area, Revised Draft Report, November 1999.

[d] California Environmental Protection Agency (1998) Report to the Air Resources Board on the Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant. Appendix III, Part A: Exposure Assessment, April 1998.

[e] Wittorff, D.N., Gertler, A.W., Chow, J.C., Barnard, W.R. Jongedyk, H.A. The Impact of Diesel Particulate Emissions on Ambient Particulate Loadings. Air & Waste Management Association 87th Annual Meeting, Cincinnati, OH, June 19–24, 1994.

[f] Fujita, E., Watson, J.G., Chow, J.C., Robinson, N.F., Richards, L.W., Kumar, N. (1998) The Northern Front Rage Air Quality Study Final Report Volume C: Source Apportionment and Simulation Methods and Evaluation. http://nfraqs.cira.colostate.edu/

TABLE II.C–3b.—AMBIENT DIESEL PM CONCENTRATIONS AND CONTRIBUTION TO TOTAL AMBIENT $PM_{2.5}$ FROM DISPERSION MODELING STUDIES

Location	Year of sampling	Diesel $PM_{2.5}$ μ/m³	Diesel PM % of total PM
Azusa, CA	1982, annual	** 1.4	5
Pasadena, CA	1982, annual	** 2.0	7
Anaheim, CA	1982, annual	** 2.7	12
Long Beach, CA	1982, annual	** 3.5	13
Downtown LA, CA	1982, annual	** 3.5	11
Lennox, CA	1982, annual	** 3.8	13
West LA, CA [a]	1982, annual	** 3.8	16
Claremont, CA [b]	18–19 Aug 1987	2.4	8
Long Beach, CA	24 Sept 1996	+ 1.9(2.6)	8
Fullerton, CA	24 Sept 1996	+ 2.4(3.9)	9
Riverside, CA [c]	25 Sept 1996	+ 4.4(13.3)	12

+ Value in parenthesis includes secondary diesel PM (nitrate, ammonium, sulfate and hydrocarbons) due to atmospheric reactions of primary diesel emissions of NO_X, SO_2 and hydrocarbons.

** On-road diesel vehicles only; All other values are for on-road plus nonroad diesel emissions.

[a] Cass, G.R. and H.A. Gray (1995) Regional Emissions and Atmospheric Concentrations of Diesel Engine Particulate Matter: Los Angeles as a Case Study. In: Diesel Exhaust: A Critical Analysis of Emissions, Exposure, and Health Effects. A Special Report of the Institute's Diesel Working Group. Health Effects Institute, Cambridge, MA, pp. 125–137.

[b] Kleeman, M.J., Cass, G.R. (1999a) Identifying the Effect of Individual Emissions Sources on Particulate Air Quality Within a Photochemical Aerosol Processes Trajectory Model. Atmos. Eviron. 33:4597–4613.

[c] Kleeman, M.J., Hughes, L.S., Allen, J.O., Cass, G.R. (1999b) Source Contributions to the Size and Composition Distribution of Atmospheric Particles: Southern California in September 1996. Environ. Sci. Technol. 33:4331–4351.

TABLE II.C–3c.—AMBIENT DIESEL PM CONCENTRATIONS AND CONTRIBUTION TO TOTAL AMBIENT $PM_{2.5}$ FROM ELEMENTAL CARBON MEASUREMENTS

Location	Year of sampling	Diesel $PM_{2.5}$ μg/m³	Diesel PM % of total PM
Boston, MA	1995, annual	0.7–1.7	3–15
Rochester, NY	1995, annual	0.4–0.8	2–9
Quabbin, MA	1995, annual	0.2–0.6	1–6
Reading, MA	1995, annual	0.4–1.3	2–7
Brockport, NY [a]	1995, annual	0.2–0.5	1–5
Washington, DC [b]	1992–1995, annual	1.3–1.8	6–10
South Coast Air Basin [c]	1995–1996, annual	‡ 2.4–4.5	†

‡ The Multiple Air Toxics Exposure Study in the South Coast Air Basin reported average annual values for 8 sites in the South Coast Basin.

† Not Available.

[a] Salmon, L.G., Cass, G.R., Pedersen, D.U., Durant, J.L., Gibb, R., Lunts, A., and M. Utell (1997) Determination of fine particle concentration and chemical composition in the northeastern United States, 1995. Progress Report to Northeast States for Coordinated Air Use Management (NESCAUM), September 1999.

[b] Sisler, J.F. (1996) Spatial and Seasonal Patterns and Long Term Variability of the Composition of the Haze in the United States: An Analysis of Data from the IMPROVE Network. Cooperative Institute for Research in the Atmosphere. Colorado State University. ISSN: 0737–5352–32.

[c] South Coast Air Quality Management District (2000) Multiple Air Toxics Exposure Study in the South Coast Air Basin (MATES–II), Final Report and Appendices, March 2000.

The city-specific emission inventory analysis and independent investigations of ambient $PM_{2.5}$ summarized here indicate that the contribution of diesel engines to PM inventories in several urban areas around the U.S. is much higher than indicated by the national PM emission inventories only. One possible explanation for this is the concentrated use of diesel engines in certain local or regional areas which is not well represented by the national, yearly average presented in national PM emission inventories. Another reason may be underestimation of the in-use diesel PM emission rates. Our current modeling incorporates deterioration only as would be experienced in properly maintained, untampered vehicles. We are currently in the process of reassessing the rate of in-use deterioration of diesel engines and vehicles which could greatly increase the contribution of HDVs to diesel PM.

Moreover, heavy-duty vehicles will have a more important contributing role in ambient $PM_{2.5}$ concentrations than in ambient PM_{10} concentrations. In addition, the absolute contribution from heavy-duty vehicles is larger in relationship to the numerically lower $PM_{2.5}$ standard, making them more

important to attainment and maintenance.

3. Environmental Justice

Environmental justice is a priority for EPA. The Federal government documented its concern over this issue through issuing Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations (February 11, 1994). This Order requires that federal agencies make achieving environmental justice part of their mission. Similarly, the EPA created an Office of Environmental Justice (originally the Office of Environmental Equity) in 1992, commissioned a task force to address environmental justice issues, oversees a Federal Advisory Committee addressing environmental justice issues (the National Environmental Justice Advisory Council), and has developed an implementation strategy as required under Executive Order 12898.

Environmental justice is a movement promoting the fair treatment of people of all races, income, and culture with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment implies that no person or group of people should shoulder a disproportionate share of any negative environmental impacts resulting from the execution of this country's domestic and foreign policy programs.

For the last several years, environmental organizations and community-based citizens groups have been working together to phase out diesel buses in urban areas. For example, the Natural Resources Defense Council initiated a ''Dump Dirty Diesel'' campaign in the mid-1990s to press for the phase out of diesel buses in New York City. Other environmental organizations operating in major cities such as Boston, Newark, and Los Angeles have joined this campaign. The Coalition for Clean Air worked with NRDC and other experts to perform exposure monitoring in communities located near distribution centers where diesel truck traffic is heavy. These two organizations concluded that facilities with heavy truck traffic are exposing local communities to diesel exhaust concentrations far above the average levels in outdoor air. The report states: ''These affected communities, and the workers at these distribution facilities with heavy diesel truck traffic, are bearing a disproportionate burden of the health [51-62] risks.'' [63] Other diesel ''hot spots'' identified by the groups are bus terminals, truck and bus maintenance facilities, retail distribution centers, and busy streets and highways.

Although the new standards proposed in this rulemaking would not reroute heavy-duty truck traffic or relocate bus terminals, they would be expected to improve air quality across the country and would provide increased protection to the public against a wide range of health effects, including chronic bronchitis, respiratory illnesses, and aggravation of asthma symptoms. These air quality and public health benefits could be expected to mitigate some of the environmental justice concerns related to heavy-duty vehicles since the proposal would provide relatively larger benefits to heavily impacted areas.

D. Anticipated Emissions Benefits

This subsection presents the emission benefits we anticipate from heavy-duty vehicles as a result of our proposed NO_X, PM, and NMHC emission standards for heavy-duty engines. The graphs and tables that follow illustrate the Agency's projection of future emissions from heavy-duty vehicles for each pollutant. The baseline case represents future emissions from heavy-duty vehicles at present standards (including the MY2004 standards). The controlled case quantifies the future emissions of heavy-duty vehicles if the new standards proposed in this rulemaking are finalized and implemented.

1. NO_X Reductions

The Agency expects substantial NO_X reductions on both a percentage and a tonnage basis from this proposal. As illustrated in the following graph, the air quality benefit expected from this proposal is a reduction in NO_X emissions from HDVs of 2.0 million tons in 2020.[64] The Draft RIA provides additional projections between 2007 and 2030. As stated previously, HDVs contribute about 15 percent to the national NO_X inventory for all sources. The NO_X standards proposed in this rule would have a substantial impact on the total NO_X inventory so that in 2030, HDVs under today's proposed standards would account for only 3 percent of the national NO_X inventory. Figure II.D–1 shows our national projections of total NO_X emissions with and without the proposed engine controls. This includes both exhaust and crankcase emissions. The proposed standards should result in about a 90 percent reduction in NO_X from new engines.[65]

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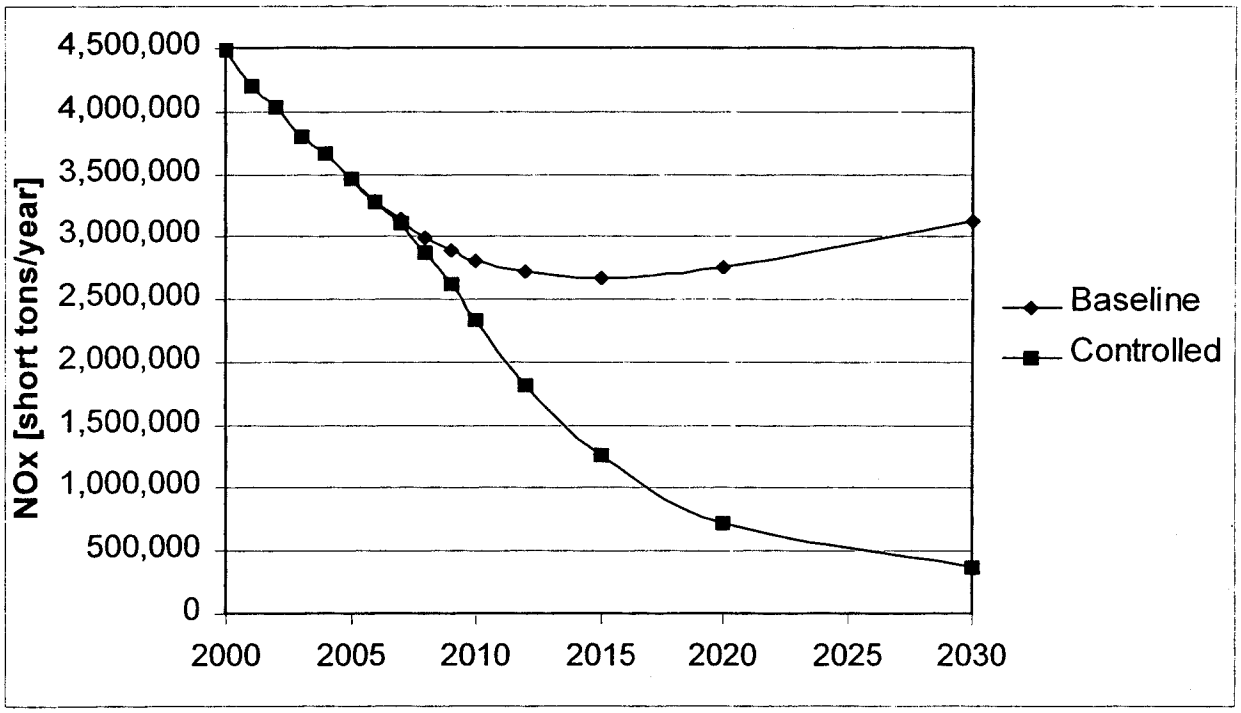
[51-62] [Reserved]

[63] *Exhausted by Diesel: How America's Dependence on Diesel Engines Threatens Our Health,* Natural Resources Defense Council, Coalition for Clean Air, May 1998.

[64] The baseline used for this calculation is the 2004 HDV standards (64 FR 58472). These reductions are in addition to the NO_X emissions reductions projected to result from the 2004 HDV standards.

[65] We include in the NO_X projections excess emissions, developed by the EPA's Office of Enforcement and Compliance, that were emitted from many model year 1988–98 diesel engines. This is described in more detail in Chapter 2 of the draft RIA.

Figure II.D-1: Projected Nationwide Heavy-Duty Vehicle NOx Emissions



2. PM Reductions

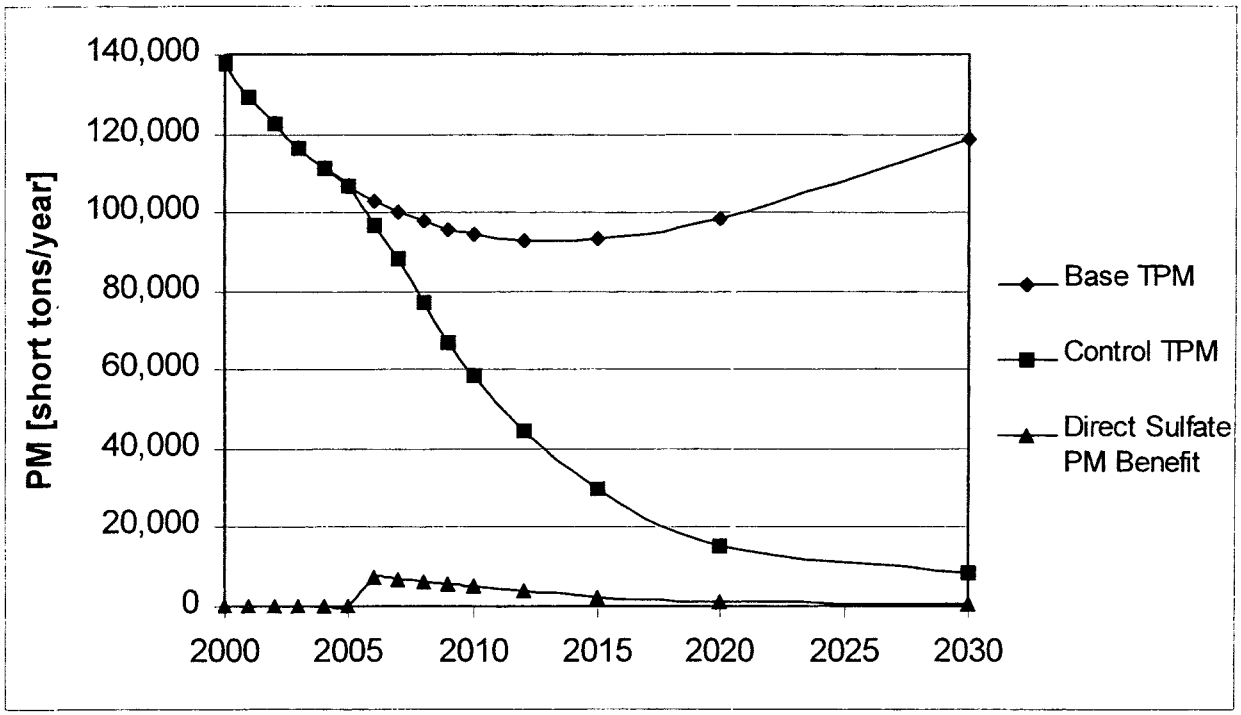
As stated previously, HDVs contribute about 14 percent to the national PM_{10} inventory for mobile sources. The 90 percent reduction in the PM standard for HDVs proposed in this rule would have a substantial impact on the mobile source PM inventory, so that in 2030 HDVs under today's proposed standards would account for only 3 percent of the national mobile source PM inventory.

The majority of the projected PM reductions are directly a result of the proposed exhaust PM standard. However, a modest amount of PM reductions would come from reducing sulfur in the fuel. For the existing fleet of heavy-duty vehicles, a small fraction of the sulfur in diesel fuel is emitted directly into the atmosphere as direct sulfate, and a portion of the remaining fuel sulfur is transformed in the atmosphere into sulfate particles, referred to as indirect sulfate. Reducing sulfur in the fuel decreases the amount of direct sulfate PM emitted from heavy-duty diesel engines and the amount of heavy-duty diesel engine SO_X emissions that are transformed into indirect sulfate PM in the atmosphere.[66] For engines meeting the proposed standards, we consider low sulfur fuel to be necessary to enable the PM control technology. In other words, we do not claim an additional benefit beyond the proposed standard for reductions in direct sulfate PM. However, once the proposed low sulfur fuel requirements go into effect, pre-2007 model year engines would also be using low sulfur fuel. Because these engines would be certified with high sulfur fuel, they would achieve reductions in PM beyond their certification levels.

Figure II.D–2 shows our national projections of total HDV PM emissions with and without the proposed engine controls. This figure includes crankcase emissions and the direct sulfate PM benefits due to the use of low sulfur fuel by the existing fleet. These direct sulfate PM benefits from the existing fleet are also graphed separately. The proposed standards should result in about a 90 percent reduction in total PM from new engines. The proposed low sulfur fuel should result in about a 95 percent reduction in direct sulfate PM from pre-2007 engines. Due to complexities of the conversion and removal processes of sulfur dioxide, we do not attempt to quantify the indirect sulfate reductions that would be derived from this rulemaking. Nevertheless, the Agency believes that these indirect sulfate PM reductions are likely to contribute significant additional benefits to public health and welfare. The air quality benefit of the new PM standards and low sulfur diesel fuel are presented in Figure II.D–2, indicating a 83,000 ton direct PM reduction in 2020.

[66] Sulfate forms a significant portion of total fine particulate matter in the Northeast. Chemical speciation data in the Northeast collected in 1995 shows that the sulfate fraction of fine particulate matter ranges from 20 and 27 percent of the total fine particle mass. *Determination of Fine Particle and Coarse Particle Concentrations and Chemical Composition in the Northeastern United States, 1995,* NESCAUM, prepared by Cass, et al., September 1999.

Figure II.D-2: Projected Nationwide Heavy-Duty Vehicle PM Emissions and Direct Sulfate Emission Reductions

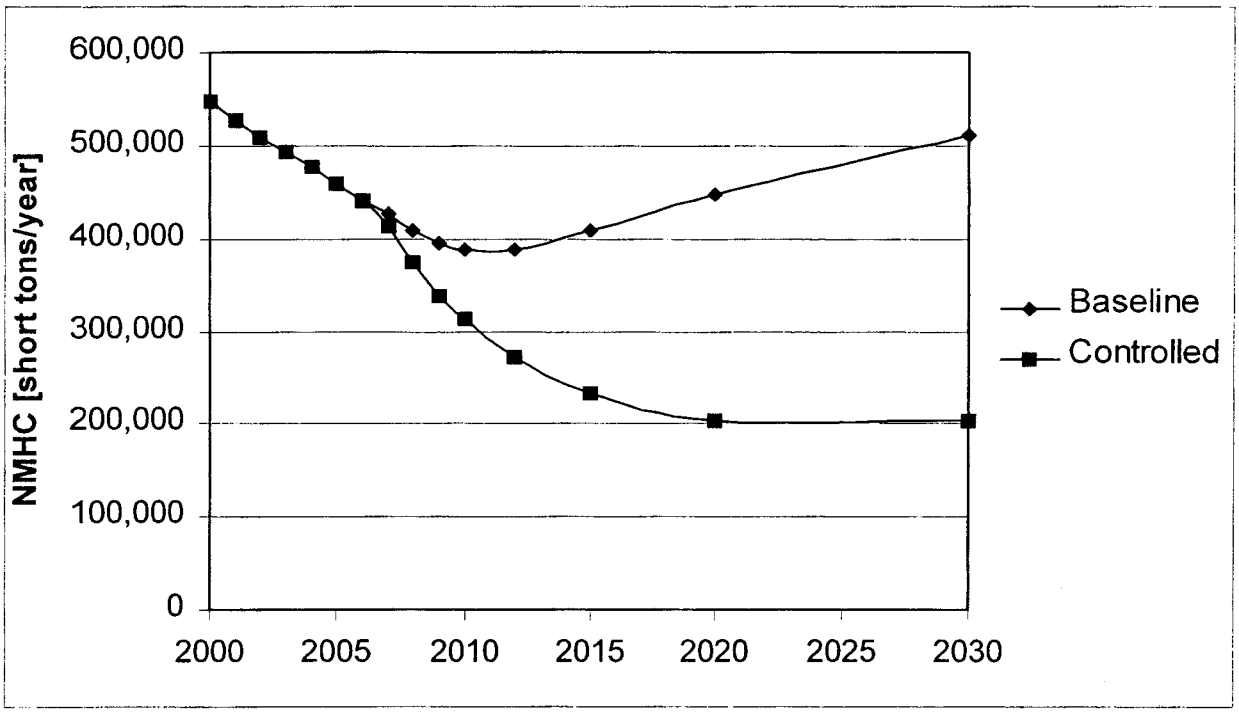


3. NMHC Reductions

The standards described in section III are designed to be feasible for both gasoline and diesel heavy-duty vehicles. The NMHC standards are expected to be more of a challenge for the gasoline vehicles than for the diesel vehicles, however. (The converse is true for the PM standards.) Based on our analysis of the aftertreatment technology described in section III, diesel engines meeting the proposed PM standard are expected to have NMHC emissions levels well below the standard in use. Furthermore, although the proposed standards give manufacturers the same phase-in for NMHC as for NO_X, we model the NMHC reductions for diesel vehicles to be fully in place in 2007. We believe the use of aftertreatment for PM control would cause the NMHC levels to be below the proposed standards as soon as the PM standard goes into effect in 2007. We request comment on this assumption.

HDVs account for about 3 percent of national VOC and 8 percent from mobile sources in 2007. Figure II.D–3 shows our national projections of total NMHC emissions with and without the proposed engine controls. This includes both exhaust emissions and evaporative emissions. As presented in Figure II.D–3, the Agency projects a reduction of 230,000 tons of NMHC in 2020 due to the proposed standards.

Figure II.D-3: Projected Nationwide Heavy-Duty Vehicle NMHC Emissions



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4. Additional Emissions Benefits

This subsection looks at tons/year emission inventories of CO, SO_X, and air toxics from HDEs. Although we are not including stringent standards for these pollutants in our proposed standards, we believe the proposed standards would result in reductions in CO, SO_X, and air toxics. Here, we present our anticipated benefits.

a. CO Reductions

In 2007, HDVs are projected to contribute to approximately 5 percent of national CO and 9 percent of CO from mobile sources. Although it does not propose new CO emission standards, today's proposal would nevertheless be expected to result in a considerable reduction in CO emissions from heavy-duty vehicles. CO emissions from heavy-duty diesel vehicles, although already very low, would likely be reduced by an additional 90 percent due to the presence of aftertreatment devices. CO emissions from heavy-duty gasoline vehicles would also likely decline as the NMHC emissions are decreased. Table II.D–1 presents the projected reductions in CO emissions from HDVs.

TABLE II.D–1.—ESTIMATED REDUCTIONS IN CO

Calendar year	CO benefit (thousand short tons)
2007	71
2010	405
2015	911
2020	1,250
2030	1,640

b. SO_X Reductions

HDVs are projected to emit approximately 0.5 percent of national SO_X and 7 percent of mobile source SO_X in 2007. We are proposing significant reductions in diesel fuel sulfur to enable certain emission control devices to function properly. We expect SO_X emissions to decline as a direct benefit of low sulfur diesel fuel. The majority of these benefits would be from heavy-duty highway diesel vehicles; however, some benefits would also come from highway fuel burned in other applications. As discussed in greater detail in the section on PM reductions, the amount of sulfate particles (direct and indirect) formed as a result of diesel exhaust emissions would decline for all HD diesel engines operated on low sulfur diesel fuel, including the current on-highway HD diesel fleet, and those non-road HD diesel engines that may operate on low sulfur diesel fuel in the future. Table II.D–2 presents our estimates of SO_X reductions resulting from the proposed low sulfur fuel.

TABLE II.D–2.—ESTIMATED REDUCTIONS IN SO_X DUE TO LOW SULFUR FUEL

Calendar year	SO_X benefit (thousand short tons)
2007	101
2010	106
2015	115
2020	124
2030	139

c. Air Toxics Reductions

This proposal establishes new hydrocarbon and formaldehyde standards for heavy-duty vehicles. Hydrocarbons are a broad class of chemical compounds containing carbon and hydrogen. Many forms of hydrocarbons, such as formaldehyde, are directly hazardous and contribute to what are collectively called ''air toxics.'' Air toxics are pollutants known to cause or suspected of causing cancer or other serious human health effects or ecosystem damage. The Agency has identified as least 20 compounds emitted from on-road gasoline vehicles that have toxicological potential, 19 of which are emitted by diesel vehicles as well as an additional 20 compounds which have been listed as toxic air

contaminants by California ARB.[67] [68] This proposal also seeks to reduce emissions of diesel exhaust and diesel particulate matter (see section II.B for a discussion of health effects).

Our assessment of heavy-duty vehicle (gasoline and diesel) air toxics focuses on the following compounds with cancer potency estimates that have significant emissions from heavy-duty vehicles: benzene, formaldehyde, acetaldehyde, and 1,3-butadiene. These compounds are an important, but limited, subset of the total number of air toxics that exist in exhaust and evaporative emissions from heavy-duty vehicles. The reductions in air toxics quantified in this section represent only a fraction of the total number and amount of air toxics reductions expected from the proposed new hydrocarbon standards.

For this analysis, we estimate that air toxic emissions are a constant fraction of hydrocarbon exhaust emissions. Because air toxics are a subset of hydrocarbons, and new emission controls are not expected to preferentially control one type of air toxic over another, the selected air toxics chosen for this analysis are expected to decline by the same percentage amount as hydrocarbon exhaust emissions. We have not performed a separate analysis for the new formaldehyde standard since compliance with the hydrocarbon standard should result in compliance with the formaldehyde standard for all petroleum-fueled engines. The Draft RIA provides more detail on this analysis. Table II.D–3 shows the estimated air toxics reductions associated with the anticipated reductions in hydrocarbons.

TABLE II.D–3.—ESTIMATED REDUCTIONS IN AIR TOXICS

[Short tons]

Calendar year	Benzene	Formaldehyde	Acetaldehyde	1,3-Butadiene
2007	153	831	318	65
2010	932	4,750	1,870	382
2015	2,080	11,400	4,460	909
2020	2,780	15,800	6,120	1,250
2030	3,510	20,500	7,850	1,600

E. Clean Heavy-Duty Vehicles and Low-Sulfur Diesel Fuel Are Critically Important for Improving Human Health and Welfare

Despite continuing progress in reducing emissions from heavy-duty engines, emissions from these engines continue to be a concern for human health and welfare. Ozone continues to be a significant public health problem, and affects not only people with impaired respiratory systems, such as asthmatics, but healthy children and adults as well. Ozone also causes damage to plants and has an adverse impact on agricultural yields. Diesel exhaust also continues to be a significant public health concern.

Today's proposal would reduce NO_X, VOC, CO, PM, and SO_X emissions from these heavy-duty vehicles substantially. These reductions would help reduce ozone levels nationwide and reduce the frequency and magnitude of predicted exceedances of the ozone standard. These reductions would also help reduce PM levels, both by reducing direct PM emissions and by reducing emissions that give rise to secondary PM. The NO_X and SO_X reductions would help reduce acidification problems, and the NO_X reductions would help reduce eutrophication problems. The PM and NO_X standard proposed today would help improve visibility. All of these reductions could be expected to have a beneficial impact on human health and welfare by reducing exposure to ozone, PM, and other air toxics and thus reducing the cancer and noncancer effects associated with exposure to these substances.

III. Heavy-Duty Engine and Vehicle Standards

In this section, we describe the vehicle and engine standards we are proposing today to respond to the serious air quality needs discussed in section II. Specifically, we discuss:

- The CAA and why we are proposing new heavy-duty standards.
- The technology opportunity for heavy-duty vehicles and engines.
- Our proposed HDV and HDE standards, and our proposed phase-in of those standards.
- Why we believe the stringent standards being proposed today are feasible in conjunction with the low-sulfur gasoline required under the recent Tier 2 rule and the low-sulfur diesel fuel being proposed today.
- The effects of diesel fuel sulfur on the ability to meet the proposed standards, and what happens if high sulfur diesel fuel is used.
- A possible reassessment of the technology and diesel fuel sulfur level needed for diesels to comply with today's proposed NO_X standard.

We welcome comment on the levels and timing of the proposed emissions standards, and on the technological feasibility discussion and supporting analyses. We also request comment on the timing of the proposed diesel fuel standard in conjunction with these proposed emission standards. We ask that commenters provide any technical information that supports the points made in their comments.

A. Why Are We Setting New Heavy-Duty Standards?

We are proposing heavy-duty vehicle and engine standards and related provisions under section 202(a)(3) of the CAA which authorizes EPA to establish emission standards for new heavy-duty motor vehicles (see 42 U.S.C. 7521(a)(3)). Section 202(a)(3)(A) requires that such standards ''reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology.'' Section 202(a)(3)(B) allows EPA to take into account air quality information in revising such standards. Because heavy-duty engines contribute greatly to a number of serious air pollution problems, especially the health and welfare effects of ozone, PM, and air toxics, and because millions of Americans live in areas that exceed the

[67] National Air Quality and Emissions Trends Report, 1997, (EPA 1998), p. 74.

[68] California Environmental Protection Agency (1998) Report to the Air Resources Board on the Proposed Identification of Diesel Exhaust as a Toxic Air Contaminant, Appendix III, Part A: Exposure Assessment, April 1998.

national air quality standards for ozone or PM, we believe the air quality need for tighter heavy-duty standards is well founded. This, and our belief that a significant degree of emission reduction from heavy-duty vehicles and engines is achievable through the application of new diesel emission control technology, further refinement of well established gasoline emission controls, and reductions of diesel fuel sulfur levels, leads us to believe that new emission standards are warranted.

B. Technology Opportunity for Heavy-Duty Vehicles and Engines

For the past 30 or more years, emission control development for gasoline vehicles and engines has concentrated most aggressively on exhaust emission control devices. These devices currently provide as much as or more than 95 percent of the emission control on a gasoline vehicle. In contrast, the emission control development work for diesels has concentrated on improvements to the engine itself to limit the emissions leaving the combustion chamber.

However, during the past 15 years, more development effort has been put into diesel exhaust emission control devices, particularly in the area of PM control. Those developments, and recent developments in diesel NO_X control devices, make the advent of diesel exhaust emission controls feasible. Through use of these devices, we believe emission control similar to that attained by gasoline applications will be possible with diesel applications. However, without low-sulfur diesel fuel, these technologies cannot be implemented on heavy-duty or light-duty diesel applications.

Several exhaust emission control devices have been developed to control harmful diesel PM constituents—the diesel oxidation catalyst (DOC), and the many forms of particulate filters, or traps. DOCs have been shown to be durable in use, but they control only a relatively small fraction of the total PM and, consequently, do not address our PM concerns sufficiently. Uncatalyzed diesel particulate traps demonstrated high efficiencies many years ago, but the level of the PM standard was such that it could be met through less costly ''in-cylinder'' control techniques. Catalyzed diesel particulate traps have the potential to provide major reductions in diesel PM emissions and provide the durability and dependability required for diesel applications. Therefore, as discussed in the feasibility portion of this section, at this time we believe the catalyzed PM trap will be the control technology of choice for future control of diesel PM emissions. However, as discussed in detail in the draft RIA, we believe that catalyzed PM traps cannot be brought to market on diesel applications unless low-sulfur diesel fuel is available.

Diesel NO_X control is arguably at an earlier stage of development than is diesel PM control. Even so, several exhaust emission control technologies are being developed to control NO_X emissions, and the industry seems focused on a couple of these as the most promising technologies for enabling lower NO_X emission standards. Diesel selective catalytic reduction, or SCR, has been developed to the point of nearing market introduction in Europe. SCR has significant NO_X control potential, but it also has many roadblocks to marketability in this country. These roadblocks, discussed in more detail in the draft RIA, include infrastructure issues that we believe would prove exceedingly difficult and potentially costly to overcome. Because of that, we believe that the NO_X adsorber is the best technology for delivering significant diesel NO_X reductions while also providing market and operating characteristics necessary for the U.S. market.[69] However, as is discussed in detail in the draft RIA, the NO_X adsorber, like the catalyzed PM trap, cannot be brought to market on diesel applications unless low-sulfur diesel fuel is available.

Improvements have also been made to gasoline emission control technology during the past few years, even the past 12 months. Such improvements include those to catalyst designs in the form of improved washcoats and improved precious metal dispersion. Much effort has also been put into improved cold start strategies that allow for more rapid catalyst light-off. This can be done by retarding the spark timing to increase the temperature of the exhaust gases, and by using air-gap manifolds, exhaust pipes, and catalytic converter shells to decrease heat loss from the system.

These improvements to gasoline emission control have been made in response to the California LEV–II standards and the federal Tier 2 standards. Some of this development work was contributed by EPA in a very short timeframe and with very limited resources in support of our Tier 2 program.[70] These improvements should transfer well to the heavy-duty gasoline segment of the fleet. With such migration of light-duty technology to heavy-duty vehicles and engines, we believe that considerable improvements to heavy-duty emissions can be realized, thus enabling much more stringent standards.

The following discussion provides more detail on the technologies we believe are most capable of enabling very stringent heavy-duty emission standards. The goal of this discussion is to highlight the emission reduction capability of these emission control technologies and to highlight their critical need for diesel sulfur levels as low as those being proposed today. But first, we present the details of the emission standards being proposed today.

C. What Engine and Vehicle Standards Are We Proposing?

1. Heavy-Duty Engine Standards

a. Federal Test Procedure

The emission standards being proposed today for heavy-duty engines are summarized in Table III.C–1.

TABLE III.C–1.—PROPOSED FULL USEFUL LIFE HEAVY-DUTY ENGINE EMISSION STANDARDS AND PHASE-INS

		Standard (g/bhp-hr)	Phase-in by model year (In percent)			
			2007	2008	2009	2010
Diesel	NO_X	0.20	25	50	75	100
	NMHC	0.14				
	HCHO	0.016				
Gasoline	NO_X	0.20	100			
	NMHC	0.14				

[69] The NO_X adsorber was originally developed for stationary source emission control and was subsequently developed for use in the lean operating environment of gasoline direct injection engines.

[70] See Chapter IV.A of the final Tier 2 Regulatory Impact Analysis, contained in Air Docket A–97–10.

TABLE III.C–1.—PROPOSED FULL USEFUL LIFE HEAVY-DUTY ENGINE EMISSION STANDARDS AND PHASE-INS—Continued

		Standard (g/bhp-hr)	Phase-in by model year (In percent)			
			2007	2008	2009	2010
Diesel & Gasoline	HCHO	0.016	100			
	PM	0.01				

With respect to PM, this proposed new standard would represent a 90 percent reduction for most heavy-duty diesel engines from the current PM standard, which was not proposed to change in model year 2004.[71] The current PM standard for most heavy-duty engines, 0.1 g/bhp-hr, was implemented in the 1994 model year; the PM standard for urban buses implemented in that same year was 0.05 g/bhp-hr. The proposed PM standard of 0.01 g/bhp-hr is projected to require the addition of a highly efficient PM trap to diesel engines, including urban buses; it is not expected to require the addition of any new hardware for gasoline engines. We request comment on the feasibility and appropriateness of this proposed PM standard.

With respect to NMHC and NO_X, these new standards would represent roughly a 90 percent reduction in diesel NO_X and roughly a 70 percent reduction in diesel NMHC levels compared to the 2004 heavy-duty diesel engine standard. The 2004 heavy-duty diesel engine standard is 2.5 g/bhp-hr NMHC+NO_X, with a cap on NMHC of 0.5 g/bhp-hr. Like the PM standard, the proposed NO_X standard is projected to require the addition of highly efficient NO_X aftertreatment to diesel engines. For gasoline engines, the standard proposed in the 2004 heavy-duty rule is 1.0 g/bhp-hr NMHC+NO_X. Therefore, for gasoline engines, the standards proposed today would represent roughly a 70 percent reduction. We request comment on the feasibility and appropriateness of these proposed NO_X and NMHC standards.

With respect to formaldehyde, a hazardous air pollutant that is emitted by heavy-duty engines and other mobile sources, we are proposing standards to prevent excessive emissions. The standards are comparable in stringency to the formaldehyde standards recently finalized in the Tier 2 rule for passenger vehicles; they are also consistent with the CARB LEV II formaldehyde standards. These standards would be especially important for methanol-fueled engines because formaldehyde is chemically similar to methanol and is one of the primary byproducts of incomplete combustion of methanol. Formaldehyde is also emitted by engines using petroleum fuels (i.e., gasoline or diesel fuel), but to a lesser degree than is typically emitted by methanol-fueled engines. We recognize that petroleum-fueled engines able to meet the proposed NMHC standards should comply with the formaldehyde standards with large compliance margins. Based upon the analysis of similar standards recently finalized for passenger vehicles, we believe that formaldehyde emissions from petroleum-fueled engines when complying with the PM, NMHC, and NO_X standards should be as much as 90 percent below the standards.[72] Thus, to reduce testing costs, we are proposing a provision that would permit manufacturers of petroleum-fueled engines to demonstrate compliance with the formaldehyde standards based on engineering analysis. This provision would require manufacturers to make a demonstration in their certification application that engines having similar size and emission control technology have been shown to exhibit compliance with the applicable formaldehyde standard for their full useful life. This demonstration would be similar to that recently finalized for light-duty vehicles to demonstrate compliance with the Tier 2 formaldehyde standards.

Because the NO_X exhaust emission control technology we expect would be required to meet the proposed NO_X standard is at an early stage of development, we believe a phase-in of the NO_X standard is appropriate. With a phase-in, manufacturers are able to introduce the new technology on a limited number of engines, thereby gaining valuable experience with the technology prior to implementing it on their entire fleet. Also, we are proposing that the NO_X, HCHO, and NMHC standards be phased-in together for diesel engines. That is, engines would be expected to meet each of these proposed new standards, not just one or the other. We propose this because the standard as proposed in the 2004 heavy-duty rule would be a combined NMHC+NO_X standard. Separating the phase-ins for NMHC and NO_X would create a problem because it would not be clear to what NMHC standard an engine would certify were it to certify to the proposed NO_X standard independent of certifying to the proposed NMHC standard (and vice versa for engines certifying to the proposed NMHC standard independent of the proposed NO_X standard).[73] We request comment on the phase-in for diesel engines of these proposed NO_X, HCHO, and NMHC standards and the requirement that they be phased-in together. We also request comment on alternative phase-in schedules and percentages, such as a phase-in over three years (2007–2009), a phase-in over two years (2007–2008), and no phase-in (100% in 2007). We are not proposing a phase-in for gasoline engines because we want to maintain consistency with the proposed heavy-duty gasoline vehicle standards which are not phased-in; those standards are discussed below.[74] Nonetheless, we request comment on possible alternative phase-ins for the proposed gasoline engine standards, such as a phase-in consistent with the proposed phase-in for diesel engine standards shown in Table III.C–

[71] From 64 FR 58472, October 29, 1999, ''* * * diesel fuel quality, and in particular, diesel fuel sulfur level, can play an important role in enabling certain PM and NO_X control technologies. Some DOCs and continuously regenerable PM traps, as well as current generation lean NO_X adsorber catalysts can be poisoned by high sulfur levels. Given this information, EPA has not included more stringent PM standards for the 2004 model year or later in today's proposal.''

[72] See the Tier 2 Response to Comments document contained in Air Docket A–97–10.

[73] Note that, despite the concurrent phase-in of NO_X and NMHC standards for diesel engines, the NMHC standards should be easily met through use of a PM trap as is fully discussed in section III.E. Since the PM standards would be implemented on 100 percent of new engines in the 2007 model year, all new engines would have a PM trap and would, therefore, control NMHC emissions to levels below the proposed standards. Therefore, while the NMHC standard is phased-in with NO_X due to the 2004 combining of the NO_X and NMHC standards, the proposed NMHC standards would be met by all new engines in the 2007 model year. This is reflected in our emission inventory analysis as was discussed in section II.

[74] Please refer to section III.D.2 below for a discussion of implementing these proposed standards in the 2007 or 2008 model years, and the relationship between today's proposed implementation and the implementation of the proposed 2004 emission standards.

1, or a phase-in consistent with that used for heavy light-duty trucks and medium-duty passenger vehicles under the light-duty highway Tier 2 program.

The specifics of the Averaging, Banking, and Trading program associated with today's proposed standards are discussed in section VII of this preamble. The reader should refer to that section for more details.

b. Not-to-Exceed and Supplemental Steady-State Test

To help ensure that heavy-duty engine emissions are controlled over the full range of speed and load combinations commonly experienced in use, we have previously proposed to apply Not-To-Exceed (NTE) limits to heavy-duty diesel engines (64 FR 58472, October 29, 1999). As proposed, the NTE approach establishes an area (the ''NTE zone'') under the torque curve of an engine where emissions must not exceed a specified value for any of the regulated pollutants.[75] As proposed, the specified value under which emissions must remain is 1.25 times the FTP standards. The NTE standard would apply under any conditions that could reasonably be expected to be seen by that engine in normal vehicle operation and use. In addition, we have proposed that the whole range of real ambient conditions be included in NTE testing.

Similarly, to help ensure that heavy-duty engine emissions are controlled during steady-state type driving (such as a line-haul truck operating on a freeway), we have previously proposed a new supplemental steady-state test (64 FR 58472, October 29, 1999). The supplemental steady-state test consists of 13 steady-state modes, each weighted according to the amount of time that might be expected at each mode during typical real world conditions. As proposed, the supplemental steady-state test has emission limits of 1.0 times the FTP standards.

Today's document proposes to apply the heavy-duty diesel NTE and supplemental steady-state test provisions intended to be finalized as part of the 2004 standards rulemaking. The October 29, 1999, proposal for that rule contained the description of these provisions. We expect that a number of modifications will be made to those provisions in the FRM for that rule based on feedback received during the comment period. While the details of the final provisions are not yet available, we will provide the necessary information in the docket for this rule as soon as it becomes available in order to allow for comment.

We have not proposed that the NTE requirements, or the supplemental steady-state test, apply to heavy-duty gasoline engines. However, we are working with several industry members to pursue a proposal in a separate action with the intention of having NTE requirements in place for heavy-duty gasoline engines beginning in the 2004 model year.[76] Today's proposal intends that those provisions, when developed, would apply to the gasoline engines subject to today's proposed standards as well. We currently have no intention of pursuing supplemental steady-state test requirements for heavy-duty gasoline engines.

We request comment and data on the feasibility of technology meeting the proposed emission standards in the context of the NTE and supplemental steady-state tests as proposed in the 2004 heavy-duty rule, and the potential changes to the supplemental tests should changes be made from what was proposed. As stated above, should such changes be made, we will provide the necessary information in the docket for this rule as soon as it becomes available in order to allow for comment.

c. Crankcase Emissions Control

Crankcase emissions are the pollutants that are emitted in the gases that are vented from an engine's crankcase. These gases are also referred to as ''blowby gases'' because they result from engine exhaust from the combustion chamber ''blowing by'' the piston rings into the crankcase. These gases are vented to prevent high pressures from occurring in the crankcase. Our existing emission standards prohibit crankcase emissions from all highway engines except turbocharged heavy-duty diesel engines. The most common way to eliminate crankcase emissions has been to vent the blowby gases into the engine air intake system, so that the gases can be recombusted. We made the exception for turbocharged heavy-duty diesel engines because of concerns in the past about fouling that could occur by routing the diesel particulates (including engine oil) into the turbocharger and aftercooler. Our concerns are now alleviated by newly developed closed crankcase filtration systems, specifically designed for turbocharged heavy-duty diesel engines. These new systems (discussed more fully in section III.E and in Chapter III of the draft RIA) are already required for new on-highway diesel engines under the EURO III emission standards.

We are proposing to eliminate the exception for turbocharged heavy-duty diesel engines starting in the 2007 model year. This is an environmentally significant proposal since most heavy-duty diesel trucks use turbocharged engines, and a single engine can emit over 100 pounds of NO_x, NMHC, and PM from the crankcase over the lifetime of the engine. We request comment on this proposal.

2. Heavy-Duty Vehicle Standards

a. Federal Test Procedure

The emission standards being proposed today for heavy-duty vehicles are summarized in Table III.C–2. We have already proposed that all complete heavy-duty gasoline vehicles, whether for transporting passengers or for work, be chassis certified (64 FR 58472, October 29, 1999). Current federal regulations do not require that complete diesel vehicles over 8,500 pounds be chassis certified, instead requiring certification of their engines. Today's proposal does not make changes to those requirements.

The Tier 2 final rule created a new vehicle category called ''medium-duty passenger vehicles''.[77] These vehicles, both gasoline and diesel, are required to meet requirements of the Tier 2 program, which carries with it a chassis certification requirement. As a result, applicable complete diesel vehicles must certify using the chassis certification test procedure. Today's proposed chassis standards for 2007 and later model year heavy-duty gasoline vehicles would apply to the remaining (work-oriented) complete gasoline vehicles under 14,000 pounds.

[75] Torque is a measure of rotational force. The torque curve for an engine is determined by an engine ''mapping'' procedure specified in the Code of Federal Regulations. The intent of the mapping procedure is to determine the maximum available torque at all engine speeds. The torque curve is merely a graphical representation of the maximum torque across all engine speeds.

[76] Letters from Margo Oge, EPA, to Kelly Brown, Ford Motor Company, and Samuel. Leonard, General Motors Corp., both dated September 17, 1999; and letter from Samuel. Leonard, GM, and Kelly Brown, Ford, to Margo Oge, EPA, dated August 10,1999; all of these letters are available in EPA Air Docket #A–98–32.

[77] Medium-duty passenger vehicles are defined as any complete vehicle between 8,500 and 10,000 pounds GVWR designed primarily for the transportation of persons. The definition specifically excludes any vehicle that (1) has a capacity of more than 12 persons total or, (2) is designed to accommodate more than 9 persons in seating rearward of the driver's seat or, (3) has a cargo box (e.g., pick-up box or bed) of six feet or more in interior length. (See the Tier 2 final rulemaking, 65 FR 6698, February 10, 2000)

TABLE III.C–2.—PROPOSED 2007+ FULL USEFUL LIFE HEAVY-DUTY VEHICLE EXHAUST EMISSION STANDARDS FOR COMPLETE GASOLINE VEHICLES*

[grams/mile]

Weight range (GVWR)	NO_X	NMHC	HCHO	PM
8500 to 10,000 lbs	0.2	0.195	0.016	0.02
10,000 to 14,000 lbs	0.4	0.230	0.021	0.02

* Does not include medium-duty passenger vehicles.

These NO_X standards represent a 78 percent reduction and a 60 percent reduction from the standards for 8,500–10,000 pound and 10,000–14,000 pound vehicles, respectively, proposed in the 2004 heavy-duty rule. The 2004 heavy-duty rule would require such vehicles to meet the California LEV–I NO_X standards of 0.9 g/mi and 1.0 g/mi, respectively. The proposed NO_X standards shown in Table III.C–2 are consistent with the CARB LEV–II NO_X standard for low emission vehicles (LEVs). We have proposed, and CARB has put into place in their LEV–II program, a slightly higher NO_X standard for 10,000 to 14,000 pound vehicles because these vehicles are tested at a heavier payload. The increased weight results in using more fuel per mile than vehicles tested at lighter payloads; therefore, they tend to emit slightly more grams per mile than lighter vehicles.[78]

The NMHC standards represent a 30 percent reduction from the proposed 2004 standards for 8500–10,000 and 10,000–14,000 pound vehicles. The 2004 heavy-duty rule would require such vehicles to meet NMHC standard levels of 0.28 g/mi and 0.33 g/mi, respectively (equal to the California LEV–I nonmethane organic gases (NMOG) standard levels). The proposed NMHC standards are consistent with the CARB LEV–II NMOG standards for LEVs in each respective weight class. The NMHC standard for 10,000–14,000 pound vehicles is higher than for 8,500–10,000 pound vehicles for the same reason as stated above for the higher NO_X standard for such vehicles.

The formaldehyde standards are comparable in stringency to the formaldehyde standards recently finalized in the Tier 2 rule for passenger vehicles; they are also consistent with today's proposed engine standards and the CARB LEV II formaldehyde standards. Formaldehyde is a hazardous air pollutant that is emitted by heavy-duty vehicles and other mobile sources, and we are proposing these formaldehyde standards to prevent excessive formaldehyde emissions. These standards would be especially important for methanol-fueled vehicles because formaldehyde is chemically similar to methanol and is one of the primary byproducts of incomplete combustion of methanol. Formaldehyde is also emitted by vehicles using petroleum fuels (i.e., gasoline or diesel fuel), but to a lesser degree than is typically emitted by methanol-fueled vehicles. We recognize that petroleum-fueled vehicles able to meet the proposed NMHC standards should comply with the formaldehyde standards with large compliance margins. Based upon the analysis of similar standards recently finalized for passenger vehicles, we believe that formaldehyde emissions from petroleum-fueled vehicles when complying with the PM, NMHC and NO_X standards should be as much as 90 percent below the standards.[79] Thus, to reduce testing costs, we are proposing a provision that would permit manufacturers of petroleum-fueled vehicles to demonstrate compliance with the formaldehyde standards based on engineering analysis. This provision would require manufacturers to make a demonstration in their certification application that vehicles having similar size and emission control technology have been shown to exhibit compliance with the applicable formaldehyde standard for their full useful life. This demonstration would be similar to that recently finalized for light-duty vehicles to demonstrate compliance with the Tier 2 formaldehyde standards.

The PM standard represents over an 80 percent reduction from the CARB LEV–II LEV category PM standard of 0.12 g/mi. Note that the PM standard shown in Table III.C–2 represents not only a stringent PM level, but a new standard for federal HDVs where none existed before. The California LEV–II program for heavy-duty vehicles, and the federal Tier 2 standards for over 8,500 pound vehicles designed for transporting passengers, both contain PM standards. The PM standard proposed today is consistent with the Tier 2 bin 8 level of 0.02 g/mi.

The standards shown in Table III.C–2 are, we believe, comparable in stringency to the proposed diesel and gasoline engine standards shown in Table III.C–1. We request comment on this issue, including any supporting data. We also request comment on other possible vehicle exhaust emission standards. For example, the CARB LEV–II ULEV standards are identical in NO_X levels, but have NMOG levels of 0.143 and 0.167 g/mi for 8,500 to 10,000 pound and 10,000 to 14,000 pound vehicles, respectively. We request comment on whether these standards (0.143 and 0.167 g/mi NMHC for 8,500 to 10,000 pound and 10,000 to 14,000 pound vehicles, respectively), or lower standards, may be more appropriate emission standards. We also request comment on whether we should instead include a 40 percent/60 percent split of standards at the LEV–II LEV and ULEV levels, respectively. To clarify, the CARB LEV–II program requires a compliance split of vehicles certified to the LEV versus the ULEV levels; that split is 40 percent LEV and 60 percent ULEV. We request comment on whether we should employ such a split.

We are not proposing a phase-in for the HDV standards. As proposed, the HDV standards would apply only to complete gasoline vehicles, consistent with our current regulations. We believe that emission control technology for gasoline engines is in an advanced enough state to justify a simple implementation requirement in the 2007 model year. However, please refer to section III.D.2, below, for a discussion of the appropriate implementation schedule associated with these proposed standards, and the relationship between today's proposed implementation and the implementation of the proposed 2004 emission standards. We believe that our proposed implementation schedule provides consistency with our Tier 2 standards and our expectation of probable certification levels for similarly sized light-duty trucks and medium-duty

[78] Engine standards, in contrast, are stated in terms of grams per unit power rather than grams per mile. Therefore, engine emission standards need not increase with weight because heavier engines do not necessarily emit more per horsepower even though they tend to emit more per mile.

[79] See the Tier 2 Response to Comments document contained in Air Docket A–97–10.

passenger vehicles. Although these vehicles are allowed to certify at fairly high emission levels under the Tier 2 bin structure, we believe that Tier 2 gasoline applications will be designed to certify to standards of 0.20 g/mi NO_X and 0.09 g/mi NMHC by the 2007 model year, and possibly lower to allow for diesels certifying in higher emission bins within the NO_X averaging scheme. This makes the proposed HDV standards and associated phase-in consistent with Tier 2. We request comment on the appropriateness of not having a phase-in associated with the vehicle standards. We also request comment on possible alternative phase-ins for the proposed gasoline vehicle standards, such as a phase-in consistent with the proposed phase-in for diesel engine standards shown in Table III.C–1, or a phase-in consistent with that used for heavy light-duty trucks and medium-duty passenger vehicles under the light-duty highway Tier 2 program.

Consistent with current regulations, we are not proposing to allow complete heavy-duty diesel vehicles to certify to the heavy-duty vehicle standards. Instead, manufacturers would be required to certify the engines intended for such vehicles to the engine standards shown in Table III.C–1. However, we request comment on whether complete heavy-duty diesel vehicles should be allowed, or perhaps should be required, to certify to the vehicle standards. Any comments on this topic should also address whether a phase-in, consistent with the phase-in of engine standards, would be appropriate.

The specifics of the Averaging, Banking, and Trading program associated with today's proposed standards are discussed in section VII of this document. The reader should refer to that section for more details.

We request comment on the feasibility and appropriateness of the proposed standards for heavy-duty complete vehicles shown in Table III.C–2.

b. Supplemental Federal Test Procedure

We are not proposing new supplemental FTP (SFTP) standards for heavy-duty vehicles. The SFTP standards control off-cycle emissions in a manner analogous to the NTE requirements for engines. We believe that the SFTP standards are an important part of our light-duty program just as we believe the NTE requirements will be an important part of our heavy-duty diesel engine program. Although we are not proposing SFTP standards for heavy-duty vehicles, we intend to do so via a separate rulemaking. We request comment on such an approach, and on appropriate SFTP levels for heavy-duty vehicles along with supporting data.

3. Heavy-Duty Evaporative Emission Standards

We are proposing new evaporative emission standards for heavy-duty vehicles and engines. The proposed standards are shown in Table III.C–3. These standards would apply to heavy-duty gasoline-fueled vehicles and engines, and methanol-fueled heavy-duty vehicles and engines. Consistent with existing standards, only the standard for the three day diurnal test sequence would apply to liquid petroleum gas (LPG) fueled and natural gas fueled HDVs.

TABLE III.C–3.—PROPOSED HEAVY-DUTY EVAPORATIVE EMISSION STANDARDS*

[Grams per test]

Category	3 day diurnal + hot soak	Supplemental 2 day diurnal + hot soak**
8,500–14,000 lbs	1.4	1.75
>14,000 lbs	1.9	2.3

* Proposed to be implemented on the same schedule as the proposed gasoline engine and vehicle exhaust emission standards shown in Tables III.C–1 and III.C–2. These proposed standards would not apply to medium-duty passenger vehicles, and would not apply to diesel fueled vehicles.

** Does not apply to LPG or natural gas fueled HDVs.

These proposed standards represent more than a 50 percent reduction in the numerical standards as they exist today. The 2004 heavy-duty rule (64 FR 58472, October 29, 1999) proposed no changes to the numerical value of the standard, but it did propose new evaporative emission test procedures for heavy-duty complete gasoline vehicles.[80] Those test procedures would effectively increase the stringency of the standards, even though the numerical value was not proposed to change. For establishing evaporative emission levels from complete heavy-duty vehicles, the standards shown in Table III.C–3 presume the test procedures proposed in the 2004 heavy-duty rule.

The proposed standards for 8,500 to 14,000 pound vehicles are consistent with the Tier 2 standards for medium-duty passenger vehicles (MDPV). MDPVs are of consistent size and have essentially identical evaporative emission control systems as the remaining work-oriented HDVs in the 8,500 to 10,000 pound weight range. Therefore, the evaporative emission standards should be equivalent. We are proposing those same standards for the 10,000 to 14,000 pound HDVs because, historically, the evaporative emission standards have been consistent throughout the 8,500 to 14,000 pound weight range. We believe that the HDVs in the 10,000 to 14,000 pound range are essentially equivalent in evaporative emission control system design as the lighter HDVs; therefore, continuing this historical approach is appropriate.

We are proposing slightly higher evaporative emission standards for the over 14,000 pound HDVs because of their slightly larger fuel tanks and vehicle sizes. This is consistent with past evaporative emission standards. The levels chosen for the over 14,000 pound HDVs maintains the same ratio relative to the 8,500 to 14,000 pound HDVs as exists with current evaporative standards. To clarify, the current standards for the 3 day diurnal test are 3 and 4 grams/test for the 8,500 to 14,000 and the over 14,000 pound categories, respectively. The ratio of 3:4 is maintained for the proposed 2007 standards, 1.4:1.9.

The proposed standards levels are slightly higher than the California LEV–II standards levels. The California standards levels are 1.0 and 1.25 for the 3-day and the 2-day tests, respectively. We believe that our standards are appropriate for federal vehicles certified on the higher-volatility federal test fuel.

We are proposing that the proposed evaporative emission standards be implemented on the same schedule as the proposed gasoline engine and vehicle exhaust standards shown in Tables III.C–1 and III.C–2. We request comment on this proposal. Also, we are proposing the revised durability provisions finalized in the Tier 2 rulemaking, which require durability demonstration using fuel containing at least 10 percent alcohol. Alcohol can break down the materials used in evaporative emission control systems. Therefore, a worst case durability demonstration would include a worst case alcohol level in the fuel (10 percent) as some areas of the country

[80] The proposed test procedure changes sought to codify a commonly approved waiver allowing heavy-duty gasoline vehicles to use the light-duty driving cycle for demonstrating evaporative emission compliance. The urban dynamometer driving schedule (UDDS) used for heavy-duty vehicles is somewhat shorter than that used for light-duty vehicles, both in terms of mileage covered and minutes driven. This results in considerably less time for canister purge under the heavy-duty procedure than under the light-duty procedure. We recognize this discrepancy and have routinely provided waivers under the enhanced evaporative program that allow the use of the light-duty procedures for heavy-duty certification testing. We do not believe that this approach impacts the stringency of the standards. Further, it is consistent with CARB's treatment of equivalent vehicles.

use alcohol fuels to improve their air quality. We request comment on extending this durability provision to HDVs.

We request comment on the feasibility and appropriateness of the proposed evaporative emission standards shown in Table III.C–3.

D. Standards Implementation Issues

1. Alternative Approach to Phase-In

Although we are proposing the standards and diesel phase-ins shown in Section III.C, we request comment on the possibility of structuring the proposed diesel engine standards as a ''declining'' standard rather than the standard level ''phase-in'' being proposed. Under such an approach, the final NO_X and NMHC standards of 0.20 and 0.14 g/bhp-hr would be achieved via a ramping down of the standards from the NO_X and NMHC levels assumed under the 2004 NMHC+NO_X standard (i.e., 2.0 g NO_X and 0.5 g NHMC) to the final levels provided it did not compromise the air quality benefits in any given year. Such a declining standard would result in 2007 standards for all engines lower than the 2004 standards, but not as low as today's proposed standards. The 2008 standards for all engines would then be lower than the 2007 standards, and the 2009 standards for all engines would be lower than the 2008 standards. In 2010, the standards would become 0.20 g/bhr-hr NO_X and 0.14 g/bhp-hr NMHC.

Under such a declining standard approach, an engine manufacturer would probably have to redesign most, if not all, of its engines to reduce their emissions from the 2004 standard levels to the 2007 model year declining standard levels. In contrast, under the proposed approach, 25 percent of an engine manufacturer's engines would have to certify to the 0.20/0.14 g/bhp-hr standards. Although the phase-in levels would be more stringent, the manufacturer would have to redesign only that 25 percent of its engines during the 2007 model year. The same would be true for the ensuing years. Under the declining standard approach, some level of redesign would probably have to be done on every engine in every year to meet the declining standard unless a manufacturer had extensive ABT credits at its disposal to apply against the standard. Under the phase-in, each new model year would entail a redesign of only 25 percent of a manufacturer's engines. In the end, both approaches result in the entire fleet meeting the proposed standard levels in 2010, but both achieve that in different ways.

We request comment on this declining standard approach for the diesel engine standards. We also request suggestions on appropriate declining standards for each model year that would result in stringency levels and emission reductions consistent with those of the proposed phase-in approach.

We also request comment on the possibility of structuring the phase-in of the proposed diesel engine standards as a ''cumulative'' phase-in rather than the 25–50–75–100 percent phase-in being proposed. Under such an approach, a manufacturer could phase-in compliance with the proposed standards in whatever percentages were most beneficial to that manufacturer, provided the cumulative total in each year met or exceeded the cumulative total of the proposed phase-in. Whatever the phase-in schedule chosen by the manufacturer, all of its engines sold in model year 2010 would be required to demonstrate compliance with the proposed standards. For example, a manufacturer could phase-in its engines according to a schedule of 50–50–50–100 percent, or 35–50–65–100 percent, or 30–60–60–100, etc. Note that the cumulative percentages would have to be based on cumulative engine sales to avoid the possibility that variations in market conditions would not compromise air quality benefits. We believe that such a phase-in could provide manufacturers with more flexibility in product planning while possibly enhancing the air quality benefits of the proposed standards because some manufacturers may accelerate their phase-in. Manufacturers should indicate their interest in such an approach in their comments and should indicate how they might utilize it.

2. Implementation Schedule for Gasoline Engine and Vehicle Standards

The October 1999 proposal of new heavy-duty engine and vehicle standards included revised standards for gasoline heavy-duty engines and vehicles (64 FR 58472, October 29, 1999). These standards were proposed to take effect in the 2004 model year. Commenters on that proposal raised concerns that these standards could not take effect until model year 2005 or later because of the applicability of Clean Air Act section 202(a)(3)(C) to these engines and vehicles. Those commenters argued that this provision requires 4 years of implementation leadtime following the promulgation of new or revised standards, and that these standards had not been promulgated in a final rule in time to satisfy this leadtime provision. We are still in the process of finalizing this rule and so at this time we are not able to announce the outcome of the leadtime issue. However, we do expect that, should the gasoline engine and vehicle standards be delayed to model year 2005, the standards being proposed today for gasoline engines and vehicles would first apply in model year 2008, rather than 2007, due to another part of the Clean Air Act section 202(a)(3)(C) provision that requires 3 model years of stability between changed standards. We invite comment on the appropriateness of this expectation and on any issues that might arise in connection with the model year 2008 implementation schedule.

E. Feasibility of the Proposed New Standards

For more detail on the arguments supporting our assessment of the technological feasibility of today's proposed standards, please refer to the Draft RIA in the docket for this rule. The following discussion summarizes the more detailed discussion found in the Draft RIA.

1. Feasibility of Stringent Standards for Heavy-Duty Diesel

Diesel engines have made great progress in lowering engine-out emissions from 6.0 g/bhp-hr NO_X and 0.6 g/bhp-hr PM in 1990 to 4.0 g/bhp-hr NO_X and 0.1 g/bhp-hr PM in 1999. These reductions came initially with improvements to combustion and fuel systems. Introduction of electronic fuel systems in the early 1990s allowed lower NO_X and PM levels without sacrificing fuel economy. This, combined with increasing fuel injection pressures, has been the primary technology that has allowed emission levels to be reduced to current 1999 levels. Further engine-out NO_X reductions to the levels necessary to comply with the 2004 standard of 2.5 g/bhp-hr NO_X+NMHC will come primarily from the addition of cooled EGR.

Engine out emission reductions beyond the 2.5 g/bhp-hr level are expected with low sulfur fuel and more experience with cooled EGR systems. Low sulfur fuel will allow more EGR to be used at lower temperatures because of the reduced threat of sulfuric acid formation. In addition, recirculating the exhaust gases from downstream of a PM trap may allow different EGR pumping configurations to be feasible. Such pumping configurations could provide a better NO_X/fuel consumption tradeoff.

These potential engine-out emission reductions are expected to be modest and are not expected to be sufficient to meet the emission standards proposed

today. However, they would allow greater flexibility in choosing the combination of technologies used to meet the proposed emission standards. With lower engine-out emissions, it might be most cost effective to use smaller and less expensive exhaust emission control devices, for instance. Also, the combination of engine-out and exhaust emission control could be chosen for the best fuel economy. The fuel economy trade-offs between lower engine-out emissions and more effective exhaust emission control might be such that a combination of the two methods provide fuel economy that is better than either method on its own. As a result, additional engine-out emission reductions are expected to add additional flexibility in combination with exhaust emission control in jointly optimizing costs, fuel economy, and emissions.

a. Meeting the Proposed PM Standard

Diesel PM consists of three primary constituents: unburned carbon particles, which make up the largest portion of the total PM; the soluble organic fraction (SOF), which consists of unburned hydrocarbons that have condensed into liquid droplets or have condensed onto unburned carbon particles; and sulfates, which result from oxidation of fuel borne sulfur in the engine's exhaust.

Several exhaust emission control devices have been developed to control harmful diesel PM constituents—the diesel oxidation catalyst (DOC), and the many forms of particulate filters, or traps. DOCs have been shown to be durable in use, but they effectively control only the SOF portion of the total PM which, especially on today's engines, constitutes only around 10 to 30 percent of the total PM. Therefore, the DOC does not address our PM concerns sufficiently.

At this time, only the PM trap is capable of providing the level of control sought by today's proposed PM standards. In the past, the PM trap has demonstrated highly efficient trapping efficiency, but regeneration of the collected PM has been a serious challenge. The PM trap works by passing the exhaust through a ceramic or metallic filter to collect the PM. The collected PM, mostly carbon particles but also the SOF portion, must then be burned off the filter before the filter becomes plugged. This burning off of collected PM is referred to as ''regeneration,'' and can occur either:

- on a periodic basis by using base metal catalysts or an active regeneration system such as an electrical heater, a fuel burner, or a microwave heater; or,
- on a continuous basis by using precious metal catalysts.

Uncatalyzed diesel particulate traps demonstrated high PM trapping efficiencies many years ago, but the level of the PM standard was such that it could be met through less costly ''in-cylinder'' control techniques. Also, the regeneration characteristics were not dependable. As a result, some systems employed electrical heaters or fuel burners to improve upon regeneration, but these complicated the system design and still could not provide the durability and dependability required for HD diesel applications.

We believe the most desirable PM trap, and the type of trap that will prove to be the industry's technology of choice, is one capable of regenerating on an essentially continuous basis. We also believe that such traps are the most promising for enabling very low PM emissions because:

- They are highly efficient at trapping all forms of diesel PM;
- They employ precious metals to reduce the temperature at which regeneration occurs, thereby allowing for passive regeneration under normal operating conditions typical of a diesel engine;[81]
- Because they regenerate continuously, they have lower average backpressure thereby reducing potential fuel economy impacts; and,
- Because of their passive regeneration characteristics, they need no extra burners or heaters like would be required by an active regeneration system thereby reducing potential fuel economy impacts.

These catalyzed PM traps are able to provide in excess of 90 percent control of diesel PM. However, as discussed in detail in the Draft RIA, the catalyzed PM trap cannot regenerate properly with current fuel sulfur levels as such sulfur levels inhibit the NO to NO_2 reaction to the point of stopping trap regeneration.[82] Also, because SO_2 is so readily oxidized to SO_3, very low PM standards cannot be achieved with current sulfur levels because of the resultant increase in sulfate PM emissions.[83]

More than one exhaust emission control manufacturer is known to be developing these precious metal catalyzed, passively regenerating PM traps and to have them in broad field test programs in areas where low sulfur diesel fuel is currently available. In field trials, they have demonstrated highly efficient PM control and promising durability with some units accumulating in excess of 360,000 miles of field use.[84] The experience gained in these field tests also helps to clarify the need for very low sulfur diesel fuel. In Sweden and some European city centers where below 10 ppm diesel fuel sulfur is readily available, more than 3,000 catalyzed diesel particulate filters have been introduced into retrofit applications without a single failure. The field experience in areas where sulfur is capped at 50 ppm has been less definitive. In regions without extended periods of cold ambient conditions, such as the United Kingdom, field tests on 50 ppm cap low sulfur fuel have been extremely positive, matching the success at, 10 ppm. However, field tests in Finland where colder winter conditions are sometimes encountered (similar to northern parts of the United States) have revealed a failure rate of 10 percent. This 10 percent failure rate has been attributed to insufficient trap regeneration due to fuel sulfur in combination with low ambient temperatures.[85] As the ambient conditions in Sweden are expected to be no less harsh than Finland, we are left to conclude that the increased failure rates noted here are due to the higher fuel sulfur level in a 50 ppm cap fuel versus a 10 ppm cap fuel. From these results, we can also theorize that lighter applications (such as large pick-up trucks and other light heavy-duty applications), having lower exhaust temperatures than heavier applications, may experience similar results and would, therefore, need very low sulfur fuel. These results are understood to be due to the effect of sulfur on the trap's ability to create sufficient NO_2 to carry out proper trap regeneration. Without the NO_2, the trap continues to trap at high efficiency, but it is unable to oxidize, or regenerate, the trapped PM. The possible result is a plugged trap.

Diesel particulate traps reduce particulate matter (PM) by capturing and burning particles. Ninety percent of

[81] For PM trap regeneration without precious metals, temperatures in excess of 650°C must be obtained. At such high temperatures, carbon will burn provided sufficient oxygen is present. However, although the largest heavy-duty diesels may achieve temperatures of 650°C under some operating conditions, smaller diesel engines, particularly light-duty and light heavy-duty diesel engines, will rarely achieve such high temperatures. For example, exhaust temperatures on the HDE Federal Test Procedure cycle typically range from 100°C to 450°C. Precious metal catalyzed traps use platinum to oxidize NO in the exhaust to NO_2, which is capable of oxidizing carbon at temperatures as low as 250°C to 300°C.

[82] Cooper and Thoss, Johnson Matthey, SAE 890404.

[83] See the Draft RIA for more detail on the relationship of fuel sulfur to sulfate make.

[84] Allansson, et at., SAE 2000–01–0480.

[85] Letter from Dr. Barry Cooper to Don Lopinski US EPA, EPA Docket A–99–06.

the PM mass resides in particle sizes that are less than 1000 nanometers (nm) in diameter, and half of these particles are less than 200 nm. Fortunately, PM traps have very high particle capture efficiencies. PM less than 200 nm is captured efficiently by diffusion onto surfaces within the trap walls. Larger particles are captured primarily by inertial impaction onto surfaces due to the tortuous path that exhaust gas must take to pass through the porous trap walls. Capture efficiency for elemental carbon (soot) and metallic ash is nearly 100 percent; therefore, significant PM can only form downstream of the trap. Volatile PM forms from sulfate or organic vapors via nucleation, condensation, and/or adsorption during initial dilution of raw exhaust into the atmosphere. Kleeman,[86] et. al., and Kittelson,[87] et. al., independently demonstrated that these volatile particles reside in the ultra-fine PM range (i.e. <100 nm range).

Modern catalyzed PM traps have been shown to be very effective at reducing PM mass. In addition, they can significantly reduce the overall number of emitted particles when operated on low sulfur fuel. Hawker, et al., found that a modern catalyzed PM trap reduced particle count by over 95 percent, including ultrafine particles (< 50 nm) at most of the tested conditions. The lowest observed efficiency in reducing particle number was 86 percent. No generation of particles by the PM trap was observed under any tested conditions.[88] Kittelson, et al., confirmed that ultrafine particles can be reduced by a factor of ten by oxidizing volatile organics, and by an additional factor of ten by reducing sulfur in the fuel. Catalyzed PM traps efficiently oxidize nearly all of the volatile organic PM precursors, and elimination of as much fuel sulfur as possible will dramatically reduce the number of ultrafine PM emitted from diesel engines. Therefore, the combination of PM traps with low sulfur fuel is expected to result in a very large reduction in PM mass, and ultrafine particles will be almost completely eliminated.

Now that greater than 90 percent effective PM emission control has been demonstrated, focus has turned to bringing PM exhaust emission control to market. One of the drivers is the Euro IV PM standard set to become effective in 2005.[89] This standard sets a PM trap forcing emission target. In anticipation of the 2005 introduction date, field tests are already underway in several countries with catalyzed particulate filters. We believe the experience gained in Europe with these technologies will coincide well with the emission standards in this proposal. The timing of today's proposal harmonizes the heavy-duty highway PM technologies with those expected to be used to meet the light-duty highway Tier 2 standards. Our own testing with fuel sulfur levels below 10 ppm shows that these systems are viable.[90] With this level of effort already under way, we believe that the proposed PM standards which would require a 90 percent reduction in the mass of particulate emissions could be met provided low sulfur fuel is made available.

The data currently available show that catalyzed particulate filters can provide significant reductions in PM. Catalyzed particulate filters, in conjunction with low sulfur fuel, have been shown to be more than 90 percent efficient over the FTP and at most supplemental steady-state modes.[91] However, with the application of exhaust emission control technology and depending on the sulfur level of the fuel, there is the potential for sulfate production during some operating modes covered by the NTE and the supplemental steady-state test. We believe that, with the 15 ppm diesel sulfur level proposed today, the NTE and the supplemental steady-state test, as proposed in the 2004 heavy-duty rule, would be feasible. This belief, as discussed in greater detail in the draft RIA, is supported by data generated as part of the Diesel Emission Control Sulfur Effects (DECSE) test program.[92] We request comment and relevant data on this issue.

We request comment on the potential need to remove, clean, and reverse these traps at regular intervals to remove ash build-up resulting from engine oil. Small amounts of oil can enter the exhaust via the combustion chamber (past the pistons, rings and valve seals), and via the crankcase ventilation system. This can lead to ash build-up, primarily as a result of the metallic oil additives used to provide pH control. Such pH control is necessary, in part, to neutralize sulfuric acid produced as a byproduct of burning fuel containing sulfur. However, with reduced fuel sulfur, these oil additives could be reduced, thereby reducing the rate of ash build-up and lengthening any potential cleaning intervals. It may also be possible to use oil additives that are less prone to ash formation to reduce the need for periodic maintenance. We believe that catalyzed PM traps should be able to meet the required emissions reduction goals over their useful life with minimal maintenance. Nonetheless, we request comment on the appropriate minimum allowable maintenance interval for PM traps. Commenters should consider whether the maintenance interval should include design provisions to ensure quick and easy maintenance and should make suggestions for how performance of the maintenance by the owner would be ensured.

b. Meeting the Proposed NO_X Standard

The NO_X standard proposed today requires approximately a 90 percent reduction in NO_X emissions beyond the levels expected from the 2004 emission standards. Historically, catalytic reduction of NO_X emissions in the oxygen-rich environment typical of diesel exhaust has been difficult because known NO_X reduction mechanisms tend to be highly selective for oxygen rather than NO_X. Nonetheless, there are exhaust emission control devices that reduce the NO_X to form harmless oxygen and nitrogen. These devices are the lean NO_X catalyst, the NO_X adsorber, selective catalytic reduction (SCR), and non-thermal plasma.

The lean NO_X catalyst has been shown to provide up to a 30 percent NO_X reduction under limited steady-state conditions. Despite a large amount of development effort, NO_X reductions over the heavy-duty transient federal test procedure (FTP) have been demonstrated only on the order of 12 percent.[93] Consequently, the lean NO_X

[86] Kleeman, M.J., Schauer, J.J., Cass, G.R., 2000, Size and Composition Distribution of Fine Particulate Matter Emitted From Motor Vehicles, Environmental Science and Technology, Vol. 34, No. 7.

[87] Kittelson, D.B., 2000, Presentation on Fuel and Lube Oil Sulfer and Oxidizing Aftertreatment System Effects on Nano-particle Emissions from Diesel Engines. Presented in United Kingdom April 12, 2000.

[88] Hawker, P., et al., Effect of a Continuously Regenerating Diesel Particulate Filter on Non-Regulated Emissions and Particle Size Distribution, SAE 980189.

[89] The Euro IV standards are 2.6 g/hp-hr NO_X and 0.015 g/hp-hr PM.

[90] Memorandum from Charles Schenk, EPA, to Air Docket A–99–06, ''Summary of EPA PM Efficiency Data,'' May 8, 2000.

[91] Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered Heavy-Duty Engines to Achieve Low Emission Levels, Manufacturers of Emissions Controls Association, June 1999.

[92] Diesel Emission Control Sulfur Effects (DECSE) Program—Phase II Interim Data Report No. 4, Diesel Particulate Filters—Final Report, January 2000, Table C1, www.ott.doe.gov/decse.

[93] Kawanami, M., et al., Advanced Catalyst Studies of Diesel NO_X Reduction for On-Highway Trucks, SAE 950154.

catalyst does not appear to be capable of enabling the significantly lower NO_X emissions required by the proposed NO_X standard.

NO_X adsorbers were first introduced in the power generation market less than five years ago. Since then, NO_X adsorber systems in stationary source applications have enjoyed considerable success. In 1997, the South Coast Air Quality Management District of California determined that a NO_X adsorber system provided the ''Best Available Control Technology'' NO_X limit for gas turbine power systems.[94] Average NO_X control for these power generation facilities is in excess of 92 percent.[95]

Recently, the NO_X adsorber's stationary source success has caused some to turn their attention to applying NO_X adsorber technology to lean burn engines in mobile source applications. With only a few years of development effort, NO_X adsorber catalysts have been developed and are now in production for gasoline direct injection vehicles in Japan. The 2000 model year will see the first U.S. application of this technology with the introduction of the Honda Insight, which will be certified to the California LEV–I ULEV category standard.

Although diesel vehicle manufacturers have not yet announced production plans for NO_X adsorber-based systems, they are known to have development efforts underway to demonstrate their potential. In Europe, both Daimler-Chrysler and Volkswagen, driven by a need to meet stringent Euro IV emission standards, have published results showing how they would apply the NO_X adsorber technology to their diesel powered passenger cars. Volkswagen reports that it has already demonstrated NO_X emissions of 0.137 g/km (0.22 g/mi) on a diesel powered Passat passenger car equipped with a NO_X adsorber catalyst.[96]

Likewise, in the United States, heavy-duty engine manufacturers have begun investigating the use of NO_X adsorber technologies as a more cost effective means to control NO_X emissions when compared to more traditional in-cylinder approaches. Cummins Engine Company reported, at DOE's 1999 Diesel Engine Emissions Reduction workshop, that they had demonstrated an 80 percent reduction in NO_X emissions over the Supplemental Steady State test and 58 percent over the heavy-duty FTP cycle using a NO_X adsorber catalyst.

In spite of these promising developments, work in the United States on NO_X adsorbers has been limited in comparison to the rest of the world for at least a couple of reasons: (1) prior to today's proposal, emission standards have not necessitated the use of NO_X exhaust emission controls on heavy-duty diesel engines; and, (2) there has not been a commitment in the U.S. to guarantee the availability of low sulfur diesel fuel. This is in stark contrast to Europe where the Euro IV and Euro V emission standards, along with the commitment to low sulfur diesel fuel, have led to rapid advancements of NO_X exhaust emission control technology. We believe, based on input from industry members that develop and manufacture emission control devices such as NO_X adsorbers, that the prospect of low sulfur diesel fuel in the U.S. market will drive rapid advancement of this promising NO_X control technology.[97]

NO_X adsorbers work by providing a NO_X storage feature, a NO_X adsorber, during periods of fuel lean operation. This is then combined with the typical three-way catalyst, like those used for years in stoichiometric gasoline applications. The combination of adsorber plus three-way catalyst allows storage of NO_X on the adsorber during fuel lean-oxygen rich operation, then removal of NO_X from the adsorber and reduction of NO_X over the three-way catalyst during fuel rich-oxygen lean operation. This removal of NO_X from the adsorber is termed ''NO_X regeneration'' and generally requires purposeful controlled addition of small amounts of fuel into the exhaust stream at regular intervals.

Improving NO_X reduction efficiencies over the diesel exhaust temperature range is key to meeting the proposed standards. Current NO_X adsorbers, for instance, have a high reduction efficiency (over 90 percent NO_X reduction) over a fairly broad temperature range (exhaust temperatures from 250°C to 450°C) allowing today's proposed standard to be met over this range.[98] Extending the range of high NO_X reduction efficiency at both high temperatures and low temperatures will allow higher average reduction efficiencies over the FTP and in use. The performance of the NO_X adsorber may vary somewhat with exhaust temperature across the NTE. For that reason, engine-out NO_X emissions will have to be flattened over the NTE to accommodate these variations in NO_X reduction performance. We believe that such an approach would allow the NO_X NTE and supplemental steady-state composite to be met. We seek comment and data on the relationship between NO_X adsorber performance and engine operating mode.

The greatest hurdle to the application of the NO_X adsorber technology has been its sensitivity to sulfur in diesel fuel. The NO_X adsorber stores sulfur emissions in a manner directly analogous to its storage of NO_X under lean conditions. Unfortunately, the stored sulfur is not readily removed from the adsorber during the type of operating conditions under which NO_X is readily removed. This leads to an eventual loss of NO_X adsorber function and, thus, a loss of NO_X emission control. This potential loss of NO_X adsorber function can most effectively be addressed through the reduction of sulfur in diesel fuel. For a more complete description of the sensitivity of this technology to sulfur in diesel fuel, and for an explanation of the need for low sulfur diesel fuel, please refer to section III.F.

The preceding discussion of NO_X adsorbers assumes that SO_X (SO_2 and SO_3) emissions will be ''trapped'' on the surface of the catalyst effectively poisoning the device and requiring a ''desulfation'' (sulfur removal event) to recover catalyst efficiency. We believe that, at the proposed 15 ppm cap fuel sulfur level, this strategy will allow effective NO_X control with moderately frequent desulfation and with a modest fuel consumption of one percent, which we anticipate will be more that offset by reduced reliance on current more expensive (from a fuel economy standpoint) NO_X control strategies (see discussion in section III.F for estimates of overall fuel economy impacts). In order to reduce the fuel economy impact and to simplify engine control, some manufacturers are investigating the use of SO_X ''traps'' (sometimes called SO_X ''adsorbers'') to remove sulfur from the exhaust stream prior to it flowing through the NO_X adsorber catalyst.

The SO_X trap is, in essence, a modified NO_X adsorber designed to preferentially store (trap) sulfur on its surface rather than NO_X. It differs from a NO_X adsorber in that it is not effective at storing NO_X and it more easily releases stored sulfur. A SO_X trap placed upstream of a NO_X adsorber could effectively remove very modest

[94] Letter from Barry Wallerstein, Acting Executive Officer, SCAQMD, to Rober Danziger, Goal Line Environmental Technologies, dated December 8, 1997, www.glet.com.

[95] Reyes and Cutshaw, $SCONO_X$ Catalytic Absorption System, December 8, 1998. www.glet.com.

[96] Pott, E., et al., Potential of NO_X-Trap Catalyst Application for DI–Diesel Engines.

[97] Letter from Bruce Bertelsen, Executive Director, Manufacturers of Emission Controls Association, to Margo Oge, EPA, dated April 5, 2000.

[98] Dou, D., Bailey, O., Investigation of NO_X Adsorber Catalyst Deactivation, SAE 982594.

amounts of sulfur from the exhaust, thereby limiting sulfur's effect on the NO_X adsorber. Unfortunately, the SO_X trap like the NO_X adsorber, will eventually fill every available storage site with sulfate and will cease to function unless the sulfur is removed. Desulfating the SO_X adsorber on the vehicle is problematic since it would be upstream of the NO_X adsorber which could then be poisoned quite rapidly by the SO_X released from the SO_X trap. This problem could presumably be solved through some form of NO_X adsorber by-pass during SO_X trap desulfation (although control of NO_X during this event may be problematic). Alternatively, removal and replacement of the SO_X adsorber on a fixed service interval would solve this problem, albeit at some cost. In an oral presentation made to EPA, an engine manufacturer estimated the storage capacity of a SO_X trap at approximately one pound of SO_2 per cubic foot of catalyst.[99] For fuel with a seven ppm average sulfur level, this would mean replacement of a 48 liter SO_X trap approximately every 100,000 miles.[100] This more than doubles the catalyst size we have projected for a typical heavy heavy-duty vehicle in this proposal, while only providing protection for a small fraction of its useful life. Because of practical limitations on SO_X trap size, we do not believe that the use of SO_X traps can avoid the need for very low-sulfur diesel fuel, and we have received no information from manufacturers that contradicts this belief. We invite comment on the use of a SO_X trap to protect NO_X adsorbers and on the appropriateness of SO_X traps being replaced on a fixed interval as described here. Further, we request comment and supporting data to indicate the interval at which SO_X traps would require replacement.

Selective Catalytic Reduction (SCR), like NO_X adsorber technology, was first developed for stationary applications and is currently being refined for the transient operation found in mobile applications.[101] With the SCR system, a urea solution is injected upstream of the catalyst which breaks down the urea into ammonia and carbon dioxide. Catalysts containing precious metals (platinum) can be used at the inlet and outlet of SCR systems designed for mobile applications to improve low temperature NO_X reduction performance and to oxidize any ammonia that may pass through the SCR, respectively. Such SCR systems are referred to as ''Compact SCR.'' The use of these platinum catalysts enable Compact SCR systems to achieve large NO_X reductions, but introduce sensitivity to sulfur in much the same way as for diesel particulate filter technologies. Sulfur in diesel fuel inhibits low temperature performance and results in high sulfate make leading directly to higher particulate emissions. For a further discussion of Compact SCR system sensitivity to sulfur in diesel fuel, and of its need for low sulfur diesel fuel, refer to section III.F.

The reduction efficiency window for Compact SCR is similar to the NO_X adsorber, with greater than 80 percent efficiency at exhaust temperatures as low as 250°C.[102] Peak efficiency values of over 90 percent are possible under certain conditions, but the cool exhaust temperature characteristics of diesel engines make excursions outside the optimum efficiency window of current Compact SCR systems quite frequent. As a result, the cycle average NO_X reduction efficiency is on the order of 77 percent over the heavy-duty FTP.[103] Over the Supplemental Steady State test modes, the SCR has been shown to have 65–99 percent efficiency.[104] The high efficiency over a broad temperature range should also allow the NTE to be met. With additional development effort, we believe the NO_X reduction efficiency of SCR can be further improved to meet NO_X levels as low as those proposed today.

However, significant challenges remain for Compact SCR systems to be applied to mobile source applications. In addition to the need for very low sulfur diesel fuel to achieve high NO_X conversion efficiencies and to control sulfate PM emissions, Compact SCR systems require vehicles to be refueled with urea. The infrastructure for delivering urea at the pump needs to be in place for these devices to be feasible in the marketplace; and before development of the infrastructure can begin, the industry must decide upon a standardized method of delivery for the urea supply. In addition to this, there would need to be adequate safeguards in place to ensure the urea is used throughout the life of the vehicle, since, given the added cost of urea, there would be incentive not to refill the urea tank. Because urea is required for the SCR system to function, urea replenishment would need to be assured.

Another, very recent approach to NO_X reduction is the non-thermal plasma assisted catalyst. This system works by applying a high voltage across two metal plates in the exhaust stream to form ions that serve as oxidizers. Essentially, the plasma would displace a conventional platinum based oxidation catalyst in function. Once oxidized to NO_2, NO_X can be more readily reduced over a precious metal catalyst. While the concept is promising, this technology is so new that essentially no data exists showing its effectiveness at controlling NO_X. We expect that, if and when the non-thermal plasma approach to NO_X control becomes viable, it will also require the use of low sulfur diesel fuel due to its reliance on a precious metal catalyst to reduce the NO_2.[105]

Based on the discussion above, we believe that NO_X aftertreatment technology, in combination with low sulfur diesel fuel, is capable of meeting the very stringent NO_X standards we have proposed. The clear intent that this proposal provides to make very low sulfur diesel fuel available in the future and to establish emission standards which necessitate advanced NO_X controls should enable rapid development of these technologies. The NO_X adsorber technology has shown incredible advancement in the last five years, moving from stationary source applications to lean-burn gasoline, and now to heavy-duty diesel engines. Given this rapid progress, the availability of very low sulfur diesel fuel, and the lead time provided by today's proposal, we believe that applying NO_X adsorbers to heavy-duty diesel engines would enable manufacturers to comply with our proposed standards. Compact SCR has been slower in developing than NO_X adsorbers but could be applied to mobile source applications if the

[99] Memorandum from Byron Bunker, US EPA to Air Docket A–99–06, ''Meeting between EPA, OMB, representatives of major oil companies, and representatives of major diesel engine manufacturers,'' Item II–E–17.

[100] This estimate assumes that a heavy-duty vehicle averages six miles per gallon of fuel, that diesel fuel weighs seven pounds per gallon, that diesel fuel has seven ppm sulfur, and that a sulfur trap could store one pound of SO_2 in a cubic foot of catalyst.

[101] SRC systems being developed for mobile applications are more appropriately called ''compact SCR'' systems, which incorporate on oxidation catalyst. Generally, reference to SCR throughout this preamble should be taken to mean compact SCR.

[102] Klein, H., et al., NO_X Reduction for Diesel Vehicles, Degussa-Huls AG, Corning Clean Diesel Workshop, Sept. 27–29, 1999.

[103] ''Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered Heavy-Duty Engines to Achieve Low Emission Levels,'' Manufacturers of Emission Controls Association, June 1999.

[104] ''Demonstration of Advanced Emission Control Technologies Enabling Diesel-Powered Heavy-Duty Engines to Achieve Low Emission Levels,'' Manufacturers of Emission Controls Association, June 1999.

[105] ''The Impact of Sulfur in Diesel Fuel on Catalyst Emission Control Technology,'' report by the Manufacturers of Emission Controls Association, March 15, 1999.

difficult urea infrastructure issues can be addressed.

c. Meeting the Proposed NMHC Standard

Meeting the NMHC standards proposed today should not present any special challenges to diesel manufacturers. Since all of the devices discussed above—catalyzed particulate filters, NO_X adsorbers, and SCR—contain platinum and other precious metals to oxidize NO to NO_2, they are also very efficient oxidizers of hydrocarbons. Reductions of greater than 95 percent have been shown over transient FTP and supplemental steady-state modes.[106] Given that typical engine-out NMHC is expected to be in the 0.2 g/bhp-hr range for engines meeting the 2004 standards, this level of NMHC reduction will easily allow the 0.14 g/bhp-hr NMHC standard to be met over the transient FTP, the supplemental steady-state test, and the NTE zone.

d. Meeting the Crankcase Emissions Requirements

The most common way to eliminate crankcase emissions has been to vent the blow-by gases into the engine air intake system, so that the gases can be recombusted. Until today's proposal, we have required that crankcase emissions be controlled only on naturally aspirated diesel engines. We have made an exception for turbocharged heavy-duty diesel engines because of concerns in the past about fouling that could occur by routing the diesel particulates (including engine oil) into the turbocharger and aftercooler. However, this is an environmentally significant exception since most heavy-duty diesel trucks use turbocharged engines, and a single engine can emit over 100 pounds of NO_X, NMHC, and PM from the crankcase over the lifetime of the engine.

Therefore, we have proposed to eliminate this exception. We anticipate that the heavy-duty diesel engine manufacturers will be able to control crankcase emissions through the use of closed crankcase filtration systems or by routing unfiltered blow-by gases directly into the exhaust system upstream of the emission control equipment. The closed crankcase filtration systems work by separating oil and particulate matter from the blow-by gases through single or dual stage filtration approaches, routing the blow-by gases into the engine's intake manifold and returning the filtered oil to the oil sump. These systems are required for new heavy-duty diesel vehicles in Europe starting this year. Oil separation efficiencies in excess of 90 percent have been demonstrated with production ready prototypes of two stage filtration systems.[107] By eliminating 90 percent of the oil that would normally be vented to the atmosphere, the system works to reduce oil consumption and to eliminate concerns over fouling of the intake system when the gases are routed through the turbocharger. An alternative approach would be to route the blow-by gases into the exhaust system upstream of the catalyzed diesel particulate filter which would be expected to effectively trap and oxidize the engine oil and diesel PM. This approach may require the use of low sulfur engine oil to ensure that oil carried in the blow-by gases does not compromise the performance of the sulfur sensitive emission control equipment. We request comment on the use of either approach to crankcase emissions control.

e. The Complete System

We expect that the technologies described above would be integrated into a complete emission control system. The engine-out emissions will be traded off against the exhaust emission control package in such a way that the result is the most beneficial from a cost, fuel economy and emissions standpoint. The engine-out characteristics will also have to be tailored to the needs of the exhaust emission control devices used. The NO_X adsorber, for instance, will require periods of oxygen depleted exhaust flow in order to regenerate. This may be most efficiently done by reducing the air-fuel ratio that the engine is operating under during the regeneration to reduce the oxygen content of the exhaust. Further, it is envisioned that the PM device will be integrated into the exhaust system upstream of the NO_X reduction device. This placement would allow the PM trap to take advantage of the engine-out NO_X as an oxidant for the particulate, while removing the particulate so that the NO_X exhaust emission control device will not have to deal with large PM deposits which may cause a deterioration in performance. Of course, there is also the possibility of integrating the PM and NO_X exhaust emission control devices into a single unit to replace a muffler and save space. Particulate free exhaust may also allow for new options in EGR system design to optimize its efficiency.

We expect that the exhaust emission control emission reduction efficiency will vary with temperature and space velocity[108] across the NTE zone. Consequently, to maintain the NTE emission cap, the engine-out emissions would have to be calibrated with exhaust emission control performance characteristics in mind. This would be accomplished by lowering engine-out emissions where the exhaust emission control was less efficient. Conversely, where the exhaust emission control is very efficient at reducing emissions, the engine-out emissions could be tuned for higher emissions and better fuel economy. These trade-offs between engine-out emissions and exhaust emission control performance characteristics are similar to those of gasoline engines with three-way catalysts in today's light-duty vehicles. Managing and optimizing these trade-offs will be crucial to effective implementation of exhaust emission control devices on diesel applications.

2. Feasibility of Stringent Standards for Heavy-Duty Gasoline

Gasoline emission control technology has evolved rapidly in recent years. Emission standards applicable to 1990 model year vehicles required roughly 90 percent reductions in exhaust NMHC and CO emissions and a 75 percent reduction in NO_X emissions compared to uncontrolled emissions. Today, some vehicles' emissions are well below those necessary to meet the current federal heavy-duty gasoline standards, the proposed 2004 heavy-duty gasoline standards, and the California Low-Emission Vehicle standards for medium-duty vehicles. The continuing emissions reductions have been brought about by ongoing improvements in engine air-fuel management hardware and software plus improvements in exhaust system and catalyst designs.

We believe that the types of changes being seen on current vehicles have not yet reached their technological limits and continuing improvement will allow them to meet today's proposed standards. The Draft RIA describes a range of specific emission control techniques that we believe could be used. There is no need to invent new technologies, although there will be a need to apply existing technology more effectively and more broadly. The focus of the effort will be in the application and optimization of these existing technologies.

[106] "The Impact of Sulfur in Diesel Fuel on Catalyst Emission Control Technology," report by the Manufacturers of Emission Controls Association, March 15, 1999, pp. 9 & 11.

[107] Letter from Marty Barris Donaldson Corporation to Byron Bunker US EPA, March 2000. EPA Air Docket A–99–06.

[108] The term, "space velocity," is a measure of the volume of exhaust gas that flows through a device.

In our light-duty Tier 2 rule, we have required that gasoline sulfur levels be reduced to a 30 ppm average, with an 80 ppm maximum. This sulfur level reduction is the primary enabler for the Tier 2 standards. Similarly, we believe that the gasoline sulfur reduction, along with refinements in existing gasoline emission control technology, will be sufficient to allow heavy-duty gasoline vehicles and engines to meet the emission standards sought by today's proposal.

However, we recognize that the emission standards are stringent, and considerable effort would have to be undertaken. For example, we expect that every engine would have to be recalibrated to improve upon its cold start emission performance. Manufacturers would have to migrate their light-duty calibration approaches to their heavy-duty offerings to provide cold start performance in line with what they will have to achieve to meet the Tier 2 standards.

We also project that the proposed 2007 heavy-duty standards would require the application of advanced engine and catalyst systems similar to those projected for their light-duty counterparts. Historically, manufacturers have introduced technology on light-duty gasoline applications and then applied those technologies to their heavy-duty gasoline applications. The proposal would allow manufacturers to take this same approach for 2007. In other words, we expect that manufacturers would meet the proposed 2007 standards through the application of technology developed to meet light-duty Tier 2 standards for 2004.

Improved calibration and systems management would be critical in optimizing the performance of the engine with the advanced catalyst system. Precise air/fuel control must be tailored for emissions performance and must be optimized for both FTP and SFTP type driving. Calibration refinements may also be needed for EGR system optimization and to reduce cold start emissions through methods such as spark timing retard. We also project that electronic control modules with expanded capabilities would be needed on some vehicles and engines.

We also expect increased use of other technologies in conjunction with those described above. We expect some increased use of air injection to improve upon cold start emissions. We may also see air-gap manifolds, exhaust pipes, and catalytic converter shells as a means of improving upon catalyst light-off times thereby reducing cold start emissions. Other, non-catalyst related improvements to gasoline emission control technology include, as already stated, higher speed computer processors which enable more sophisticated engine control algorithms and improved fuel injectors providing better fuel atomization thereby improving fuel combustion.

Catalyst system durability is, and will always be, a serious concern. Historically, catalysts have deteriorated when exposed to very high temperatures. This has long been a concern especially for heavy-duty work vehicles. However, catalyst manufacturers continue to make strides in the area of thermal stability and we expect that improvements in thermal stability will continue for the next generation of catalysts.

We believe that, by optimizing all of these technologies, manufacturers will be able to achieve the proposed emission levels. Advanced catalyst systems have already shown potential to reduce emissions to close to the proposed levels. Some current California vehicles are certified to levels below 0.2 g/mi NO_X. California tested an advanced catalyst system on a vehicle loaded to a test weight comparable to a heavy-duty vehicle test weight and achieved NO_X and NMOG levels of 0.1 g/mi and 0.16 g/mi, respectively. The California vehicle with the advanced catalyst had not been optimized as a system to take full advantage of the catalyst's capabilities.

The ABT program can also be an important tool for manufacturers in implementing a new standard. The program allows manufacturers to transition to the more stringent standards by introducing emissions controls over a longer period of time, as opposed to a single model year. Manufacturers plan their product introductions well in advance. With ABT, manufacturers can better manage their product lines so that the new standards don't interrupt their product introduction plans. Also, the program allows manufacturers to focus on higher sales volume vehicles first and use credits for low sales volume vehicles.

We request comment on the feasibility of the proposed standards and request data that would help us evaluate advanced system durability.

3. Feasibility of the Proposed Evaporative Emission Standards

The proposed evaporative emission standards appear to be feasible now. Many designs have been certified that already meet these standards. A review of 1998 model year certification data indicates that five of eight evaporative system families in the 8,500 to 14,000 pound range comply with the proposed 1.4 g/test standard, while all evaporative system families in the over 14,000 pound range comply with the proposed 1.9 g/test standard.

The proposed evaporative emission standards would not require the development of new materials or, in many cases, even the new application of existing materials. Low permeability materials and low loss connections and seals are already used to varying degrees on current vehicles. Today's proposed standards would likely ensure their consistent use and discourage manufacturers from switching to cheaper materials or designs to take advantage of the large safety margins they have under current standards.

There are two approaches to reducing evaporative emissions for a given fuel. One is to minimize the potential for permeation and leakage by reducing the number of hoses, fittings and connections. The second is to use less permeable hoses and lower loss fittings and connections. Manufacturers are already employing both approaches.

Most manufacturers are moving to ''returnless'' fuel injection systems. Through more precise fuel pumping and metering, these systems eliminate the return line in the fuel injection system. The return line carries unneeded fuel from the fuel injectors back to the fuel tank. Because the fuel injectors are in such close contact with the hot engine, the fuel returned from the injectors to the fuel tank has been heated. This returned fuel is a significant source of fuel tank heat and vapor generation. The elimination of the return line also reduces the total length of hose on the vehicle through which vapors can permeate, and it reduces the number of fittings and connections through which fuel can leak.

Low permeability hoses and seals, and low loss fittings are available and are already used on many vehicles. Fluoropolymer materials can be added as liners to hose and component materials to yield large reductions in permeability over such conventional materials as monowall nylon. In addition, fluoropolymer materials can greatly reduce the adverse impact of alcohols in gasoline on permeability of evaporative components, hoses and seals.

F. Need for Low-Sulfur Diesel Fuel

The following discussion will build upon the brief sulfur sensitivity points made earlier in this section by providing a more in depth discussion of sulfur's effect on the most promising diesel exhaust emission control technologies. In order to evaluate the effect of sulfur

on diesel exhaust control technologies, we used three key factors to categorize the impact of sulfur in fuel on emission control function. These factors were efficiency, reliability, and fuel economy. Taken together these three factors lead us to believe that diesel fuel sulfur levels of 15 ppm will be required in order to make feasible the proposed heavy-duty vehicle emission standards (a discussion of higher sulfur fuel standards, and what they might mean is included in Section VI.B). Brief summaries of these factors are provided below. A more in-depth review is given in the following subsections and the RIA associated with this proposal.

The **efficiency** of emission control technologies to reduce harmful pollutants is directly affected by sulfur in diesel fuel. Initial and long term conversion efficiencies for NO_X, NMHC, CO and diesel PM emissions are significantly reduced by catalyst poisoning and catalyst inhibition due to sulfur. NO_X conversion efficiencies with the NO_X adsorber technology in particular are dramatically reduced in a very short time due to sulfur poisoning of the NO_X storage bed. In addition, total PM control efficiency is negatively impacted by the formation of sulfate PM. As explained in detail in the following sections, all of the advanced NO_X and PM technologies described here have the potential to make significant amounts of sulfate PM under operating conditions typical of heavy-duty vehicles. The formation of sulfate PM is likely to be in excess of the total PM standard proposed today, unless diesel fuel sulfur levels are at or below 15 ppm. Based on the strong negative impact of sulfur on emission control efficiencies for all of the technologies evaluated, we believe that 15 ppm represents an upper threshold of acceptable diesel fuel sulfur levels.

Reliability refers to the expectation that emission control technologies must continue to function as required under all operating conditions for the life of the vehicle. As discussed in the following sections, sulfur in diesel fuel can prevent proper operation of both NO_X and PM control technologies. This can lead to permanent loss in emission control effectiveness and even catastrophic failure of the systems. Sulfur in diesel fuel impacts reliability by decreasing catalyst efficiency (poisoning of the catalyst), increasing diesel particulate filter loading, and negatively impacting system regeneration functions. Among the most serious reliability concerns with sulfur levels greater than 15 ppm are those associated with failure to properly regenerate. In the case of the NO_X adsorber, failure to regenerate will lead to rapid loss of NO_X emission control as a result of sulfur poisoning of the NO_X adsorber bed. In the case of the diesel particulate filter, sulfur in the fuel reduces the reliability of the regeneration function. If regeneration does not occur, catastrophic failure of the filter could occur. It is only by the availability of very low-sulfur diesel fuels that these technologies become feasible. The analysis given in the following section makes clear that diesel fuel sulfur levels will need to be consistent with today's proposed standard in order to ensure robust operation of the technologies under the variety of operating conditions anticipated to be experienced in the field.

Fuel economy impacts due to sulfur in diesel fuel affect both NO_X and PM control technologies. The NO_X adsorber sulfur regeneration cycle (desulfation cycle) can consume significant amounts of fuel unless fuel sulfur levels are very low. The larger the amount of sulfur in diesel fuel, the greater the adverse effect on fuel economy. As sulfur levels increase above 15 ppm, the adverse effect on fuel economy becomes more significant, increasing above one percent and doubling with each doubling of fuel sulfur level. Likewise, PM trap regeneration is inhibited by sulfur in diesel fuel. This leads to increased PM loading in the diesel particulate filter and increased work to pump exhaust across this restriction. With very low sulfur diesel fuel, diesel particulate filter regeneration can be optimized to give a lower (on average) exhaust backpressure and thus better fuel economy. Thus for both NO_X and PM technologies the lower the fuel sulfur level the better.

1. Diesel Particulate Filters and the Need for Low-Sulfur Fuel

As discussed earlier in this section, un-catalyzed diesel particulate filters require exhaust temperatures in excess of 650°C in order for the collected PM to be oxidized by the oxygen available in diesel exhaust. That temperature threshold for oxidation of PM by exhaust oxygen can be decreased to 450°C through the use of base metal catalytic technologies. Unfortunately, for a broad range of operating conditions diesel exhaust is significantly cooler than 400°C. If oxidation of the trapped PM could be assured to occur at exhaust temperatures lower than 300°C, then diesel particulate filters would be expected to be robust for most applications and operating regimes. The only means that we are aware of to ensure oxidation of PM (regeneration of the trap) at such low exhaust temperatures is by using oxidants which are more readily reduced than oxygen. One such oxidant is NO_2.

NO_2 can be produced in diesel exhaust through the oxidation of the nitrogen monoxide (NO), created in the engine combustion process, across a catalyst. The resulting NO_2-rich exhaust is highly oxidizing in nature and can oxidize trapped diesel PM at temperatures as cool as 250°C.[109] Some platinum group metals are known to be good catalysts to promote the oxidation of NO to NO_2. Therefore in order to ensure passive regeneration of the diesel particulate filters, significant amounts of platinum group metals (primarily platinum) are being used in the wash-coat formulations of advanced diesel particulate filters. The use of platinum to promote the oxidation of NO to NO_2 introduces several system vulnerabilities affecting both the durability and the effectiveness of the catalyzed diesel particulate filter when sulfur is present in diesel exhaust. The two primary mechanisms by which sulfur in diesel fuel limits the robustness and effectiveness of diesel particulate filters are inhibition of trap regeneration (i.e., inhibition of the oxidation of NO to NO_2) and a dramatic loss in total PM control effectiveness due to the formation of sulfate PM. Unfortunately, these two mechanisms trade-off against one another in the design of diesel particulate filters. Changes to improve the reliability of regeneration by increasing catalyst loadings lead to increased sulfate emissions and thus loss of PM control effectiveness. Conversely, changes to improve PM control by reducing the use of platinum group metals and, therefore, limiting ''sulfate make'' leads to less reliable regeneration. We believe the only means of achieving good PM emission control and reliable operation is to reduce sulfur in diesel fuel to the level proposed today, as shown in the following subsections.

a. Inhibition of Trap Regeneration Due to Sulfur

The passively regenerating diesel particulate filter technologies rely on the generation of a very strong oxidant, NO_2, to ensure that the carbon captured by the PM trap's filtering media is oxidized under normal operating conditions. NO_2 is produced through the oxidation of NO in the exhaust across a platinum catalyst. This oxidation is inhibited by the presence of

[109] Hawker, P. et al, Experience with a New Particulate Trap Technology in Europe, SAE 970182.

SO_2 in the exhaust stream because the preferential reaction across the platinum is oxidation of SO_2 to SO_3, rather than oxidation of NO to NO_2.[110] This inhibition limits the total amount of NO_2 available for oxidation of the trapped diesel PM, thereby raising the minimum exhaust temperature required to ensure trap regeneration. Without sufficient NO_2, the amount of PM trapped in the diesel particulate filter will continue to increase and can lead to excessive exhaust back pressure, low engine power, and even catastrophic failure of the diesel particulate filter itself.

Full field test evaluations and retrofit applications of these catalytic trap technologies are occurring in parts of Europe where low-sulfur diesel fuel is already available.[111] The experience gained in these field tests helps to clarify the need for very low-sulfur diesel fuel. In Sweden and some European city centers where below 10 ppm diesel fuel sulfur is readily available, more than 3,000 catalyzed diesel particulate filters have been introduced into retrofit applications without a single failure. Given the large number of vehicles participating in these test programs and the extended time periods of operation (some vehicles have been operating with traps for more than 4 years and in excess of 300,000 miles [112]), this is a strong indication of the robustness of this technology on 10 ppm low-sulfur diesel fuel. The field experience in areas where sulfur is capped at 50 ppm has been less definitive. In regions without extended periods of cold ambient conditions, such as the United Kingdom, field tests on 50 ppm cap low-sulfur fuel have also been positive, matching the success at 10 ppm. However, field tests in Finland where colder winter conditions are sometimes encountered (similar to many parts of the United States) have revealed a failure rate of 10 percent. This 10 percent failure rate has been attributed to insufficient trap regeneration due to fuel sulfur in combination with low ambient temperatures.[113] As the ambient conditions in Sweden are expected to be no less harsh than Finland, we are left to conclude that the increased failure rates noted here are due to the higher fuel sulfur level in a 50 ppm cap fuel versus a 10 ppm cap fuel. The failure of some fraction of the traps to regenerate on 50 ppm cap fuel is believed to be primarily due to inhibition of the NO to NO_2 conversion as described here.

The failure mechanisms experienced by diesel particulate filters due to low NO_2 availability vary significantly in severity and long term consequences. In the most fundamental sense, the failure is defined as an inability to oxidize the stored particulate at a rate fast enough to prevent net particulate accumulation over time. The excessive accumulation of PM over time blocks the passages through the filtering media, making it more restrictive to exhaust flow. In order to continue to force the exhaust through the now more restrictive filter the exhaust pressure upstream of the filter must increase. This increase in exhaust pressure is commonly referred to as increasing ''exhaust backpressure'' on the engine.

The increased exhaust backpressure represents increased work being done by the engine to force the exhaust gas through the increasingly restrictive particulate filter. Unless the filter is frequently cleansed of the trapped PM, this increased work can lead to reductions in engine performance and increases in fuel consumption. This loss in performance may be noted by the vehicle operator in terms of poor acceleration and generally poor driveability of the vehicle. In some cases, engine performance can be so restricted that the engine stalls, stranding the vehicle. This progressive deterioration of engine performance as more and more PM is accumulated in the filter media is often referred to as ''trap plugging.'' Trap plugging also has the potential to cause engine damage. If the exhaust backpressure gets high enough to open the exhaust valves prematurely, the exhaust valves can then strike the piston causing catastrophic engine failure. Whether trap plugging occurs, and the speed at which it occurs, will be a function of many variables in addition to the fuel sulfur level; these variables include the vehicle application, its duty cycle, and ambient conditions. However, if the fuel sulfur level is sufficient to prevent trap regeneration in any real world conditions experienced, trap plugging can occur. This is not to imply that any time a vehicle is refueled once with high sulfur fuel trap plugging will occur. Rather, it is important to know that the use of fuel with sulfur levels higher than 15 ppm significantly increases the chances of particulate filter failure.

Catastrophic failure of the filter can occur when excessive amounts of PM are trapped in the filter due to a lack of NO_2 for oxidation. This failure occurs when excessive amounts of trapped PM begin to oxidize at high temperatures (combustion-like temperatures of over 1000°C) leading to a ''run-away'' combustion of the PM. This can cause temperatures in the filter media to increase in excess of that which can be tolerated by the particulate filter itself. For the cordierite material commonly used as the trapping media for diesel particulate filters, the high thermal stresses caused by the high temperatures can cause the material to crack or melt. This can allow significant amounts of the diesel particulate to pass through the filter without being captured during the remainder of the vehicle's life. That is, the trap is destroyed and PM emission control is lost.

As shown above, sulfur in diesel fuel inhibits NO oxidation leading to increased exhaust backpressure, reduced fuel economy, compromised reliability, and potentially engine damage. Therefore, we believe that, in order to ensure reliable and economical operation over a wide range of expected operating conditions, diesel fuel sulfur levels should be at or below 15 ppm. With these very low sulfur levels we believe, as demonstrated by experience in Europe, that catalyzed diesel particulate filters will prove to be both durable and effective at controlling diesel particulate emissions to the very low levels that would be required by today's proposed standard. We request comment on the inhibition of trap regeneration due to fuel sulfur, along with supporting data.

b. Loss of PM Control Effectiveness

In addition to inhibiting the oxidation of NO to NO_2, the sulfur dioxide (SO_2) in the exhaust stream is itself oxidized to sulfur trioxide (SO_3) at very high conversion efficiencies by the precious metals in the catalyzed particulate filters. The SO_3 serves as a precursor to the formation of hydrated sulfuric acid (H_2SO_4+H_2O), or sulfate PM, as the exhaust leaves the vehicle tailpipe. Virtually all of the SO_3 is converted to sulfate under dilute exhaust conditions in the atmosphere as well in the dilution tunnel used in heavy-duty engine testing. Since virtually all sulfur present in diesel fuel is converted to SO_2, the precursor to SO_3, as part of the combustion process, the total sulfate PM is directly proportional to the amount of sulfur present in diesel fuel. Therefore, even though diesel particulate filters are very effective at trapping the carbon and the SOF portions of the total PM, the

[110] Hawker, P. et al, Experience with a New Particulate Trap Technology in Europe, SAE 970182.

[111] Through tax incentives 50 ppm cap sulfur fuel is widely available in the United Kingdom and 10 ppm sulfur fuel is available in Sweden and in certain European city centers.

[112] Allansson, et al. SAE 2000–01–0480.

[113] Letter from Dr. Barry Cooper, Johnson Matthey, to Don Kopinski, US EPA, Air Docket A–99–06.

overall PM reduction efficiency of catalyzed diesel particulate filters drops off rapidly with increasing sulfur levels due to the production of sulfate PM.

SO_2 oxidation is promoted across a catalyst in a manner very similar to the oxidation of NO, except it is converted at higher rates, with peak conversion rates in excess of 50 percent. The SO_2 oxidation rate for a platinum based oxidation catalyst typical of the type which might be used in conjunction with, or as a washcoat on, a catalyzed diesel particulate filter can vary significantly with exhaust temperature. At the low temperatures typical of some urban driving and the heavy-duty federal test procedure (HD–FTP), the oxidation rate is relatively low, perhaps no higher than ten percent. However at the higher temperatures that might be more typical of non-urban highway driving conditions and the Supplemental Steady State Test (also called the EURO III or 13 mode test), the oxidation rate may increase to 50 percent or more. These high levels of sulfate make across the catalyst are in contrast to the very low SO_2 oxidation rate typical of diesel engines (less than 2 percent). This variation in expected diesel exhaust temperatures means that there will be a corresponding range of sulfate production expected across a catalyzed diesel particulate filter.

The U.S. Department of Energy in cooperation with industry conducted a study entitled Diesel Emission Control Sulfur Effects (DECSE) to provide insight into the relationship between advanced emission control technologies and diesel fuel sulfur levels. Interim report number four of this program gives the total particulate matter emissions from a heavy-duty diesel engine operated with a diesel particulate filter on several different fuel sulfur levels. A straight line fit through this data is presented in Table III.F–1 below showing the expected total direct PM emissions from a heavy-duty diesel engine on the supplemental steady state test cycle.[114]

TABLE III.F–1.—ESTIMATED PM EMISSIONS FROM A HEAVY-DUTY DIESEL ENGINE AT THE INDICATED AVERAGE FUEL SULFUR LEVELS

Avg. Fuel Sulfur [ppm]	Supplemental steady state	
	Tailpipe PM [g/bhp-hr]	Relative to 3 ppm sulfur
3	0.003	
7*	0.006	100%
15*	0.009	200%
30	0.017	470%
150	0.071	2,300%

*The PM emissions at these sulfur levels are based on a straight-line fit to the DECSE data; PM emissions at other sulfur levels are actual DECSE data. (Diesel Emission Control Sulfur Effects (DECSE) Program—Phase II Interim Data Report No. 4, Diesel Particulate Filters-Final Report, January 2000, Table C1.) Although DECSE tested diesel particulate filters at these fuel sulfur levels, they do not conclude that the technology is feasible at all levels, but they do note that testing at 150 ppm is a moot point as the emission levels exceed the engine's baseline emission level.

Table III.F–1 makes it clear that there are significant PM emission reductions possible with the application of catalyzed diesel particulate filters and low-sulfur diesel fuel. At the observed sulfate PM conversion rates, the DECSE program results show that the proposed total PM standard is feasible for diesel particulate filter equipped engines operated on fuel with a sulfur level at or below 15 ppm. The results also show that diesel particulate filter control effectiveness is rapidly degraded at higher diesel fuel sulfur levels due to the high sulfate PM make observed with this technology.

It is clear that PM reduction efficiencies are limited by sulfur in diesel fuel and that, in order to realize the PM emissions benefits sought in this rule, diesel fuel sulfur levels must be as low as possible. As discussed in Section IV, we believe that a 15 ppm sulfur cap for highway diesel fuel is the correct level given consideration to all factors. We request comment on the loss of PM control effectiveness due to fuel sulfur along with supportive data.

c. Increased Maintenance Cost for Diesel Particulate Filters Due to Sulfur

In addition to the direct performance and durability concerns caused by sulfur in diesel fuel, it is also known that sulfur can lead to increased maintenance costs, shortened maintenance intervals, and poorer fuel economy for particulate filters. Diesel particulate filters are highly effective at capturing the inorganic ash produced from metallic additives in engine oil. This ash is accumulated in the filter and is not removed through oxidation, unlike the trapped carbonaceous PM. Periodically the ash must be removed by mechanical cleaning of the filter with compressed air or water. This maintenance step is anticipated to occur on intervals of well over one hundred thousand miles. However, sulfur in diesel fuel increases this ash accumulation rate through the formation of metallic sulfates in the filter, which increases both the size and mass of the trapped ash. By increasing the ash accumulation rate, the sulfur shortens the time interval between the required maintenance of the filter and negatively impacts fuel economy. We request comment on the issue of PM filter maintenance costs and maintenance intervals along with supportive data.

2. Diesel NO_X Catalysts and the Need for Low-Sulfur Fuel

All of the NO_X exhaust emission control technologies discussed previously in Section III are expected to utilize platinum to oxidize NO to NO_2 to improve the NO_X reduction efficiency of the catalysts at low temperatures or as in the case of the NO_X adsorber, as an essential part of the process of NO_X storage. This reliance on NO_2 as an integral part of the reduction process means that the NO_X exhaust emission control technologies, like the PM exhaust emission control technologies, will have problems with sulfur in diesel fuel. In addition NO_X adsorbers have the added constraint that the adsorption function itself is blocked by the presence of sulfur. These limitations due to sulfur in the fuel affect both overall performance of the technologies and, in fact, the very feasibility of the NO_X adsorber technology.

a. Sulfate Particulate Production for NO_X Control Technologies

Two advanced NO_X control technologies that are likely to be able to meet the NO_X emission standard being proposed today are advanced NO_X adsorber catalyst systems and advanced Compact-SCR systems. The NO_X adsorber technology relies on an oxidation function to convert NO to NO_2 over the catalyst bed. For the NO_X adsorber this is a fundamental step prior to the storage of NO_2 in the catalyst bed as a nitrate. Without this oxidation function the catalyst will only trap that small portion of NO_X emissions from a diesel engine which is NO_2. This would reduce the NO_X adsorber effectiveness for NO_X reduction from in excess of 90 percent to something well below 20 percent. The NO_X adsorber relies on platinum to provide this oxidation function due to the need for high NO

[114] Note that direct emissions are those pollutants emitted directly from the engine or from the tailpipe depending on the context in which the term is used, and indirect emissions are those pollutants formed in the atmosphere through the combination of direct emissions and atmospheric constituents.

oxidation rates under the relatively cool exhaust temperatures typical of diesel engines.

The Compact-SCR technology, like the NO_X adsorber technology, uses an oxidation catalyst to promote the oxidation of NO to NO_2 at the low temperatures typical of much of diesel engine operation. By converting a portion of the NO_X emissions to NO_2 upstream of the ammonia SCR reduction catalyst, the overall NO_X reductions are improved significantly at low temperatures. As discussed previously in section III, platinum group metals, primarily platinum, are known to be good catalysts to promote NO oxidation, even at low temperatures. Therefore, future Compact-SCR systems are expected to rely on a platinum oxidation catalyst in order to provide the required NO_X emission control.

The NO_X adsorber technology may be able to limit its impact on sulfate PM emissions by releasing stored sulfur as SO_2 under rich operating conditions. The Compact-SCR technology, on the other hand, has no means to limit sulfate emissions other than through lower catalytic function or lowering sulfur in diesel fuel. The degree to which the NO_X control aftertreatment technologies increase the production of sulfate PM through oxidation of SO_2 to SO_3 varies somewhat from technology to technology, but it is expected to be similar in magnitude and environmental impact to that for the PM control technologies discussed previously. Thus, we believe that diesel fuel sulfur levels will likely need to be below 15 ppm in order to apply these advanced NO_X control technologies (see discussion in section III.F.1). Without this low-sulfur fuel, the advanced NO_X control technologies are expected to create PM emissions in excess of the PM standard regardless of the engine-out PM levels. We invite comment on sulfate PM production by NO_X control technologies due to fuel sulfur along with supportive data.

b. Sulfur Poisoning (Sulfate Storage) on NO_X Adsorbers

The NO_X adsorber technology relies on the ability of the catalyst to store NO_X as a nitrate on the surface of the catalyst, or adsorber (storage) bed, during lean operation. Because of the similarities in chemical properties of SO_X and NO_X, the SO_2 present in the exhaust is also stored by the catalyst surface as a sulfate. The sulfate compound that is formed is significantly more stable than the nitrate compound and is not released and reduced during the NO_X release and reduction step. Since the NO_X adsorber is essentially 100 percent effective at capturing SO_2 in the adsorber bed, the poisoning of the catalyst occurs rapidly. As a result, sulfate compounds quickly occupy all of the NO_X storage sites on the catalyst thereby rendering the catalyst ineffective for NO_X reduction (poisoning the catalyst).

The stored sulfur compounds can be removed by exposing the catalyst to hot (over 650 °C) and rich (air-fuel ratio below the stoichiometric ratio of 14.5 to 1) conditions for a brief period.[115] [116] Under these conditions, the stored sulfate is released and reduced in the catalyst.[117] Because the exhaust must be taken to a hot and rich condition, there is a fuel consumption impact associated with the desulfation cycle. We have developed a spreadsheet model that estimates the frequency of desulfation cycles from published data and then estimates the fuel economy impact from this event.[118] Table III–F.2 shows the estimated fuel economy impact for desulfation of a NO_X adsorber at different fuel sulfur levels assuming a desired 90 percent NO_X conversion efficiency. The estimates in the table are based on assumed average fuel sulfur levels associated with different sulfur level caps.

TABLE III.F–2.—ESTIMATED FUEL ECONOMY IMPACT FROM DESULFATION OF A 90% EFFICIENT NO_X ADSORBER

Fuel sulfur cap [ppm]	Average fuel sulfur [ppm]	Fuel economy penalty
500	350	27%
50	30	2%
25	15	1%
15	7	<1%
5	2	<<<1%

The table highlights that the fuel economy penalty associated with sulfur in diesel fuel is noticeable even at average sulfur levels as low as 15 ppm and increases rapidly with higher sulfur levels. It also shows that the use of a NO_X adsorber at the proposed 15 ppm sulfur cap would be expected to result in a fuel economy impact of less than 1 percent absent other changes in engine design. However, as discussed in Section G below, we anticipate that other engine modifications could be made to offset this fuel economy impact. For example, a NO_X control device in the exhaust system could allow use of fuel saving engine strategies, such as advanced fuel injection timing, that could be used to offset the increased fuel consumption associated with the NO_X adsorber. The result is that low-sulfur fuel enables the NO_X adsorber, which in turn enables fuel saving engine modifications. Such a system level fuel economy impact, which we estimate to be zero under a 15 ppm cap program, is discussed below in section III.G.

Future improvements in the NO_X adsorber technology are expected and needed if the technology is to provide the environmental benefits we have projected today. Some of these improvements are likely to include improvements in the means and ease of removing stored sulfur from the catalyst bed. However because the stored sulfate species are inherently more stable than the stored nitrate compounds (from stored NO_X emissions), we expect that a separate release and reduction cycle (desulfation cycle) will always be needed in order to remove the stored sulfur. Therefore, we believe that fuel with a sulfur level at or below 15 ppm sulfur will be necessary in order to avoid an unacceptable fuel economy impact. We request comment on sulfur poisoning of NO_X adsorbers by fuel sulfur along with supportive data.

c. Sulfur Impacts on Catalytic Efficiency

The technologies discussed in today's proposal generally rely on some form of catalytic function in order to promote favorable chemical reactions needed in order to accomplish the desired NO_X emission reductions. In each case platinum and/or other precious group metal catalysts are anticipated to be used to accomplish these functions. From our experience with gasoline three-way catalysts and from the extensive body of work in the literature we know that these catalytic functions are inhibited by sulfur. Sulfur deposits on the precious metal sites in the catalyst and causes a decrease in the catalytic function of the device. This causes an increase in the light-off temperature for the catalyst along with a significant reduction in the oxidation and reduction efficiencies of all of the devices.[119] As discussed at length in the Tier 2 rulemaking, sulfur reductions in the fuel are a very effective way to reduce catalyst poisoning of this type in

[115] [Reserved]

[116] Dou, Danan and Bailey, Owen, ''Investigation of NO_X Adsorber Catalyst Deactivation,'' SAE 982594.

[117] Guyon, M. et al., ''Impact of Sulfur on NO_X Trap Catalyst Activity—Study of the Regeneration Conditions,'' SAE 982607.

[118] Memo from Byron Bunker, to docket A–99–06, ''Estimating Fuel Economy Impacts of NO_X Adsorber De-Sulfurization.''

[119] The Impact of Sulfur in Diesel Fuel on Catalyst Emissions Control Technology—Manufacturers of Emission Controls Association (MECA), March 15, 1999, www.meca.org.

order to maintain high catalyst efficiency and to ensure reliable operation. We invite comment on fuel sulfur impact on catalyst efficiency along with supportive data.

3. What About Sulfur in Engine Lubricating Oils?

Current engine lubricating oils have sulfur contents which can range from 2,500 ppm to as high as 8,000 ppm by weight. Since engine oil is consumed by heavy-duty diesel engines in normal operation, it is important that we account for the contribution of oil derived sulfur in our analysis of the need for low-sulfur diesel fuel. One way to give a straightforward comparison of this effect is to express the sulfur consumed by the engine as an equivalent fuel sulfur level. This approach requires that we assume specific fuel and oil consumption rates for the engine. Using this approach, estimates ranging from two to seven ppm diesel fuel sulfur equivalence have been made for the sulfur contribution from engine oil.[120, 121] If values at the upper end of this range accurately reflect the contribution of sulfur from engine oil to the exhaust this would be a concern as it would represent 50 percent of the total sulfur in the exhaust under a 15 ppm diesel fuel sulfur cap (with an average sulfur level assumed to be approximately seven ppm). However, we believe that this simplified analysis, while valuable in demonstrating the need to investigate this issue further, overstates the likely sulfur contribution from engine oil by a significant amount.

Current heavy-duty diesel engines operate with open crankcase ventilation systems which ''consume'' oil by carrying oil from the engine crankcase into the environment. This consumed oil is correctly included in the total oil consumption estimates, but should not be included in estimates of oil entering the exhaust system for this analysis, since as currently applied this oil is not introduced into the exhaust. At present we estimate that the majority of lube oil consumed by an engine meeting the 0.1 g/bhp-hr PM standard is lost through crankcase ventilation, rather than through the exhaust. Based on assumed engine oil to PM conversion rates and historic soluble organic fraction breakdowns we have estimated the contribution of sulfur from engine oil to be less than two ppm fuel equivalency. With the proposal today to close the crankcase, coupled with the use of closed crankcase ventilation systems that separate in excess of 90 percent of the oil from the blow-by gases, we believe that this very low contribution of lube oil to sulfur in the exhaust can be maintained. For a further discussion of our estimates of the sulfur contribution from engine oil refer to the draft RIA associated with this proposal.

Although there are good indications to date that oil borne sulfur is not a significant contributor to exhaust sulfur, EPA remains concerned about this issue. We invite comment on the potential for engine lubricating oils to introduce significant amounts of sulfur into the exhaust. Of particular value to EPA is data indicating the expected oil consumption rates of future engines and estimates of future engine oil characteristics specifically with regard to sulfur content. We also invite comment on the potential for new ''low-sulfur'' engine oils to be developed for these vehicles equipped with sulfur sensitive emission control technologies.

G. Fuel Economy Impact of Advanced Emission Control Technologies

The advanced emission control technologies expected to be applied in order to meet the proposed NO_X and PM standards involve wholly new system components integrated into engine designs and calibrations, and as such may be expected to change the fuel consumption characteristics of the overall engine design. After reviewing the likely technology options available to the engine manufacturers, we believe that the integration of the engine and exhaust emission control systems into a single synergistic emission control system will lead to heavy-duty vehicles which can meet demanding emission control targets without increasing fuel consumption beyond today's levels.

1. Diesel Particulate Filters and Fuel Economy

Diesel particulate filters are anticipated to provide a step-wise decrease in diesel particulate (PM) emissions by trapping and oxidizing the diesel PM. The trapping of the very fine diesel PM is accomplished by forcing the exhaust through a porous filtering media with extremely small openings and long path lengths.[122] This approach results in filtering efficiencies for diesel PM greater than 90 percent but requires additional pumping work to force the exhaust through these small openings. The additional pumping work is anticipated to increase fuel consumption by approximately one percent.[123] However, we believe this fuel economy impact can be regained through optimization of the engine-PM trap-NO_X adsorber system, as discussed below. We request comment and data on the magnitude of the fuel economy impact of diesel particulate filters.

2. NO_X Control Technologies and Fuel Economy

NO_X adsorbers are expected to be the primary NO_X control technology introduced in order to provide the reduction in NO_X emissions envisioned in this proposal. NO_X adsorbers work by storing NO_X emissions under fuel lean operating conditions (normal diesel engine operating conditions) and then by releasing and reducing the stored NO_X emissions over a brief period of fuel rich engine operation. This brief periodic NO_X release and reduction step is directly analogous to the catalytic reduction of NO_X over a gasoline three-way-catalyst. In order for this catalyst function to occur the engine exhaust constituents and conditions must be similar to normal gasoline exhaust constituents. That is, the exhaust must be fuel rich (devoid of excess oxygen) and hot (over 250C). Although it is anticipated that diesel engines can be made to operate in this way, it is assumed that fuel economy while operating under these conditions will be worse than normal. We have estimated that the fuel economy impact of the NO_X release and reduction cycle would, all other things being equal, increase fuel consumption by approximately one percent. Again, we believe this fuel economy impact can be regained through optimization of the engine-PM trap-NO_X adsorber system, as discussed below.

In addition to the NO_X release and regeneration event, another step in NO_X adsorber operation may affect fuel economy. As discussed earlier, NO_X adsorbers are poisoned by sulfur in the fuel even at the low sulfur levels we are proposing. As discussed in the draft RIA, we anticipate that the sulfur poisoning of the NO_X adsorber can be reversed through a periodic ''desulfation'' event. The desulfation of the NO_X adsorber is accomplished in a similar manner to the NO_X release and regeneration cycle described above. However it is anticipated that the

[120] Whitacre, Shawn. ''Catalyst Compatible'' Diesel Engine Oils, DECSE Phase II, Presentation at DOE/NREL Workshop ''Exploring Low Emission Diesel Engine Oils.'' January 31, 2000.

[121] This estimate assumes that a heavy-duty diesel engine consumes 1 quart of engine oil in 2,000 miles of operation, consumes fuel at a rate of 1 gallon per 6 miles of operation and that engine oil sulfur levels range from 2,000 to 8,000 ppm.

[122] Typically the filtering media is a porous ceramic monolith or a metallic fiber mesh.

[123] Engine, Fuel, and Emissions Engineering, Incorporated, ''Economic Analysis of Diesel Aftertreatment System Changes Made Possible by Reduction of Diesel Fuel Sulfur Content,'' December 14, 1999, Air Docket A–99–06.

desulfation event will require extended operation of the diesel engine at rich conditions.[124] This rich operation will, like the NO_X regeneration event, require an increase in the fuel consumption rate and will cause an associated decrease in fuel economy. With a 15 ppm fuel sulfur cap, we are projecting that fuel consumption for desulfation would increase by one percent or less, which we believe can be regained through optimization of the engine-PM trap-NO_X adsorber system as discussed below.

While NO_X adsorbers require non-power producing consumption of diesel fuel in order to function properly and, therefore, have an impact on fuel economy, they are not unique among NO_X control technologies in this way. In fact NO_X adsorbers are likely to have a very favorable NO_X to fuel economy trade-off when compared to other NO_X control technologies like cooled EGR and injection timing retard that have historically been used to control NO_X emissions. EGR requires the delivery of exhaust gas from the exhaust manifold to the intake manifold of the engine and causes a decrease in fuel economy for two reasons. The first of these reasons is that a certain amount of work is required to pump the EGR from the exhaust manifold to the intake manifold; this necessitates the use of intake throttling or some other means to accomplish this pumping. The second of these reasons is that heat in the exhaust, which is normally partially recovered as work across the turbine of the turbocharger, is instead lost to the engine coolant through the cooled EGR heat exchanger. In the end, cooled EGR is only some 50 percent effective at reducing NO_X. Nonetheless, cooled EGR, which we anticipate to be the technology of choice for meeting the proposed 2004 heavy-duty standards, still has a considerable advantage over the previous solutions such as injection timing retard. Injection timing retard is the strategy that has historically been employed to control NO_X emissions. By retarding the introduction of fuel into the engine, and thus delaying the start of combustion, both the peak temperature and pressure of the combustion event are decreased; this lowers NO_X formation rates and, ultimately, NO_X emissions. Unfortunately, this also significantly decreases the thermal efficiency of the engine (decreases fuel economy) while also increasing PM emissions. As an example, retarding injection timing eight degrees can decrease NO_X emissions by 45 percent, but this occurs at a fuel economy penalty of more than seven percent.[125]

Today, most diesel engines rely on injection timing control (retarding injection timing) in order to meet the 4.0 g/bhp-hr NO_X emission standard. For 2002/2004 model year compliance, we expect that engine manufacturers will use a combination of cooled EGR and injection timing control to meet the 2.0 g/bhp-hr NO_X standard. Because of the more favorable fuel economy trade-off for NO_X control with EGR when compared to timing control, we have forecast that less reliance on timing control will be needed in 2002/2004. Therefore, fuel economy will not be changed even at this lower NO_X level.

NO_X adsorbers have a significantly more favorable NO_X to fuel economy trade-off when compared to cooled EGR or timing retard alone, or even when compared to cooled EGR and timing retard together.[126] We expect NO_X adsorbers to be able to accomplish greater than 90 percent reduction in NO_X emissions, while only increasing fuel consumption by a very reasonable two percent or less. Therefore, we expect manufacturers to take full advantage of the NO_X control capabilities of the NO_X adsorber and project that they will decrease reliance on the more expensive (from a fuel economy standpoint) technologies, especially injection timing retard. We would therefore predict, that the fuel economy impact currently associated with NO_X control from timing retard would be decreased by at least three percent. In other words, through the application of advanced NO_X exhaust emission control technologies, which are enabled by the use of low-sulfur diesel fuel, we expect the NO_X trade-off with fuel economy to continue to improve significantly when compared to today's technologies. This will result in both much lower NO_X emissions, and potentially overall improvements in fuel economy. Improvements could easily offset the fuel consumption of the NO_X adsorber itself and, in addition, the one percent fuel economy loss projected to result from the application of PM filters. Consequently, we are projecting no fuel economy penalty to result from this rule. We invite comment and data concerning the relationships between the various types of NO_X control technologies and fuel economy as described here and in the cited references. In particular we ask for comments and data on NO_X adsorber fuel economy and methods of recovering that fuel economy through injection timing changes.

3. Emission Control Systems for 2007 and Net Fuel Economy Impacts

We anticipate that, in order to meet the stringent NO_X and PM emission standards proposed today, the manufacturers would integrate engine-based emission control technologies and post-combustion emission control technologies into a single systems-based approach that would fundamentally shift historic trade-offs between emissions control and fuel economy. As outlined in the preceding two sections, individual components in this system would introduce new constraints and opportunities for improvements in fuel efficient control of emissions. Having considered the many opportunities to fundamentally improve these relationships, we believe that it is unlikely that fuel economy will be lower than today's levels and, in fact, may improve through the application of these new technologies and this new systems approach. Therefore, for our analysis of economic impacts in section V, no penalty or benefit for changes to fuel economy are considered. We request comment on our analysis of the likely fuel economy offsets of the NO_X and PM emission control technologies that would be needed in order to meet today's proposed standards.

H. Future Reassessment of Diesel NO_X Control Technology

We are considering conducting a future reassessment of diesel NO_X control technologies and associated fuel sulfur requirements, and we request comment on the need for such a reassessment. Given the relative state of development of NO_X emission control technology versus PM and NMHC control technologies, we would expect to focus the control technology reassessment solely on NO_X control technologies. We believe that the clear intent of this proposal to provide low-sulfur diesel fuel will allow the development of this technology to progress rapidly, and will result in systems capable of achieving the proposed standards. However, we acknowledge that our proposed NO_X standard represents an ambitious target for this technology, and that the degree of uncertainty surrounding the feasibility of high-efficiency NO_X control technology would be higher if

[124] Dou, D. and Bailey, O., ''Investigation of NO_X Adsorber Catalyst Deactivation'' SAE982594.

[125] Herzog, P. et al., NO_X Reduction Strategies for DI Diesel Engines, SAE 920470, Society of Automotive Engineers 1992 (from Figure 1).

[126] Zelenka, P. et al., Cooled EGR—A Key Technology for Future Efficient HD Diesels, SAE 980190, Society of Automotive Engineers 1998. Figure 2 from this paper gives a graphical representation of how new technologies (including aftertreatment technologies) can shift the trade-off between NO_X emissions and fuel economy.

fuel sulfur levels higher than the proposed level were adopted. We also recognize that technology evolution may affect the sulfur level at which these technologies are enabled.

Therefore, we are evaluating whether or not the proposed program could benefit from a future reassessment of the control effectiveness of diesel NO_X exhaust emission control technologies and associated fuel sulfur requirements. We would expect to conduct such a reassessment in the 2003 timeframe, though we welcome comment on whether such a reassessment will be needed and on the appropriate timing for it. We also welcome comment on the extent to which a review of NO_X control technology should also include a review of the appropriate diesel fuel sulfur level for enabling the NO_X control technology, including consideration of impacts that a revised fuel requirement would have on PM control technology. Another possible area for consideration during the reassessment could be non-conformance penalties (NCPs) and the role they might play in this program. NCPs would allow engine manufacturers to produce and sell noncomplying engines under limited circumstances in exchange for paying a penalty to the government. We welcome comment on the role NCPs may play.

In conducting the review, we would expect to determine whether or not there was a need to formally consider a change in the final regulations adopted for this program. If such a change were determined to be necessary, we would conduct a formal rulemaking, including conducting public hearings.

I. Encouraging Innovative Technologies

We encourage comments on approaches that could provide increased incentives for the development and introduction of clean advanced engine technologies. Some such approaches have been suggested by stakeholders or have been a part of other EPA rules. One of these would be to develop a program for providing a special designation for engines or vehicles that are significantly below the standards or use specific innovative propulsion technologies. EPA finalized such a designation, the ''Blue Sky Series Engine'' program, as a part of the 1998 nonroad diesel standards final rule. Incorporating such a designation could be very valuable for use in programs developed by states, municipalities, or corporations to highlight or reward the purchase and use of especially clean or innovative vehicles and engines. We request comment on how we might structure a program like the ''Blue Sky Series'' program in the context of today's proposal, including what criteria we should use to qualify an engine or vehicles for such a designation.

It has also been suggested that we might adapt the proposed ABT program described in section VII.C. below to provide extra incentives for manufacturers that encourage innovative technologies. For example, manufacturers might get additional credits under the ABT program if they introduce extra clean models or if they meet future standards early. We believe our current ABT program, with the proposed revisions discussed below, should encourage manufacturers to seriously consider any technologies that can economically reach the very low emission levels proposed today. Nevertheless, we request comment on the need for and appropriateness of such additional provisions under the ABT program.

IV. Diesel Fuel Requirements

As discussed in section III above, we believe that advanced exhaust emission control technology exists and is being developed that can reduce emissions of NO_X and PM to very low levels. However, those exhaust emission control technologies will require changes to diesel fuel in order to operate efficiently and reach the new engine emissions standards we are proposing in today's NPRM. This section will present our proposed changes to diesel fuel that are intended to enable heavy-duty engines to meet our proposed new emission standards. We will also describe the extent and applicability of the proposed diesel fuel program, the means through which we expect refiners to meet the new diesel fuel standards, and incentives we are providing refiners for early introduction. The economic and environmental impacts of the proposed diesel fuel program will be covered in subsequent sections in combination with the implications of the proposed engine standards.

A. Why Do We Believe New Diesel Fuel Sulfur Controls Are Necessary?

In section III, we discussed our proposed finding that new standards for heavy-duty engines can be established on the basis of exhaust emission controls which we believe will be fully viable and widely available for the 2007 model year. However, we also discussed our understanding that those exhaust emission control technologies have a significant and irreversible sensitivity to the sulfur content of the fuel. Deep sulfur reductions are necessary to enable both the NO_X and PM emission control technology that we believe vehicles would need to use to achieve the emission standards we are proposing today. Since we believe that new standards for heavy-duty engines are an appropriate next step for reducing ambient pollution, and it is these very exhaust emission control technologies which manufacturers are likely to use in order to reach these low emission levels, we are proposing to reduce the sulfur content of highway diesel fuel.

Engine manufacturers and representatives of States, and environmental and public health organizations have expressed general support for a highway diesel fuel sulfur reduction strategy similar to the gasoline sulfur reduction program. However, some stakeholders, in particular refiners, have expressed concern that the sulfur sensitivity of heavy-duty diesel exhaust emission controls has not been quantified with a sufficient degree of certainty to provide a basis for setting a specific low sulfur standard. Although it is likely that the efficiency of exhaust emission control technology improves with decreasing fuel sulfur levels all the way down to nominally zero levels, we believe that it is possible to set a non-zero sulfur standard that sufficiently enables high-efficiency control technology. The sulfur standard we are proposing and the associated justification is described in more detail in section IV.B below.

Sulfur appears to be the only diesel fuel property that must be changed in order for the prospective exhaust emission control technologies to operate effectively. Changes in other fuel properties, such as cetane, aromatics, density, and high-end distillation, might all provide small emission benefits for engines meeting our proposed standards, but those benefits would be very small in comparison to the sulfur standard. They would also not enable new advances in emission control technology, and so would not likely produce significant step changes in heavy-duty engine emissions. See section VI.B for a more complete discussion of non-sulfur property changes for diesel fuel.

Finally, there is also an expectation on the part of some automobile manufacturers that diesel engines will be used more frequently in light-duty vehicles in the coming decade. However, any light-duty diesel vehicles will be required to meet our final Tier 2 standards, which we believe will require the use of the same high efficiency exhaust emission control technologies envisioned for heavy-duty applications. Although we are not proposing a change to diesel fuel specifically for light-duty diesel

vehicles, it is our expectation that the availability of a low-sulfur fuel intended primarily to enable heavy-duty engines to meet our proposed new standards would enable automobile manufacturers to produce light-duty diesel vehicles that could meet the Tier 2 standards. We would like comment on whether any other changes to diesel fuel specifically for light-duty diesel vehicles are necessary, and on the appropriateness, benefits, and costs of doing so.

B. What New Sulfur Standard Are We Proposing for Diesel Fuel?

We are proposing to require substantial reductions in diesel fuel sulfur levels nationwide. Our proposal would require that all highway diesel fuel produced or imported by refiners and importers be subject to a maximum sulfur level of 15 ppm by weight. The technological need for low-sulfur diesel fuel and the reasons for our proposed sulfur standard are discussed in section III above. However, we are also seeking comment on whether the sulfur standard should be set as high as 50 ppm or as low as 5 ppm, as well as what the associated costs and benefits would be of a higher or lower level. (See section VI.B. for further discussion of various sulfur standards.)

We believe our proposed diesel fuel sulfur program balances the goal of achieving dramatic reductions in emissions from heavy-duty vehicles with the goal of providing sufficient lead-time for the engine emission control technology to develop and for the refining industry to transition to a lower sulfur diesel fuel. Nevertheless, as noted elsewhere, we are seeking comments on all these issues. We are aware of diesel fuel industry concerns about their ability to consistently deliver fuel meeting this low cap requirement. We are also aware that some engine manufacturers are concerned that even fuel meeting the 15 ppm cap requirement may not adequately enable the exhaust emission control technologies. In determining the appropriate sulfur level and scope for our proposed program, we considered the implications of diesel fuel sulfur on the emission control hardware of both heavy-duty and light-duty vehicles (that is, light-duty diesel vehicles that are required to meet our Tier 2 emission standards). Specifically, we analyzed the degree to which the emission control devices described in section III, above, may tolerate diesel fuel sulfur. We also evaluated the environmental implications of sulfur control beyond the expected NO_X and PM benefits (see section II) and the costs of controlling fuel sulfur content, and we considered the ability of all refiners and importers to meet the proposed diesel fuel sulfur standard at essentially the same time (see section IV.D). We hope to benefit from further discussion of all of these issues during the public comment period.

The following sections describe in more detail the standard we are proposing and the reasons why we are proposing a program that applies year-round and nationwide.

1. Why Is EPA Proposing a 15 ppm Cap and Not a Higher or Lower Level?

There are five key factors which, when taken together, lead us to propose that a diesel fuel sulfur cap of 15 ppm is both necessary to enable the NO_X and PM exhaust emission control technology (and thereby allow the proposed emission standards to be met), and appropriate, taking into consideration the challenges involved in providing low-sulfur fuel. These factors, as discussed in more detail in sections III and IV.D, are the implications that sulfur levels in excess of 15 ppm would have for the efficiency, reliability, and fuel economy impacts of the exhaust emission control systems, and the feasibility and costs of producing low-sulfur diesel fuel.

The efficiency of emission control technologies at reducing harmful pollutants is directly impacted by sulfur in diesel fuel. Initial and long term conversion efficiencies for NO_X, NMHC, CO and diesel PM emissions are significantly reduced by catalyst poisoning and catalyst inhibition due to sulfur. NO_X conversion efficiencies with the NO_X adsorber technology in particular are dramatically reduced in a very short time due to sulfur poisoning of the NO_X storage bed. In addition total PM control efficiency is negatively impacted by the formation of sulfate PM. The formation of sulfate PM is likely to be in excess of the total PM standard proposed today, unless diesel fuel sulfur levels are below 15 ppm.

The reliability of the emission control technologies to continue to function as required under all operating conditions for the life of the vehicle is also directly impacted by sulfur in diesel fuel. As discussed in section III, sulfur in diesel fuel can prevent proper operation and regeneration of both NO_X and PM control technologies leading to permanent loss in emission control effectiveness and even catastrophic failure of the systems. We believe that diesel fuel with sulfur levels less than 15 ppm will be required to provide a level of reliability for these technologies to allow their introduction into the marketplace.

The sulfur content of diesel fuel will also affect the fuel economy of vehicles equipped with NO_X and PM exhaust emission control technologies. As discussed in detail in section III, NO_X adsorbers are expected to consume diesel fuel in order to cleanse themselves of stored sulfates and maintain efficiency. The larger the amount of sulfur in diesel fuel, the greater this impact on fuel economy. As sulfur levels increase above 15 ppm the fuel economy impact transitions from merely noticeable to levels most diesel vehicle operators would consider unacceptable (see discussion in section III). Likewise PM trap regeneration is inhibited by sulfur in diesel fuel. This leads to increased PM loading in the diesel particulate filter, increased exhaust backpressure, and poorer fuel economy. Thus for both NO_X and PM technologies the lower the fuel sulfur level the better the fuel economy of the vehicle.

As a result of these factors, we believe that 15 ppm represents an upper threshold of diesel fuel sulfur levels that would make these technologies viable, and are therefore proposing to cap in-use sulfur levels there. In comments received on the ANPRM, as well as in subsequent meetings and discussions, however, we have often heard different points of view on this issue expressed by the vehicle and engine manufacturers, and by oil refiners.

Some vehicle and engine manufacturers have argued for a maximum cap on the sulfur content of diesel fuel of 5 ppm, believing that this level is necessary. As we discuss in section III, however, we believe that a cap of 15 ppm (likely resulting in an in-use sulfur level 7 to 10 ppm) would be sufficient to ensure the reliability of PM exhaust emission control technology (avoid potential for irreversible failure) and enable it to reach the very high efficiencies needed over the wide range of vehicle operation and conditions that would be needed for the engines to comply with our proposed standards. Although at the current stage of development, high efficiency NO_X technology is extremely sulfur intolerant, work is already underway to develop capability in the technology to tolerate at least some sulfur in the fuel. As discussed in section III, however, it is likely that to maintain the very high operational efficiencies of the emission control equipment that we believe would be needed to meet the proposed emission standards, and to avoid a significant fuel economy penalty, the sulfur level in the fuel would still have to be very low.

We believe that requiring a cap lower than 15 ppm would not be necessary to enable the exhaust emission control technology to meet the very low NO_X and PM emission standards proposed. A cap lower than 15 ppm would provide little additional emission reduction but would increase the cost. Consequently, requiring a sulfur cap lower than that necessary to enable the exhaust emission control technology to meet the emission standards would be inappropriate. Further discussion and analysis of alternative sulfur standards is contained in section VI.

Conversely, many oil refiners have argued for a higher maximum cap (if any) on the content of sulfur in diesel fuel, typically on the order of 50 ppm. They argue that the cost of reducing the sulfur level below a cap of 50 ppm (and average of 30 ppm) becomes prohibitively high. They further argue that diesel engine exhaust emission control technology is still in its infancy and will likely develop rapidly over the next several years to the point where it is much less sulfur sensitive than the technology of today. As discussed in section III, we also believe that the diesel engine exhaust emission control technology will develop rapidly over the coming years, and in particular are projecting that the sensitivity of NO_X adsorber technology to fuel sulfur will improve considerably through the development of techniques to effectively regenerate themselves of stored sulfur compounds. The Manufacturers of Emission Controls Association (MECA) recently sent a letter strongly supporting this position, stating ''we strongly believe that NO_X adsorber technology will be commercially available in 2007 to help heavy-duty diesel engines meet the stringent NO_X standards being considered by EPA and that any current engineering challenges involved with this technology will be addressed provided that very low sulfur fuel is available.'' [127] Based on available information and our projections from that information, we believe that a cap higher than 15 ppm sulfur, and in particular a cap as high as 50 ppm would not enable the exhaust emission control technology needed to achieve the proposed emission standards and furthermore may severely compromise the reliability of the systems and result in unacceptable fuel economy impacts. In addition, as discussed in section IV.D below, although we acknowledge that the cost to desulfurize diesel fuel does increase with more stringent sulfur levels, we believe that these costs would not be prohibitively high, and maintain that the environmental benefits of the program are sufficient to justify the costs of the program at a sulfur cap level of 15 ppm.

Based on our assessment of the efficiency, reliability, and fuel economy impacts of sulfur on diesel engine exhaust emission control technology, and the cost and feasibility factors associated with reducing the sulfur content of diesel fuel, we propose to adopt 15 ppm as the appropriate sulfur cap. However, we have analyzed the impacts on technology enablement, costs, and benefits from controlling fuel sulfur to a 15 ppm average level with a 25 ppm cap, as well as from capping fuel sulfur at 5 ppm and 50 ppm. These levels have been put forward by various stakeholders as either necessary (in the case of a 5 ppm cap) or adequate (in the case of a 50 ppm cap) for enabling high-efficiency diesel exhaust emission controls, and so we believe that assessments of these levels is appropriate. These assessments are discussed in section VI.B. We request comment on the appropriate level of the highway diesel fuel sulfur standard, and on our assessment of alternative standards.

2. Why Propose a Cap and Not an Average?

We are proposing a cap on the sulfur content of diesel fuel in order to protect the vehicle aftertreatment technologies that we expect would be used to meet the proposed standards for heavy-duty engines and vehicles. An average standard by itself would not be sufficient to ensure that sulfur levels higher than those that could be tolerated by the exhaust emission control technology would not be used in vehicles for extended periods of time. Consequently, we do not believe that an average standard can stand by itself and would at minimum have to be coupled with a cap.

3. Should the Proposed 15 ppm Cap Standard Also Have an Average Standard?

Although our current 500 ppm sulfur limit for diesel fuel provides no averaging flexibility, in the years since that limit was set our motor vehicle fuel regulations have frequently incorporated provisions allowing regulated industries to average regulated parameters around a standard, often with a capped upper limit. In fact this approach was taken in the recently promulgated control of gasoline sulfur levels, in which we adopted a 30 ppm average level with an 80 ppm cap.

Despite the ability of averaging provisions in some programs to increase compliance flexibility and in some cases reduce overall costs while still achieving the environmental objectives, we are not proposing such provisions for the diesel fuel sulfur standard we are proposing today. Basing the fuel program around an average sulfur level could risk failure in meeting the whole objective of sulfur control (the enablement of sulfur-sensitive technologies) and thereby the environmental objectives of the program, or else could require the adoption of a cap so low as to make the average level largely irrelevant. The exhaust emission control technologies enabled by diesel sulfur control appear to be far more sensitive to and far less forgiving of variations in fuel sulfur level than advanced Tier 2 gasoline technologies. Enough is known about the exhaust emission control technologies to convince us that the proposed sulfur level will likely represent an enablement threshold level, above which increases in emissions and potentially system failures could be expected. Consumption of diesel fuel with sulfur levels above this threshold could be very problematic.

Some commenters who responded to our diesel fuel ANPRM did express interest in an averaged fuel sulfur standard, but only from the viewpoint that the flexibility provided by averaging is generally desirable, and not with specific solutions to the above-discussed problems created by this approach. Other commenters opposed an averaging requirement due to the test burden associated with demonstrating compliance under such a program. We request specific suggestions on how to structure a viable averaging requirement in conjunction with a 15 ppm cap, and whether it would be desirable to do so. One benefit of having only a cap instead of an average is that it allows for a simplified enforcement scheme. Imposing an average standard in addition to the cap would require additional product sampling, recordkeeping, and reporting requirements to demonstrate compliance with the standard. Thus, depending on how the program is structured, the flexibility of an average standard may not be worth the additional cost and complexity that would result, particularly with a cap set at 15 ppm.

Some have suggested that it may be possible to set an average standard of 10 ppm coupled with a higher cap. They

[127] Letter to Carol Browner, Administrator of EPA from Bruce Bertelsen, Executive Director of Manufacturers of Emission Controls Association, May 3, 2000.

suggest that a 10 ppm average would achieve essentially the same average in-use sulfur level as the proposed 15 ppm cap, and that as long as the cap is sufficiently protective of the exhaust aftertreatment technology, then the refining and distribution systems may have greater flexibility in complying with the standard, allowing for lower costs and less potential for disruptions of fuel supply. We request comment on whether it would be possible to have a higher cap as long as the average remained essentially unchanged and if so, what cap would be appropriate. If such an approach could enable the technology, we seek comment on the extent to which it would help address the concerns refiners have raised with very low sulfur levels with respect to the potential for fuel shortages and price increases.

If an averaged fuel sulfur standard were to be adopted (at any sulfur level), one added flexibility option that has been suggested to facilitate it is an averaging, banking and trading program. Because we believe that the exhaust emission control devices would require ultra-low sulfur diesel fuel, this flexibility would be focused on the average component of the standard, rather than on the cap component. Refineries would have the option to average across batches, to bank credits for use in the future, and to purchase credits from other refineries. In addition, under this concept the Agency could offer additional ''average credits'' at a predetermined price to refineries. This could provide more certainty about the cost of complying with the average component of the standard by establishing a ceiling price on these tradable and bankable credits. These credits could be used for a refinery to comply with the average requirement; however, refineries' use of these credits would still be subject to the cap standard. We request comment on the concept of an averaging, banking, and trading program in the context of an average standard, including: (1) whether the additional flexibility of offering additional ''average credits'' at a predetermined price would benefit refineries; and, (2) what the appropriate predetermined price for EPA-offered ''average credits'' should be.

4. Why We Believe Our Diesel Fuel Sulfur Program Should Be Year-round and Nationwide

We believe it is necessary for all highway diesel fuel to meet the proposed 15 ppm sulfur limit at all times. To relax this requirement would jeopardize many of the environmental benefits of the proposed program. Although NO_X benefits are only realized in the summer, PM and air toxics benefits are realized year-round. Moreover, the exhaust emission control devices require low-sulfur diesel fuel year-round. The use of highway fuel with a sulfur content greater than our proposed sulfur standard could damage the emission control technology of 2007 and later model year vehicles and engines. Once vehicles are equipped with the new exhaust emission control devices, they can only be fueled with the low-sulfur fuel. This precludes any consideration of a seasonal program. In addition, because diesel vehicles travel across the country transporting goods from region to region and state to state, low-sulfur diesel fuel will have to be available nationwide (see discussion in section VI.C. for possible exceptions. The health effects associated with diesel PM emissions are not area-specific, nor are the adverse effects of high sulfur diesel on engines with exhaust emission control. For these reasons, we do not believe that any regional or seasonal exemptions from the proposed sulfur requirements would be practical.

C. When Would the New Diesel Sulfur Standard Go Into Effect?

Since the need for low-sulfur diesel is dictated by the implementation of new engine standards, the proposed sulfur standard would become effective commensurate with the introduction of the first heavy-duty engines meeting our proposed standards. As described in section III.H, the phase-in of the engine standards is proposed to begin with the 2007 model year. Since light-heavy-duty trucks might be introduced as early as January 2 of the previous calendar year but are often introduced beginning about July 1, we are proposing that all highway diesel fuel sold at retail stations and wholesale purchaser-consumers meet the proposed sulfur standard by June 1, 2006. We believe that this one month lead time will be sufficient to provide confidence that the fuel available for purchase on July 1 will comply with the proposed sulfur cap. We are also proposing that highway diesel fuel at the terminal level be required to meet the proposed sulfur standard as of May 1, 2006, and that highway diesel fuel produced by refiners (and imported) meet the proposed sulfur standard by April 1, 2006. We believe these earlier compliance requirements at terminals and refineries would be necessary to provide an orderly transition to low-sulfur fuel and to avoid the market disruptions that occurred when the sulfur level of diesel fuel was lowered to 500 ppm in 1993 with only a retail compliance date. The three months between April and July should allow sufficient time for fuel to move through the distribution system, for existing tankage to transition down to the lower sulfur level that would be required. It would also ensure that all fuel is complying with the proposed sulfur standard and is available for use in heavy-duty engines when 2007 model year engines are introduced to the market. We request comment on this proposed approach.

We believe that the lead-time issue is particularly important, because not only would failure to meet the standards at the retail level cause emission increases from new technology vehicles, but violations of the standard due to insufficient turnover in the distribution system could potentially permanently disable the emission control systems of new technology vehicles and could cause driveability problems for the operators of such vehicles. We would like to take comment on these dates for the start of our low-sulfur diesel program, and in particular on whether the three-month lead time is more than adequate, adequate, or less than adequate for an orderly transition.

Some parties have suggested that low-sulfur diesel should be required at the same time as low-sulfur gasoline, in 2004. They point out that refinery synergies are optimized when refiners are forced to address both requirements at the same time instead of sequentially. The earlier introduction of low-sulfur diesel would also provide both reductions in sulfur dioxide and sulfate PM emissions for the in-use fleet prior to 2007, and would give engine manufacturers greater flexibility to make use of sulfur-sensitive technologies such as cooled EGR.

We do not believe that it is appropriate to require all on-highway diesel fuel to meet our proposed sulfur standard prior to the introduction of heavy-duty engines meeting our proposed standards. By proposing a 2006 start year for the low-sulfur diesel program, we are giving refiners a long lead-time to begin the planning process for meeting our proposed requirements. They always have the flexibility to make a single set of refinery changes prior to 2004 that will allow them to meet both the low-sulfur gasoline and our proposed low-sulfur diesel requirements by 2004. Although we are not requiring it, we would encourage the introduction of highway diesel fuel that meets the proposed sulfur standard prior to 2006, as discussed in section IV.F.

Finally, some parties have suggested that low-sulfur diesel is necessary by 2004 to ensure that light-duty vehicles

can meet our Tier 2 standards using diesel fuel. Although some analysts have predicted a greater proportion of diesel-powered light-duty vehicles in the coming decade, we do not believe that they can justify the introduction of low-sulfur diesel prior to 2006. As discussed in more detail in section VI.A.2, we believe diesel-powered light-duty vehicles will not actually need low-sulfur diesel fuel prior to 2006, given the flexibility offered by the Tier 2 program's bin structure. It would also appear that light-duty vehicles would not produce lower emissions using lower-sulfur diesel fuel than they would using gasoline, since all light-duty must meet the same Tier 2 standards. There would be no emission benefits associated with introducing low-sulfur diesel fuel prior to 2006, for use in light-duty vehicles, and thus it would be difficult to justify the costs. We welcome comments on requiring low-sulfur diesel fuel prior to 2006 for use in light-duty vehicles. We also welcome comments on the appropriateness of a 2006 start date for the diesel fuel sulfur standard.

D. Why We Believe the Proposed Diesel Sulfur Standard Is Technologically Feasible

In addition to evaluating the merits of diesel powered highway vehicles operating on low-sulfur diesel fuel, we also considered the ability of refiners to reduce diesel fuel sulfur in essentially every gallon of highway diesel fuel by mid-2006. Based on this evaluation, we believe it is technically feasible for refiners to meet the proposed standards and that it is possible for them to do so in the proposed time frame. We are summarizing our analysis here and we refer the reader to the Draft RIA for more details. We welcome comments on all aspects of this analysis.

1. What Technology Would Refiners Use?

Conventional diesel desulfurization technologies have been available and in use for many years. Conventional hydrotreating technology involves combining hydrogen with the distillate (material falling into the boiling range of diesel fuel) at moderate pressures and temperatures and flowing the mixture through a fixed bed of catalyst. EPA required refiners and diesel fuel distributors and marketers to provide diesel fuel for highway vehicles which does not exceed 500 ppm by weight in sulfur starting in October 1993. As a result, most U.S. refiners installed diesel desulfurization units to reduce their onroad diesel fuel from the pre-control average of about 3000 ppm, to the current average of about 350 ppm.

Based on our review of the literature and discussions with vendors of catalyst technology and desulfurization technology, the most difficult challenge to reducing sulfur to extremely low levels via conventional hydrotreating is the presence of certain aromatic compounds. These aromatic compounds are referred to as sterically hindered, because the physical arrangement of the atoms of these compounds hinders interaction between the sulfur atom and the catalyst.[128] One method to desulfurize these compounds is to design the shape of catalyst surfaces so that these sterically hindered compounds can more easily approach the catalytic material. Another approach is to saturate one or more of the aromatic rings present, which makes the sulfur atom more accessible to the catalytic surface.

Refiners produce diesel fuel from a variety of distillate blending streams in the refinery. The largest component is straight run distillate, which comes straight from crude oil, hence the name straight run. The second largest component is light cycle oil (LCO) which comes from the fluidized catalytic cracker, or FCC unit. This unit primarily produces gasoline from material having a higher molecular weight than either gasoline or diesel fuel, but also produces a significant amount of distillate. About 62 percent of today's highway diesel fuel contains some LCO. The third largest component is light coker gas oil, which comes from the coker, which also produces lighter molecular weight material from heavier material. Both straight run distillate and light coker gas oil contain relatively low levels of sterically hindered compounds. LCO contains a much higher concentration of sterically hindered compounds. Thus, the difficulty of achieving the 15 ppm sulfur cap being proposed today is primarily a function of the amount of light cycle oil (LCO) that a refiner processes into its highway diesel pool.[129]

We project that all refiners would be technically capable of meeting the proposed sulfur cap with extensions of the same conventional hydrotreating which they are using to meet the current highway diesel fuel standard. This extension would likely mean adding a second stage of conventional hydrotreating. In a two-stage process, hydrogen sulfide is removed from the treated distillate after the first reactor and fresh hydrogen added prior to the second reactor. This stripping of the hydrogen sulfide serves two purposes. First and foremost, it reduces the concentration of hydrogen sulfide throughout the second reactor. This speeds up the desufurization reactions substantially. Second, it reduces the concentration of hydrogen sulfide at the end of the second reactor. This is the point where hydrogen sulfide can react with the treated distillate, forming new sulfur compounds (essentially adding sulfur back into the fuel). This process is termed recombination and low hydrogen sulfide concentrations decrease it dramatically. Finally, reducing the concentration of hydrogen sulfide increases the concentration of hydrogen, again speeding up the desulfurization reactions.

Converting an existing one-stage hydrotreater into a two-stage hydrotreater would involve adding an additional reactor, a hot hydrogen sulfide stripper, modifications to the compressor to increase pressure to the new reactor and possibly a pressure-swing adsorption (PSA) unit to increase hydrogen purity. Essentially all of the units comprising the existing hydrotreater would still be used.

We project that all refiners could utilize recently developed, high activity catalysts, which increase the amount of sulfur which can be removed relative to the catalysts which were available when the current desulfurization units were designed and built. The cost of these advanced catalysts is very modest relative to less active catalysts, but they would significantly reduce the size of the new reactors described above. We also project that refiners and technology vendors could achieve the 15 ppm cap without significant saturation of aromatic compounds. This will be achieved through the selection of catalysts and through the control of operating conditions, particularly temperature.

The above projections are based primarily on information received from a number of refining technology vendors, supported by published literature, as no operating experience at sulfur levels below 10 ppm currently exists with this technology on diesel fuel feedstocks typical of U.S. refiners. All the vendors supplying information to EPA and others studying diesel fuel desulfurization projected that the 15 ppm cap can be met using diesel fuel

[128] Typical compounds which are difficult to desulfurize are 4-methyl, dibenzothiophene and 4,6-dimethyl, dibenzothiophene. The methyl group(s) attached to the aromatic rings make it very difficult for the sulfur atom to physically approach the catalyst, which is essential for the desulfurization process to proceed.

[129] LCOs are not homogeneous and can vary dramatically in chemical composition from refiner to refiner. The discussion here applies to a typical LCO composition.

hydrotreaters which operate at hydrogen pressures ranging from 600–900 pounds per square inch (psi) and with total reactor volumes of roughly 2–3 times those of current diesel fuel hydrotreaters. A number of oil refiners informed us that they believe that much larger reactors would be required. API believes that both higher pressures and larger reactors will be needed. Either change would increase our projected costs (described in section V.D.1 below).

Based on our review of the literature, we do not believe that these extremely large reactors would be required to meet the proposed sulfur cap. However, 15 ppm sulfur diesel fuel is not yet being produced commercially from feedstocks typical of the U.S. Thus, we request comments on the sufficiency of 600–900 psi operating pressures for diesel fuel hydrotreaters to meet the proposed sulfur cap. We also request comment on the sufficiency of total reactor volumes which are 2–3 times greater than those currently being utilized under the 500 ppm sulfur cap in order to meet a 15 ppm cap.

Other options are available to refiners. Some refiners could choose to add an FCC feed hydrotreater. This improves the yield of high value products from the FCC unit and reduces the sulfur content of both FCC naphtha and LCO. FCC naphtha is the primary source of sulfur in gasoline, for which EPA recently set stringent standards. However, while hydrotreating the FCC feed reduces the sulfur content of the LCO produced by the FCC unit, it can increase the concentration of sterically hindered compounds. Also, FCC feed hydrotreating is much more costly than distillate hydrotreating or ring opening technology. Thus, we are not projecting that any refiners would utilize this technology to meet the proposed diesel fuel sulfur cap.

Refiners could also add a hydrocracker to process their LCO if they have not already done so. This would increase the production of high value gasoline with a very low sulfur content. However, hydrocrackers are very costly to build and operate, so a refiner choosing to do so would likely do so for reasons beyond removing sulfur from diesel fuel.

In addition to these major technological options, most refiners would also have to add other more minor units to support the new desulfurization unit. These units could include hydrogen plants, sulfur recovery plants, amine plants and sour water scrubbing facilities. All of these units are already operating in refineries but may have to be expanded or enlarged.

2. Are These Technologies Commercially Demonstrated?

As mentioned above, conventional diesel desulfurization technologies have been available and in use for many years. U.S. refiners have roughly seven years of experience with this technology in producing highway diesel fuel with less than 500 ppm sulfur. Refiners in California also have the same length of experience with meeting the California 500 ppm cap on sulfur and an additional aromatics standard.[130] In order to meet both sulfur and aromatics standards, refineries in California are producing highway and nonroad diesel fuel with an average sulfur level of 150 ppm.

Some refiners in Europe are producing a very low-sulfur, low aromatics diesel fuel for use in the cities in Sweden (Class I Swedish Diesel) using two-stage hydrotreating. This ''Swedish city diesel'' is averaging under 10 ppm sulfur and under 10 volume percent aromatics. While clearly demonstrating the feasibility of consistently producing diesel fuel with less than 10 ppm sulfur from selected feedstocks, there are a few differences between the Swedish fuel and typical U.S. diesel fuel. First, the tight aromatics specification applicable to Swedish City diesel fuel usually requires the use of ring-opening or dearomatization catalysts in the second stage of the two-stage hydrotreating unit. This eases the task of desulfurizing any sterically hindered compounds present. Second, Swedish Class I diesel fuel also must meet a tight density specification. This, coupled with the fact that European diesel fuel contains less LCO than U.S. diesel fuel, significantly reduces the amount of sterically hindered compounds present in the feed to the desulfurization unit. Third, it is not clear whether any refiner is producing a large fraction of their distillate production to this specification. Thus, the European experience demonstrates the efficacy of the two-stage process and its ability to produce very low sulfur diesel fuel. However, doing so without saturating most of the aromatics present and with heavier feedstock has only been demonstrated in pilot plants and not commercially.

Europe has adopted a 50 ppm cap sulfur standard for all diesel fuel which takes effect in 2005. Some countries, including England, have implemented tax incentives for refiners to produce this fuel sooner. The great majority of diesel fuel in England already meets the 50 ppm specification. Refiners have reported no troubles with this technology. This diesel fuel is being produced in one-stage hydrotreaters. However, as mentioned above, European diesel fuel contains less LCO than diesel fuel in the U.S., so the use of one-stage conventional hydrotreating to meet very low sulfur levels is applicable, but not sufficient to demonstrate feasibility in the U.S. Germany has also established a tax incentive, but for diesel fuel containing 10 ppm or less sulfur. One European technology vendor indicated that they have already licensed two desulfurization units to German refiners planning to produce diesel fuel to obtain this tax credit.

Overall, conventional diesel desulfurization ring-opening and dearomatization technologies have all been installed and are operating in one or more refineries. Thus, there should not be much concern among refiners whether these technologies will work reliably in general. Refiners' primary concern would be focused on the treatment of any LCO currently being blended into highway diesel fuel. They would be particularly concerned with the ability to desulfurize this material to very low sulfur levels using conventional technology and, absent that, ways to shift this material to other valuable fuel pools or treat it more severely in available hydrotreaters or hydrocrackers. Of course, refiners would also be concerned with the reliability of the technology in complying with a 15 ppm cap day in and day out.

In addition to these more traditional technologies, Energy Biosystems recently announced the availability of their biodesulfurization technology for desulfurizing diesel fuel. Biodesulfurization is a process which uses bacteria which has been genetically enhanced to biologically remove the sulfur atoms from petroleum compounds. This process is still being developed and is expected to begin commercial demonstration in the next couple of years. At the present time, the goal of the developers is to produce diesel fuel with less than 50 ppm sulfur. It is not known whether this technology would be capable of meeting the proposed cap of 15 ppm. This process has the advantage of operating at ambient temperature and pressures, and requires no hydrogen. The economics of the process, however, rely on a market for its by-products, which may limit its widespread application. Because of

[130] California allows refiners to use an engine test to certify an alternative fuel mixture which meets or exceeds the NOx reducing performance of a 10 volume percent maximum aromatics and a 500 ppm maximum sulfur diesel fuel.

uncertainties in this technology's ability to achieve the proposed 15 ppm cap, we did not factor it into our cost projections. We request comment on the availability of this technology in the relevant time frame for this proposed rulemaking.

3. Are There Unique Concerns for Small Refiners?

We have heard concerns that small refiners would bear proportionately higher economic burdens if they were required to produce diesel fuel meeting the same sulfur levels as larger refineries. The most significant concern expressed to us has been their more limited ability to obtain the capital necessary to make the refinery modifications necessary to produce low sulfur diesel fuel compared to the larger refiner. To address these and other concerns related to small refiners, we have participated in a review and evaluation process specific to small businesses under the Small Business Regulatory Enforcement Flexibility Act (SBREFA). More information can be found in our response to the Regulatory Flexibility Act (see section XI.B). In short, we are seeking comment on provisions that would assist small refiners in addressing unique challenges, as discussed in section VIII.E.

4. Can Refiners Comply with an April 1, 2006 Start Date?

We believe that our proposal that the program begin on April 1, 2006 would provide more than an adequate amount of time for refiners to plan their investment, complete the design package and complete the construction and startup of the new or modified desulfurization unit and other associated units in their refineries. In response to our proposed Tier 2 gasoline desulfurization rulemaking, the American Petroleum Institute (API) commented that 4 years is needed for refiners to complete this cycle of planning, design, construction and startup. While we believe 4 years to be more than sufficient, we have initiated this rulemaking sufficiently early to provide over 5 years of lead time. We recognize that most refiners will have to make investments in their refineries to desulfurize their gasoline during this time, so the additional time from final rule to implementation is expected to be valuable for refiners. Similarly, by informing refiners now (i.e., before they make their gasoline desulfurization investments) of our proposed highway diesel fuel desulfurization program we hope to allow refiners to coordinate their investments and produce both low-sulfur gasoline and low-sulfur onroad diesel at a lower cost. The additional time between promulgation and implementation is important because of the number of refiners which are expected to have to make these investments. Unlike the gasoline sulfur program which really only affected refineries outside of California, this program would affect the California refiners as well, in addition to a number of refineries which produce onroad diesel fuel but no gasoline.[131] However, the total capital cost of the investments projected to be required to meet the proposed diesel fuel sulfur cap is less than that for the Tier 2 gasoline sulfur standards.

A particular concern has been raised to the Agency regarding the capability of the engineering and construction (E&C) industries to be able to design and build diesel fuel hydrotreaters while at the same time doing the same for gasoline, as well as accomplishing their other objectives. We believe that the E&C industry is capable of supplying the oil refining industry with the equipment necessary to comply with the proposed diesel fuel sulfur cap on time.[132] We believe that this is facilitated by the extended phase-in we allowed regarding compliance with the Tier 2 gasoline sulfur standards. For example, we project that only roughly a third of all gasoline-producing refineries outside of California will be building gasoline desulfurization equipment for start-up in early 2006 and 2007. Thus, most of the construction related to gasoline desulfurization will be completed prior to the proposed implementation of the diesel fuel sulfur cap. Also, low sulfur gasoline and diesel fuel standards scheduled for Europe and Canada become effective in 2005. We believe that this precedes the proposed highway diesel fuel sulfur cap sufficiently to enable the availability of European equipment fabrication capacity to be available to meet the needs of the proposed sulfur cap in the U.S. Thus, we do not foresee any shortage in either E&C industry personnel or equipment fabrication capacity. We request comment on these findings.

We are aware that the National Petroleum Council (NPC) is conducting a Refining Study which also addresses this issue. It appears from a publically available draft final report that the NPC may conclude otherwise. We plan to consider the findings of this study once it becomes final.

Another issue related to the feasibility of the April 1, 2006 start date relates to refiners' ability to hook up their new equipment to their existing diesel fuel hydrotreaters while still providing the nation with diesel fuel during the transition. This issue is relevant since: (1) we expect most refiners to revamp their current equipment, as opposed to building entirely new equipment and (2) all refiners face the same April 1, 2006 deadline. We expect that any new equipment required as part of the revamp would be able to be constructed on-site while the current equipment is operating. Inter-connecting the new and old equipment would occur prior to April 2006 when the current hydrotreater is scheduled to be down for maintenance. Existing equipment which would require modification, such as compressors and heat exchangers, would be modified during this time, as well. Diesel fuel hydrotreaters currently operate roughly two years in between scheduled maintenance. Thus, there should be at least one and possibly two scheduled maintenance periods between the time when refiners could have project designs completed, permits issued, as appropriate, and April 2006. Under this schedule of refinery maintenance, modifying current diesel fuel hydrotreaters to meet the proposed sulfur cap should not impact diesel fuel production. If refiners had to schedule additional down time in order to complete the revamp, then diesel fuel production could be affected. We expect that any such shortfall would be made up by other refiners or the previous build-up of inventory. We request comment on the ability of the industry to continue to supply highway diesel fuel while it is modifying equipment in order to comply with the proposed sulfur cap.

Concerns have also been raised with respect to the refining industry's ability to raise the capital necessary to make the refinery modifications necessary to meet a 15 ppm sulfur cap on diesel fuel, while at the same time expending capital to reduce the sulfur level in gasoline as a result of the recently promulgated Tier 2 standards. This has led to concerns that some refiners may refrain from investing to continue to produce highway diesel fuel, which could cause a shortage when the program is implemented. As discussed in section IV.B. of the draft RIA, we have designed these programs in a

[131] By far most of California gasoline meets a 30 ppm averaging standard, except for a small volume which is exported out of the state. However, since the California refiners already have the desulfurization units in place to desulfurize the majority of their gasoline, they are expected to use those same units to desulfurize the exported gasoline as well.

[132] Rykowski, Richard A., ''Implementation of Ultra Low Sulfur Diesel Fuel: Construction Capacity and Aggregate Capital Investment,'' EPA Memorandum to the Record, Docket A–99–06.

manner which will serve to maximize refiner flexibility and minimize costs. Furthermore, as discussed in section V.D.1., we believe that despite the capital cost of desulfurizing their highway diesel fuel, other options for marketing the distillate streams from their refineries will be limited. Finally, as discussed in section VI.A., we are also considering various phase-in approaches for implementing the low sulfur diesel standard. A phase-in could help spread out the design, construction, and capital expenditure of refinery modifications necessary to comply with the proposed diesel fuel sulfur standard. We request comment on the necessity and ability of a phase-in to address these concerns.

In summary, we believe that meeting a 15 ppm cap is achievable with the diesel desulfurization technologies available now. We are confident that we are providing more than a sufficient amount of time between when this rule is expected to be finalized and the proposed startup date of the program. This timing should allow for a smooth transition of low-sulfur fuel into the marketplace. We request comments on all of these issues. In particular, we request comment and supporting information on the challenges refiners would face in competing for engineering and construction resources and obtaining capital for diesel fuel sulfur control. We also seek comment with supporting information on the potential for diesel fuel shortages at the beginning of the program that some believe might result from individual refinery decisions to shift all or a portion of their production to other distillate products or export, and on the ability of the market to self correct if a shortage does occur.

5. Can a 15 ppm Cap on Sulfur Be Maintained by the Distribution System?

The proposed cap on sulfur content would apply to on-highway diesel fuel at the refinery gate, and at every point along the distribution system through to the end-user. The current distribution system for petroleum distillates currently carries products with sulfur contents that range from 30 ppm to over 10,000 ppm. The system includes pipelines, tankers, tanks, and delivery trucks. To date, this system has not been required to deliver a product with the purity which would be required under this proposal. Consequently, to ensure the sulfur standard is not exceeded during the fuel's journey to the end-user, the refiner would actually produce diesel fuel sufficiently below the cap to account for its own compliance margin (estimated to be 7 ppm on average), as well as for test variability and potential downstream contamination. Under the current sulfur cap of 500 ppm, refiners typically provide ample margin, producing fuel with roughly 350 ppm sulfur. With a sulfur cap of 15 ppm, the absolute magnitude of the margin refiners could provide would obviously be much smaller. In addition, the impact of contamination in the distribution system would be potentially much more severe. If the proposed 15 ppm cap on the sulfur content of on highway diesel fuel were adopted, other products in the distribution system such as nonroad diesel fuel would have sulfur concentrations over 200 times that of highway diesel fuel instead of the 10-fold factor at present. Additives to diesel fuel added in small amounts downstream which sometimes contain high sulfur concentrations levels may also become much more of a concern (see section IV.D.6.c). If as expected, refiners would produce highway diesel fuel with an average sulfur content of approximately 7 ppm to comply with the proposed sulfur standard, and variability in measuring diesel sulfur content is limited to less than +/−4 ppm, downstream sulfur contamination would need to be limited to less than 3 ppm to maintain compliance with the proposed 15 ppm cap. Petroleum marketers and distributors have cautioned that the distribution system is unfamiliar with limiting sulfur contamination to such a low level.

Current industry practices may need to be modified to control and limit sulfur contamination in the distribution system. Current practices which are critical to minimizing contamination and which may need to be more carefully performed include:

—Properly leveling tank trucks to ensure that they can drain completely of high-sulfur product prior to being filled with the proposed diesel fuel.
—Allowing sufficient time for transport tanks to drain of high-sulfur product prior to being filled with the proposed diesel fuel.
—Purging delivery hoses of higher sulfur product prior to their use to deliver the proposed diesel fuel.

To adequately limit sulfur contamination, we believe that such practices would need to be followed each and every time with adequate care taken to ensure their successful and full completion. Some distributors may find it necessary to conduct an employee education program to emphasize their importance. We request comment on our assessment for each segment in the distribution chain, including tank trucks, tank wagons, rail tankers, barges, and marine tankers.

As discussed in section V.D.3 of today's document, there may be an increase in distribution costs associated with an increase in pipeline interface volumes and the need to sample and test each batch of on highway diesel fuel at the terminal level for its sulfur content. There could also be an increase in the occurrence of noncomplying fuel showing up in the distribution system. As is the case today, this could cause temporary, local market shortages of fuel meeting the proposed sulfur cap. This off-specification fuel would also either have to be downgraded to off-highway, or re-refined, though we have assumed that the frequency of such occurrence would be low enough as to not impact the costs of the program noticeably. The potential sources of sulfur contamination in the distribution system, what controls we believe would be necessary to ensure downstream compliance with the proposed sulfur standard, and the costs associated with such controls are discussed in more detail in the Draft RIA. We request comment on the challenges that each segment of the distribution chain would face in controlling sulfur contamination, on the extent that each segment might reasonably be expected to limit sulfur contamination, and on the associated costs.

6. What Are the Potential Impacts of the Proposed Sulfur Change on Lubricity, Other Fuel Properties, and Specialty Fuels?

a. What Is Lubricity and Why Might It be a Concern?

Diesel fuel lubricity properties are depended on by the engine manufacturers to lubricate and protect moving parts within fuel pumps and injection systems for reliable performance. Unit injector systems and in-line pumps, commonly used in heavy-duty engines, are actuated by cams lubricated with crankcase oil, and have minimal sensitivity to fuel lubricity. However, rotary and distributor type pumps, commonly used in light and medium-duty diesel engines, are completely fuel lubricated, resulting in high sensitivity to fuel lubricity.

Experience has shown that it is very rare for a naturally high-sulfur fuel to have poor lubricity, although, most studies show relatively poor overall correlation between sulfur content and lubricity. Considerable research remains to be performed for a better understanding of the fuel components most responsible for lubricity.

Consequently, we are uncertain about the impact of today's proposal on fuel lubricity. Nevertheless, there is evidence that the typical process used to remove sulfur from diesel fuel (hydrotreating) can impact lubricity depending on the severity of the treatment process and characteristics of the crude. If refiners use hydrotreating to achieve the proposed sulfur limit, there may be reductions in the concentration of those components of diesel fuel which contribute to adequate lubricity. As a result, the lubricity of some batches of fuel may be reduced compared to today's levels, resulting in an increased need for the use of lubricity additives in highway diesel fuel.

Blending small amounts of lubricity-enhancing additives increases the lubricity of poor-lubricity fuels to acceptable levels. At the present time, it is believed that oil companies are treating diesel fuel in this way on a batch to batch basis, when poor lubricity fuel is expected. This practice of treating fuel on an as-needed and voluntary basis has been effective in ensuring good diesel fuel lubricity for the diesel heavy-duty vehicle fleet. Our review of the technical literature [133] indicates that the U.S. military also uses lubricity-enhancing additives in its diesel fuel. The U.S. military has found that the traditional corrosion inhibitor additives that it uses have been highly effective in reducing fuel system component wear. Consequently, the U.S. Army now blends MIL–I–25017E corrosion inhibitor additive to all fuels when poor lubricity is expected, and regularly for Jet A–1, JP–5 and JP–8 fuels. We believe that this practice would continue, with some portion of the fuel refined to the proposed standard being treated with lubricity-enhancing additives. For a more detailed discussion of diesel fuel lubricity and current industry practices, please refer to the Draft RIA for this proposal. We have included a 0.2 cents per gallon cost in our calculations to account for the potential increased use of lubricity additives (see section V.D.2).

b. Voluntary Approach for the Maintenance of Fuel Lubricity

If action on fuel lubricity does prove necessary, we believe a voluntary approach would provide customer protection from engine failures due to low lubricity, while providing the maximum flexibility for industry. In a voluntary approach we would encourage, but not require, fuel producers and distributors to monitor and provide fuel with adequate lubricity to protect diesel engine fuel systems. This approach recognizes the uncertainties of measuring fuel lubricity, and allows flexibility as research produces better information and improved test methods. The voluntary approach discussed here would be a continuation of current industry practices for diesel fuel produced to meet the current Federal and California 500 ppm sulfur diesel fuel specifications, and benefits from the considerable experience gained since 1993. The advantage of this approach is avoidance of an additional regulatory scheme and associated burdens. On the down side, voluntary measures do not guarantee results. We believe the risk in this case is small. Refiners and distributors have an incentive to supply fuel products that will not damage consumer equipment. Even if occasional batches of poor lubricity fuel are distributed, they would likely be ''treated'' with residual quantities of good lubricity fuel in storage tanks, tanker trucks, retail tanks, and vehicle fuel tanks (even at very low treatment levels lubricity enhancing additives provide significant protection; see the discussion in the Draft RIA for this proposal). Further, we expect that the American Society for Testing and Materials intends to address lubricity in its ASTM D–975 specifications for diesel fuel quality after its concerns about test issues have been resolved.

We are asking for comments on the alternative of specifying minimum fuel lubricity, and suggestions for the appropriate lubricity standard and test method. Under this approach, we would require fuel producers to monitor and provide minimum lubricity. This would be similar to the approach of Canada and our understanding of the usage requirements of the U.S. military. The advantage of this approach is to guarantee the minimum quality of fuel in the market. On the down side, such a new specification would need to be tied specifically to emissions or emission control hardware, and we question whether such a requirement is appropriate considering the uncertainty about the adequacy of the existing test methods. The American Society for Testing and Materials has declined to specify a lubricity standard in its ASTM D–975 specifications for diesel fuel quality until its concerns about test issues have been resolved. Also, this approach would require an enforcement scheme and associated compliance burden. Further, we believe that this approach would probably not be significantly more effective than the voluntary approach. Refiners and distributors have an incentive to supply fuel products that will not damage consumer equipment, and the U.S. commercial market has adequately addressed similar concerns in the past.

The U.S. Department of Defense (DOD) expressed strong reservations about the ability of the proposed voluntary approach to ensure adequate fuel lubricity and requested that EPA establish a uniform requirement to ensure that diesel fuel introduced into commerce has adequate lubricity. Absent such a requirement, DOD related that the military would face a considerable burden to ensure that highway diesel fuel used in military vehicles provides sufficient lubricity. DOD stated that since they rely on the commercial market to supply highway diesel to military users and are currently experiencing lubricity problems in certain parts of the country during the winter months, a reduction in diesel sulfur would increase the risk and scope of lubricity problems. DOD also stated that due to harsher operating conditions, engines used in their vehicles (especially tactical vehicles) are more vulnerable to lubricity problems than the same engines operated in commercial vehicles. In addition, at some U.S. military installations DOD uses highway diesel fuel in their off highway vehicles as well as their highway vehicles. We request comment on the unique challenges that our proposed voluntary approach would place on the military and on the appropriate means to address DOD's concerns.

c. What Are the Possible Impacts of Potential Changes in Fuel Properties Other Than Sulfur on the Materials Used in Engines and Fuel Supply Systems?

With the introduction of low-sulfur diesel fuel in the United States in 1993, some diesel engine fuel pumps with a Nitrile material for O-ring seals began to leak. Fuel pumps using a Viton material for the seals did not experience leakage. The leakage from the Nitrile seals was determined to be due to low aromatics levels in some low-sulfur fuel, not the low sulfur levels. In the process of lowering the sulfur content of some fuel, some of the aromatics had been removed. Normally, the aromatics in the fuel penetrate the Nitrile material and cause it to swell, thereby providing a seal with the throttle shaft. When low-aromatics fuel is used after conventional fuel has been used, the aromatics already in the swelled O-ring will leach out into the low-aromatics fuel.

[133] See the draft RIA for a more detailed discussion.

Subsequently, the Nitrile O-ring will shrink and pull away, thus causing leaks, or the stress on the O-ring during the leaching process will cause it to crack and leak. Not all low-sulfur fuels caused this problem, because the amount and type of aromatics varied. Although manufacturers have apparently resolved this issue, and we have no evidence that further desulfurization will cause further changes in O-ring shape or other concerns, we request comments on this or other potential impacts of fuel properties on the materials used in engines and fuel supply systems.

d. What Impact Would the 15 ppm Cap Have on Diesel Performance Additives?

Our proposal to limit the sulfur content of performance additives used in diesel fuel to less than 15 ppm (see section VIII) would require that the use of certain high-sulfur diesel fuel additives be discontinued. Our review of EPA's Fuel and Fuel Additives database indicates that alternative additives that perform the same function and which do not contain sulfur are readily available. Our evaluation suggests that discontinuing the use of the limited number of diesel additives with a high sulfur content would not result in significant increased costs or an undue hardship to additive and fuel manufacturers (see the draft RIA). We request comment on the difference in price between high- and low-sulfur performance additives and whether there are differences in their efficiency. As an alternative to the proposed 15 ppm cap on the sulfur content of performance additives, we are requesting comment on whether additives not meeting the 15 ppm sulfur cap should be allowed to be added to diesel fuel downstream in de minimis amounts, as long as the final blend still meets the 15 ppm cap.

e. What Are the Concerns Regarding the Potential Impact on the Availability and Quality of Specialty Fuels?

The Department of Defense (DOD) has expressed concerns regarding the potential impact of today's proposed rule on the availability and quality of military fuels, especially the aviation fuels JP–5 and JP–8. DOD is concerned that today's rule might reduce the number of refineries that produce military fuels by limiting the slate of fuels that refiners can economically produce or the number of refiners that continue to produce military fuels. DOD notes that the special flash point requirement for military JP–5 fuel already limits DOD's supply base and that the proposed rule may make some refiners opt out of manufacturing this speciality fuel, which would reduce supply availability and increase costs. DOD also states that the increased hydroprocessing severity and other refinery process modifications necessary to meet the proposed sulfur standard could impact certain chemical/physical characteristics that are part of their fuel specifications. DOD relates that previous environmentally-driven changes to gasoline and diesel specifications have caused a degradation in the quality of the jet fuel. For example, DOD states that they have noticed a reduction and continued decline in jet fuel stability.

DOD is also concerned that refiners that currently blend more than 10 percent light cycle oil (LCO) into their highway diesel fuel might shift some LCO into off-highway distillate fuels. DOD relates that this would adversely affect the quality of off highway fuels used by the military such as their naval distillate fuel F–76. DOD states that they have experienced quality problems with LCO component streams that were not adequately hydrotreated causing a highly unstable finished product. Storage stability is an important issue for DOD since military naval fuel F–76 is often stored for extended periods (longer than six months) and unstable LCO used to manufacture F–76 could compromise mission readiness. The potential changes that refiners might make in the way they process LCO streams and incorporate such streams into their slate of distillate fuels is discussed in section V.D.1 and in the Draft RIA.

We believe that concerns related to the quality of specialty fuels can continue to be addressed by actions taken by the manufacturers and purchasers of such fuels without the need for intervention by EPA. We also anticipate that demand for such fuels will be sufficient to encourage their continued availability. We request comment on the potential impact of today's proposed rule on the quality and availability of specialty fuels such as those used by the U.S. military, on what actions might be necessary to mitigate such impacts, and on the associated costs. Comment is specifically requested on the need for the military to modify its specifications and/or enhance enforcement of these specifications to achieve their fuel quality goals if the proposed sulfur standards are adopted, and on the costs associated with such changes.

E. Who Would Be Required to Meet This Proposed New Diesel Sulfur Standard?

As discussed earlier, the highway diesel fuel sulfur content standard being proposed today is a per-gallon cap of 15 ppm. We believe that heavy-duty diesel trucks subject to the standards we are proposing today would require the consistent use of diesel fuel with a sulfur cap of 15 ppm to avoid the potentially severe emission, performance, and durability problems that arise from operation on higher-sulfur fuel. On this basis we believe that the proposed sulfur standard should apply to the diesel fuel at the point of sale to the ultimate consumer. In other words, the proposed cap on sulfur content should apply at all points in the diesel fuel production and distribution system, including the retail level.

We understand that there are production and distribution practices, such as blending of additives and winter viscosity improvers such as kerosene or No. 1 diesel fuel, that could cause the sulfur level of diesel fuel to vary as it travels from refinery to end-point consumers. Along with concerns about contamination and test method reproducibility, these issues suggest that we should include some sort of tolerance along with our proposed sulfur cap. However, we are concerned that such tolerances on top of the 15 ppm cap may not be appropriate given the sensitivity of diesel exhaust emission control technology to fuel sulfur above the proposed sulfur cap. In practice, therefore, refiners will likely be required by the downstream distribution system to produce diesel fuel having a sulfur content significantly below the proposed sulfur cap to ensure that downstream practices do not end up producing a retail-level fuel with sulfur levels higher than the proposed maximum. Thus, all parties in the distribution system, including refiners and importers, would be prohibited from selling, storing, transporting, dispensing, introducing, or causing or allowing the introduction of highway diesel fuel whose sulfur content exceeds the proposed sulfur cap. The advantage of such an approach is that, as downstream distribution practices and sulfur measurement accuracy improves, refiners will be able to reduce production costs by producing fuel closer to the proposed sulfur cap. Alternatively, we could enforce the proposed 15 ppm sulfur cap at retail and enforce a lower cap at the refinery level. This cap would likely have to be less than 10 ppm to allow for downstream contamination, additive blending, and test method variability.

However, we believe it is more appropriate to leave this tolerance to the market.

F. What Might Be Done To Encourage the Early Introduction of Low-Sulfur Diesel Fuel?

As discussed in section IV.C, we are proposing that the entire highway diesel pool be required to meet a lower standard on sulfur content beginning June 1, 2006.[134] This should provide certainty that low-sulfur diesel fuel will be available for model year (MY) 2007 heavy-duty diesel engines by July 1, 2006. If low-sulfur diesel fuel was available prior to July 1, 2006, engine manufacturers have indicated that fleet trials might be conducted of the sulfur-sensitive exhaust emission control equipment intended for use in heavy-duty vehicles to meet the proposed MY 2007 emissions standards. The information gained from these trials could be used to improve the efficiency and durability of such exhaust emission control equipment. This could lower the cost of the exhaust emission control equipment and help ensure the smooth implementation of the proposed MY 2007, heavy-duty standards. If low-sulfur diesel fuel was available earlier than July 1, 2006, it might also facilitate the early introduction of sulfur-sensitive exhaust emission control equipment in light-duty diesel vehicles. Automobile manufacturers expressed interest in using sulfur-sensitive exhaust emission control equipment in some of their light-duty vehicles beginning in MY 2004, so that they might benefit from in-use experience prior to the anticipated use of such equipment in all MY 2007, light-duty diesel vehicles. In addition, early availability of some low sulfur diesel fuel would have the added advantage of allowing the distribution system a chance to develop experience handling diesel fuel with such a low sulfur level before the standards would take effect.

We believe that some low-sulfur diesel fuel meeting the proposed 15 ppm sulfur cap would be available in advance of when we are proposing that it must be produced by refiners. Most refiners will need to install new equipment to meet the proposed sulfur standard. Since the technical and construction resources needed for such refinery upgrades is limited, a number of refiners are likely to have the new desulfurization equipment installed well in advance of the proposed compliance date. Refiners who produce low-sulfur diesel early would want to market it as a premium fuel rather than losing the added value by selling it as current highway diesel fuel. Some refiners have already begun programs to market low-sulfur diesel as a premium fuel. For example, ARCO Products Company recently announced a fleet program to demonstrate the emissions benefits of its EC–-D (emission control) diesel which has a lower sulfur and aromatics content, and a higher cetane rating than current highway diesel fuel.[135] Engine and vehicle manufacturers are assisting in the overall program design and implementation of the program. Emission control equipment manufacturers are supplying exhaust emission control equipment which works more effectively with low-sulfur fuel. ARCO has also begun marketing diesel fuel in California with a maximum sulfur content of 15 ppm. This fuel is being made available, upon request, to operators of urban municipal fleets retrofitted with catalytic exhaust emission controls in connection with the California ARB's proposed urban bus program (see section I.C.6).[136] Mobil Corporation, Ford Motor Company, Navistar, and Volkswagen also have a cooperative program underway to evaluate the emissions benefits of new engine/aftertreatment technologies using a lower-sulfur diesel fuel (also with reduced polynuclear aromatic content). We are interested in encouraging additional programs between refiners and vehicle manufacturers to introduce vehicles equipped with exhaust emission control technologies which benefit from the use of low-sulfur diesel fuel prior to the date when we are proposing that such fuel must be made available.

There are numerous strategies involving voluntary market incentives that could help promote the early introduction of low-sulfur diesel fuel. Under existing voluntary emission credits programs, a system might be created whereby refiners that produce low-sulfur fuel early could generate emission reduction credits that could then be sold through a market mechanism to other entities that could use such credits to meet their emission compliance goals. We welcome comments on whether additional incentives are needed and feasible to encourage the early introduction of low-sulfur diesel fuel for use in vehicles equipped to provide lower emissions with the use of such a fuel. We also request comments on how such incentives might be structured under a phase in of low sulfur highway diesel fuel (see section VI.A).

V. Economic Impact

This section discusses the projected economic impact and cost effectiveness of the proposed emission standards and low-sulfur fuel requirement. We welcome comment on the estimated cost for research and development and the necessary lead time to develop these technologies for heavy-duty vehicles. Additionally we invite the reader to review all of the underlying cost assumptions made in the accompanying draft RIA and ask for comment on the validity of these assumptions. Full details of our cost and cost effectiveness analyses can be found in the Draft RIA.

A. Cost for Diesel Vehicles To Meet Proposed Emissions Standards

1. Summary of New System and Operating Costs

The technologies described in section III show a good deal of promise for controlling emissions, but also make clear that much effort remains to develop and optimize these new technologies for maximum emission-control effectiveness with minimum negative impacts on engine performance, durability, and fuel consumption. On the other hand, it has become clear that manufacturers have a great potential to advance beyond the current state of understanding by identifying aspects of the key technologies that contribute most to hardware or operational costs or other drawbacks and pursuing improvements, simplifications, or alternatives to limit those burdens. To reflect this investment in long-term cost savings potential, the cost analysis includes an estimated $385 million in R&D outlays for heavy-duty engine designs and $220 million in R&D for catalysts systems giving a total R&D outlay for improved emission control of more than $600 million. The cost and technical feasibility analyses accordingly reflect substantial improvements on the current state of technology due to these future developments.

Estimated costs are broken into additional hardware costs and life-cycle operating costs. The incremental hardware costs for new engines are comprised of variable costs (for hardware and assembly time) and fixed costs (for R&D, retooling, and certification). Total operating costs include the estimated incremental cost for low-sulfur diesel fuel, any expected

[134] This is the proposed retail-level compliance date. The proposed compliance date at the refinery level is April 1, 2006.

[135] ARCO Products Company news release dated October 7, 1999, Docket A–99–06 Item II–G–13.

[136] ARCO Products Company news release dated December 15, 1999.

increases in maintenance cost, or fuel consumption costs along with any decreases in operating cost expected due to low-sulfur fuel. Cost estimates based on these projected technology packages represent an expected incremental cost of engines in the 2007 model year. Costs in subsequent years would be reduced by several factors, as described below. Separate projected costs were derived for engines used in three service classes of heavy-duty diesel engines. All costs are presented in 1999 dollars.

The costs of these new technologies for meeting the proposed 2007 model year standards are itemized in the Draft RIA and summarized in Table V.A–1. For light heavy-duty vehicles, the cost of a new 2007 model year engine is estimated to increase by $1,688 and operating costs over a full life-cycle to increase by about $431. For medium heavy-duty vehicles the cost of a new engine is estimated to increase by $2,213, with life-cycle operating costs increasing to $826. Similarly, for heavy heavy-duty engines, the vehicle cost is expected to increase by $2,768, and estimated additional life-cycle operating costs are $3,362. The higher incremental increase in operating costs for the heavy heavy-duty vehicles is due to the larger number of miles driven over their lifetime (714,000 miles on average) and their correspondingly high lifetime fuel usage. Emission reductions are also proportional to VMT and so are significantly higher for heavy heavy-duty vehicles.

We also believe there are factors that would cause cost impacts to decrease over time, making it appropriate to distinguish between near-term and long term costs. Research in the costs of manufacturing has consistently shown that as manufacturers gain experience in production, they are able to apply innovations to simplify machining and assembly operations, use lower cost materials, and reduce the number or complexity of component parts.[137] Our analysis, as described in more detail in the draft RIA, incorporates the effects of this learning curve by projecting that the variable costs of producing the low-emitting engines decreases by 20 percent starting with the third year of production (2009 model year) and by reducing variable costs again by 20 percent starting with the fifth year of production. We invite comment on this methodology to account for the learning curve phenomena and also request comment on whether learning is likely to reduce costs in this industry. Additionally, since fixed costs are assumed to be recovered over a five-year period, these costs are not included in the analysis after the first five model years. Finally, manufacturers are expected to apply ongoing research to make emission controls more effective and to have lower operating cost over time. However, because of the uncertainty involved in forecasting the results of this research, we have conservatively not accounted for it in this analysis. Table V.A–1 lists the projected costs for each category of vehicle in the near- and long-term. For the purposes of this analysis, ''near-term'' costs are those calculated for the 2007 model year and ''long term'' costs are those calculated for 2012 and later model years.

We welcome comment on the degree to which this program may influence sales of new heavy-duty vehicles in the early years of the program, and the resulting impact this would have on our projected program benefits and costs. Costlier model year 2007 vehicles may induce some potential purchasers of these vehicles to instead buy 2006 models to save money, or to defer a purchase longer than they otherwise might have. On the other hand, we would anticipate that the very low emissions characteristics of these new vehicles would cause many buyers for whom cleaner diesels would be good for business (for example, urban transit authorities and touring or shuttle services) to retire older higher-emitting vehicles early.

TABLE V.A–1.—PROJECTED INCREMENTAL SYSTEM COST AND LIFE CYCLE OPERATING COST FOR HEAVY-DUTY DIESEL VEHICLES

[Net present values in the year of sale, 1999 dollars]

Vehicle class	Model year	Hardware cost	Life-cycle operating cost*
Light heavy-duty	Near term	$1,688	$431
	Long term	982	413
Medium heavy-duty	Near term	2,213	826
	Long term	1,188	800
Heavy heavy-duty	Near term	2,768	3,362
	Long term	1,572	3,265
Urban Bus	Near term	2,268	3,942
	Long term	1,252	3,874

* Incremental life-cycle operating costs include the incremental costs to refine and distribute low sulfur diesel fuel, the service cost of closed crankcase filtration systems, and the lower maintenance costs realized through the use of low sulfur diesel fuel (see discussion in section V.3).

2. New System Costs for NO_X and PM Emission Control

Several new technologies are projected for complying with the proposed 2007 model year emission standards. We are projecting that NO_X adsorbers and catalyzed diesel particulate filters would be the most likely technologies applied by the industry in order to meet our proposed emissions standards. The fact that manufacturers would have several years before implementation of the proposed new standards ensures that the technologies used to comply with the standards would develop significantly before reaching production. This ongoing development could lead to reduced costs in three ways. First, we expect research will lead to enhanced effectiveness for individual technologies, allowing manufacturers to use simpler packages of emission control technologies than we would predict given the current state of development. Similarly, we anticipate that the continuing effort to improve the emission control technologies will include innovations that allow lower-

[137] ''Learning Curves in Manufacturing,'' Linda Argote and Dennis Epple, Science, February 23, 1990, Vol. 247, pp. 920–924.

cost production. Finally, we believe that manufacturers would focus research efforts on any drawbacks, such as fuel economy impacts or maintenance costs, in an effort to minimize or overcome any potential negative effects.

We anticipate that in order to meet the proposed standards, industry would introduce a combination of primary technology upgrades for the 2007 model year. Achieving very low NO_X emissions will require basic research on NO_X emission control technologies and improvements in engine management to take advantage of the exhaust emission control system capabilities. The manufacturers are expected to take a systems approach to the problem optimizing the engine and exhaust emission control system to realize the best overall performance possible. Since most research to date with exhaust emission control technologies has focused on retrofit programs there remains room for significant improvements by taking such a systems approach. The NO_X adsorber technology in particular is expected to benefit from re-optimization of the engine management system to better match the NO_X adsorbers performance characteristics. The majority of the $600 million dollars we have estimated for research is expected to be spent on developing this synergy between the engine and NO_X exhaust emission control systems. PM control technologies are expected to be less sensitive to engine operating conditions as they have already shown good robustness in retrofit applications with low-sulfur diesel fuel.

The NO_X adsorber system that we are anticipating would be applied in 2007 consists of a catalyst which combines traditional gasoline three-way conversion technology with a newly developed NO_X storage function, a reductant metering system and a means to control engine air fuel (A/F) ratio. The NO_X adsorber catalyst itself is a relatively new device, but is benefitting in its development from over 20 years of gasoline three-way catalyst development. In order for it to function properly, a systems approach that includes a reductant metering system and control of engine A/F ratio is also necessary. Many of the new air handling and electronic system technologies developed in order to meet the 2004 heavy-duty engine standards can be applied to accomplish the NO_X adsorber control functions as well. Some additional hardware for exhaust NO_X or O_2 sensing and for fuel metering will likely be required. We have estimated that this additional hardware will increase new engine costs by approximately $350 for a heavy heavy-duty diesel engine. The Draft RIA also calculates an increase in warranty costs for this additional hardware. In total the new NO_X control technologies required in order to meet the proposed 2007 emission standards are estimated to increase light heavy-duty engine costs by $890, medium heavy-duty engine costs by $1,047 and heavy heavy-duty engine costs by $1,410 in the year 2007. In the year 2012 and beyond the incremental costs are expected to decrease to $570 for a light heavy-duty engine, $670 for a medium heavy-duty engine and to $902 for a heavy heavy-duty engine.

Catalyzed diesel particulate filters are experiencing widespread retrofit use in much of Europe as low-sulfur diesel fuel becomes readily available. These technologies are proving to be robust in their non-optimized retrofit applications requiring no modification to engine or vehicle control functions. We therefore anticipate that catalyzed diesel particulate filters can be integrated with new diesel engines with only a minimal amount of engine development. We do not anticipate that additional hardware beyond the diesel particulate filter itself and an exhaust pressure sensor for OBD will be required in order to meet the proposed PM standard. We estimate in 2007 that diesel particulate filter systems will add $633 to the cost of a light heavy-duty vehicle, $796 to the cost of a medium heavy-duty vehicle and $1,028 to the cost of a heavy heavy-duty vehicle. By 2012 these costs are expected to decrease to $389, $491, and $638 respectively. These cost estimates are comparable to estimates made by the Manufacturers of Emission Controls Association for these technologies.[138]

We have proposed to eliminate the exemption that allows turbo-charged heavy-duty diesel engines to vent crankcase gases directly to the environment, so called open crankcase systems, and have projected that manufacturers will rely on engineered closed crankcase ventilation systems which filter oil from the blow-by gases. We have estimated the initial cost of these systems in 2007 to be $37, $42, and $49 for light, medium and heavy heavy-duty diesel engines respectively. Additionally we expect a portion of the oil filtration system to be a service replacement oil filter which will be replaced on a 30,000 mile service interval with a service cost of $10, $12, and $15 for light, medium, and heavy heavy-duty diesel engines respectively. These cost are summarized with the other cost for emission controls in Table V.A–1 and are included in the aggregate cost reported in section V.E.

3. Operating Costs Associated With NO_X and PM Control

The Draft RIA assumes that a variety of new technologies will be introduced to enable heavy-duty vehicles to meet the new emissions standards we are proposing. Primary among these are advanced emission control technologies and low-sulfur diesel fuel. The many benefits of low-sulfur diesel fuel are described in section III, and the incremental cost for low-sulfur fuel is described in section V.D. The new emission control technologies are themselves not expected to introduce additional operating costs in the form of increased fuel consumption. Operating costs are estimated in the Draft RIA over the life of the vehicle and are expressed as a net present value (NPV) in 1999 dollars for comparison purposes.

Total operating cost estimates include both the expected increases in maintenance and fuel costs (both the incremental cost for low-sulfur fuel and any fuel consumption penalty) due to the emission control systems application and the predicted decreases in maintenance cost due to the use of low-sulfur fuel. Today's proposal estimates some increase in operating costs due to the incremental cost of low-sulfur diesel fuel but no net increase in fuel consumption with the application of the new emission control technologies (see discussion in section III.G). The net increase in operating costs are summarized in Table V.A–1. While we are using these incremental operating cost estimates for our cost effectiveness calculations, it is almost certain that the manufacturers will improve existing technologies or introduce new technologies in order to offset at least some of the increased operating costs. We request comment on these operating cost estimates and on ways in which industry may be able to offset these operating costs.

We estimate that the low-sulfur diesel fuel we are proposing to require in order to enable these technologies would have an incremental cost of approximately $0.044/gallon as discussed in section V.D. The proposed low-sulfur diesel fuel may also provide additional benefits by reducing the engine maintenance costs associated with corrosion due to sulfur in the current diesel fuel. These benefits, which are discussed further in section V.C and in the draft RIA, include extended oil

[138] Letter from Bruce Bertelsen, Manufacturers of Emission Controls Association (MECA) to William Charmley, US EPA, December 17, 1998. The letter documents a MECA member survey of expected diesel particulate filter costs. EPA Air Docket A–99–06.

change intervals due to the slower acidification rate of the engine oil with low-sulfur diesel fuel. Service intervals for the EGR system are also expected to increase due to lower-sulfur induced corrosion than will occur with today's higher-sulfur fuel. This lengthening of service intervals provides a significant savings to the end user. As described in more detail in the Draft RIA we anticipate that low-sulfur diesel fuel would provide additional cost savings to the consumer of $153 for light heavy-duty vehicles, $249 for medium heavy-duty vehicles and $610 for heavy heavy-duty vehicles. The operating costs for replacement filters in the closed crankcase filtration systems are estimated to be $48 for light heavy-duty vehicles, $72 for medium heavy-duty vehicles and $268 for heavy heavy-duty vehicles in 2007 and in the long term are expected to decrease to $31 for a light heavy-duty vehicle, $46 for a medium heavy-duty vehicle and $172 for a heavy heavy-duty vehicle. Factoring the cost savings due to low sulfur diesel fuel into the additional cost for low-sulfur diesel fuel and the service cost of the closed crankcase ventilation system yields a net increase in vehicle operating costs of $431 for a light heavy-duty vehicle, $826 for a medium heavy-duty vehicle and $3,362 for a heavy heavy-duty vehicle. These life cycle operating costs are also summarized in Table V.A–1. The net increase in operating cost can also be expressed as an average annual operating cost for each class of heavy-duty vehicle. Expressed as an approximate annual per vehicle cost, the additional operating cost is estimated as $50 for a light heavy-duty vehicle, $100 for a medium heavy-duty vehicle, and $400 for a heavy heavy-duty vehicle.

B. Cost for Gasoline Vehicles to Meet Proposed Emissions Standards

1. Summary of New System Costs

To perform a cost analysis for the proposed standards, we first determined a package of likely technologies that manufacturers could use to meet the proposed standards and then determined the costs of those technologies. In making our estimates we have relied on our own technology assessment which included publicly available information, such as that developed by California, as well as confidential information supplied by individual manufacturers, and the results of our own in-house testing.

In general, we expect that heavy-duty gasoline vehicles would (like Tier 2 light duty vehicles) be able to meet these standards through refinements of current emissions control components and systems rather than through the widespread use of new technology. More specifically, we anticipate a combination of technology upgrades such as the following:

- Improvements to the catalyst system design, structure, and formulation, plus an increase in average catalyst size and loading.
- Air and fuel system modifications including changes such as improved oxygen sensors, and calibration changes including improved precision fuel control and individual cylinder fuel control.
- Exhaust system modifications, possibly including air gapped components, insulation, leak free exhaust systems, and thin wall exhaust pipes.
- Increased use of fully electronic exhaust gas recirculation (EGR).
- Increased use of secondary air injection.
- Use of ignition spark retard on engine start-up to improve upon cold start emission control.
- Use of low permeability materials and minor improvements to designs, such as the use of low-loss connectors, in evaporative emission control systems.

We expect that the technologies needed to meet these proposed heavy-duty gasoline standards would be very similar to those required to meet the Tier 2 standards for vehicles over 8,500 pounds GVWR. Few heavy-duty gasoline vehicles currently rely on technologies such as close coupled catalysts and secondary air injection, but we expect they would do so to in order to meet the proposed 2007 standards.

For each group we developed estimates of both variable costs (for hardware and assembly time) and fixed costs (for R&D, retooling, and certification). Cost estimates based on the current projected costs for our estimated technology packages represent an expected incremental cost of vehicles in the near-term. For the longer term, we have identified factors that would cause cost impacts to decrease over time. First, since fixed costs are assumed to be recovered over a five-year period, these costs disappear from the analysis after the fifth model year of production. Second, the analysis incorporates the expectation that manufacturers and suppliers would apply ongoing research and manufacturing innovation to making emission controls more effective and less costly over time. Research in the costs of manufacturing has consistently shown that as manufacturers gain experience in production and use, they are able to apply innovations to simplify machining and assembly operations, use lower cost materials, and reduce the number or complexity of component parts.[139] These reductions in production costs are typically associated with every doubling of production volume. Our analysis incorporates the effects of this ''learning curve'' by projecting that a portion of the variable costs of producing the new vehicles decreases by 20 percent starting with the third year of production. We applied the learning curve reduction only once since, with existing technologies, there would be less opportunity for lowering production costs than would be the case with the adoption of new technology. We did not apply the learning curve reduction to precious metal costs, nor did we apply it for the evaporative standards. We invite comment on this methodology to account for the learning curve phenomena and also request comment on whether learning is likely to reduce costs in this industry.

We have prepared our cost estimates for meeting the new heavy-duty gasoline standards using a baseline of current technologies for heavy-duty gasoline vehicles and engines. Finally, we have incorporated what we believe to be a conservatively high level of R&D spending at $2,500,000 per engine where no California counterpart exists. We have included this large R&D effort because calibration and system optimization is likely to be a critical part of the effort to meet the standards. However, we believe that the R&D costs may be generous because the projection probably underestimates the carryover of knowledge from the development required to meet the light-duty Tier 2 and CARB LEV–II standards.

Table V.B–1 provides our estimates of the per vehicle increase in purchase price for heavy-duty gasoline vehicles and engines. The near-term cost estimates in Table V.B–1 are for the first years that vehicles meeting the standards are sold, prior to cost reductions due to lower productions costs and the retirement of fixed costs. The long-term projections take these cost reductions into account. We request comment on the costs shown in Table V.B–1 and the analysis behind them.

[139] See Chapter V of the final Tier 2 Regulatory Impact Analysis, contained in Air Docket A–97–10.

TABLE V.B–1.—PROJECTED INCREMENTAL SYSTEM COST AND LIFE CYCLE OPERATING COST FOR HEAVY-DUTY GASOLINE VEHICLES

[Net present values in the year of sale, 1999 dollars]

Vehicle class	Model year	Incremental system cost	Life-cycle operating cost
Heavy-Duty Gasoline	Near term	$182	$0
	Long term	152	0

2. Operating Costs Associated With Meeting the Heavy-Duty Gasoline Standard

Low sulfur gasoline is a fundamental enabling technology which will allows heavy-duty gasoline vehicles to meet the very low emission standards being proposed today. The low sulfur gasoline required under the Tier 2 proposal will enable advanced exhaust emission control for heavy-duty vehicles as well. Today's proposal puts no additional requirements on gasoline sulfur levels and as such should not directly increase gasoline fuel costs. Additionally, the new technologies being employed in order to meet the new standards are not expected to increase fuel consumption for heavy-duty gasoline vehicles. In fact, there may be some small improvement in fuel economy from the application of improved fuel and air control systems on these engines. Therefore, in the absence of changes to gasoline specifications and with no decrease in fuel economy, we do not expect any increase in vehicle operating costs.

C. Benefits of Low-Sulfur Diesel Fuel for the Existing Diesel Fleet

We estimate that the proposed low-sulfur diesel fuel would provide additional benefits to the existing heavy-duty vehicle fleet as soon as the fuel is introduced. We believe these benefits could offer significant cost savings to the vehicle owner without the need for purchasing any new technologies. The Draft RIA has catalogued a variety of benefits from the proposed low-sulfur diesel fuel. These benefits are summarized in Table V.C–1.

TABLE V.C–1.—COMPONENTS POTENTIALLY AFFECTED BY LOWER SULFUR LEVELS IN DIESEL FUEL

Affected components	Effect of lower sulfur	Potential impact on engine system
Piston Rings	Reduce corrosion wear	Extended engine life and less frequent rebuilds.
Cylinder Liners	Reduce corrosion wear	Extended engine life and less frequent rebuilds.
Oil Quality	Reduce deposits and less need for alkaline additives.	Reduce wear on piston ring and cylinder liner and less frequent oil changes.
Exhaust System (tailpipe)	Reduces corrosion wear	Less frequent part replacement.
EGR	Reduces corrosion wear	Less frequent part replacement.

The actual value of these benefits over the life of the vehicle would depend upon the length of time that the vehicle operates on low-sulfur diesel fuel and the degree to which vehicle operators change engine rebuild patterns to take advantage of these benefits. For a vehicle near the end of its life in 2007 the benefits would be quite small. However for vehicles produced in the years immediately preceding the introduction of low-sulfur fuel the savings would be substantial. The Draft RIA estimates that a heavy heavy-duty vehicle introduced into the fleet in 2006 would realize savings of $610 over its life. This savings could alternatively be expressed in terms of fuel costs as approximately 1 cent per gallon as discussed in the draft RIA. These savings would occur without additional new cost to the vehicle owner beyond the incremental cost of the low-sulfur diesel fuel, although these savings would require changes to existing maintenance schedules. Such changes seem likely given the magnitude of the savings and the nature of the regulated industry.

The maintenance benefits we project come primarily from extended oil change intervals. We have no quantitative data on how much longer these intervals might be. Based on discussions with some engine manufacturers, we believe it is reasonable to assume that engine oil change intervals will increase by 10 percent for each class of engine (in both new and existing fleets). We seek comment on this key assumption and on these projected savings and all of the assumptions behind them; details of the analysis behind these savings can be found in the draft RIA contained in the docket for this rule.

D. Cost of Proposed Fuel Change

We estimate that the overall cost associated with lowering the sulfur cap from the current level of 500 ppm to the 15 ppm level proposed today will be approximately 4.4 cents per gallon. As discussed in sections V.A. and V.C., this cost would be offset by a one cent per gallon savings (or more) from the reduction in vehicle maintenance savings that result from the use of the cleaner fuel. The fuel cost is comprised of a number of components associated with refining and distributing the fuel. The majority of the fuel cost is expected to be the refining cost which is estimated to be approximately 4.0 cents per gallon, which includes the cost of producing more volume of diesel fuel because desulfurization decreases the energy density of the fuel. The remaining 0.4 cents per gallon in fuel costs is associated with an anticipated increase in the use of additives to maintain fuel lubricity at a cost of 0.2 cents per gallon, and an increase in distribution costs of 0.2 cents per gallon. The increase in distribution costs comprises 0.1 cents per gallon to distribute the additional volume of diesel fuel needed to compensate for the decrease in fuel energy density, and 0.1 cents per gallon to maintain product integrity in the distribution system. These cost estimates are discussed in more detail below and in the Draft RIA.

When the 4.4 cent per gallon cost is applied to the expected low sulfur diesel fuel sales volume of approximately 40 billion gallons at the start of the program, it equates to an annual cost of roughly $1.8 billion per year. This fuel cost would be offset by a reduction in maintenance costs of roughly $0.4 billion per year.

1. Refinery Costs

As explained in Section IV, refiners would have to install capital equipment to meet the proposed diesel fuel sulfur standard. Presuming that refiners will want to minimize the cost involved and use conventional technology, refiners are expected to build onto their existing desulfurization unit by adding another hydrotreating reactor and other related equipment.

In our analysis, we estimated the cost of lowering onroad diesel fuel sulfur levels for a national average refinery starting from the current national average sulfur level of about 350 ppm down to 7 ppm. We believe that a refinery's average diesel fuel sulfur level would be roughly 7 ppm under a 15 ppm cap standard. We then calculated a national aggregate cost and cents-per-gallon cost. Based on this analysis we estimate that, on average, individual refiners in the years 2004–05 would be expected to invest about $30 million for capital equipment and spend about $8 million per year for each refinery to cover the operating costs associated with these desulfurization units. Since this average represents a diverse size range of refineries, some refineries would pay more and others less than this average cost. When the average per-refinery cost is aggregated for all the onroad diesel fuel expected to be produced in this country in 2007, we estimate that the total investment for desulfurizing diesel fuel would be about $1.9, $2.0, and $0.2 billion in 2004, 2005, and 2006, respectively, as discussed in section IV.B. Operating costs for these units are expected to be about $1.1 billion per year.

Using our estimated capital and operating costs we calculated the average per-gallon cost of reducing diesel fuel sulfur down to meet the proposed 15 ppm cap standard. Using a capital cost amortization factor based on a seven percent rate of return on investment before taxes, we estimated the average national cost for desulfurizing onroad diesel sulfur to be about 4.0 cents per gallon. This cost is our estimated cost to society of producing onroad diesel to meet a 15 ppm cap standard that we used for estimating cost effectiveness.

There is currently no commercial experience in the U.S. and only a limited amount of information in the public literature on the costs associated with reducing the sulfur level in diesel fuel to very low levels on an ongoing operational basis. Experience in Sweden involves other changes to the fuel as well that would tend to drive up the costs considerably. The EMA recently commissioned a study by Mathpro of the economics of controlling the sulfur content of highway and nonroad diesel fuel to various sulfur levels as low as 2 ppm. Unfortunately, none of the scenarios modeled in the EMA study are consistent with our proposal today. Furthermore, some of the assumptions made in the analysis are inconsistent with our standard assumptions for economic analysis. For example, Mathpro used a higher rate of return on new capital than the rate we use. Nevertheless, some insight can be gained from a broad comparison of Mathpro's and our cost projections. The proposed sulfur cap for highway diesel fuel is very roughly bracketed by two Mathpro sulfur control scenarios: (1) a highway diesel fuel standard of 20 ppm on average with a nonroad diesel fuel standard of 350 ppm on average, and (2) an highway diesel fuel standard of 2 ppm on average with a nonroad diesel fuel standard of 20 ppm on average. Mathpro's projected refining costs for these two scenarios range from 4 to just under 6 cents per gallon (citing their costs for revamping current diesel fuel hydrotreaters with reactors in series, which is equivalent to our technology projections). Considering that Mathpro uses a higher rate of return on capital and that both of their scenarios included controlling nonroad diesel fuel, the two sets of cost projections appear to be roughly consistent. This serves to give us some confidence that our cost estimate for a sulfur cap of 15 ppm on highway diesel fuel is reasonable. This is discussed in further detail in the Draft RIA.

Although API assisted in the study, API has expressed some concern about the accuracy of the EMA cost estimates. API highlighted their concerns on the EMA study in a memo to the Director the Office of Transportation Air Quality, which is included in the docket.[140] While API expressed their belief that the cost outcomes of the EMA study are, in general, reasonable, they expressed serious concerns about the cost of producing diesel with sulfur levels below 20 ppm (roughly equivalent to a 30 ppm cap). API believes that, particularly at extremely low sulfur levels, the measures needed to be taken would result in significantly higher costs than estimated by EMA. We request comment on this assessment.

We acknowledge that some refiners likely face higher desulfurization costs than others. This is generally the case with any fuel quality regulation, since the crude oils processed by, as well as the configurations and product slates of individual refineries vary dramatically. As mentioned in section IV, API believes that those refiners facing higher than average costs may decide to leave the highway diesel fuel market. They argue this is especially a possibility if they are faced with a sulfur standard below a 30 ppm average (or 50 ppm cap), which they believe will require very large investments for high pressure hydrotreating to maintain current highway diesel production volumes. API also believes that many refiners may reduce their production of highway diesel fuel, by switching the feedstocks (i.e., LCO) which are most difficult to desulfurize to other markets, thus avoiding the higher investments associated with high pressure hydrotreating. If some refiners reduce highway diesel fuel production, that could present an opportunity for other refiners, who choose to make the investment, of higher prices for the new 15 ppm sulfur product. Whether the potential for higher prices would be sufficient and be apparent with sufficient leadtime to allow refiners to make an added investment by the time the proposed rule is effective is currently unclear.

For example, the refining industry actually overbuilt desulfurization capacity for the current 500 ppm standard, as evidenced by the significant use in the off-highway market of diesel fuel produced to the current highway diesel sulfur standard of 500 ppm. Some of this overproduction may have been due to limitations in the distribution system to distribute both highway and off-highway grades of diesel fuel. Despite the overall market overproduction, a number of small refiners did decide to switch from the highway diesel fuel market to the off-highway diesel fuel market, presumably for economic reasons.

Another incentive for refiners to invest in highway diesel fuel desulfurization equipment is the potential for a growing light-duty diesel market. Many vehicle manufacturers have announced plans to equip their light-duty vehicles and, particularly, light-duty trucks with diesel engines. Refiners may want to ensure their

[140] Edward H. Murphy, API to Margo Oge, US EPA, October 26,1999.

presence in this growing and potentially profitable market.

Alternative markets for distillate products are limited in the U.S. The domestic off-highway diesel fuel and heating oil markets are much smaller than the highway diesel fuel market. The domestic off-highway diesel fuel and heating oil markets are currently in balance, considering the fact that some highway diesel fuel is currently being sold into these markets. Assuming that the distribution system can be changed to segregate highway and other distillate fuels more economically, some amount of current highway diesel fuel production could switch to these other markets with no loss of highway diesel fuel supply. In addition, although the off-highway diesel fuel market is growing, this growth will occur gradually over the next 6 years and not occur on April 1, 2006. The heating oil market is very seasonal (strong in the winter and weak in the summer), regional (strong in the Northeast) and not growing. Thus, overall, we do not see much opportunity for large domestic producers of highway diesel fuel to be able to shift their production to these other domestic markets.

Export opportunities for diesel fuel are also limited to some degree. Japan and Europe will have stringent sulfur caps in place by 2005 and have cetane requirements well beyond the cetane levels of current U.S. diesel fuel. Asia, while growing in demand for diesel fuel, has also been the focus of new grassroots refinery production and again has high cetane requirements. Thus, the primary areas for export of diesel fuel of average U.S. quality would appear to be Africa and Latin America.

Refiners have also raised the possibility of exporting some of their more difficult to desulfurize diesel feedstocks such as LCO to other distillate markets. While this may be a possibility to some degree as discussed in Section IV and the draft RIA, the opportunities to do so appear to be limited. We have not conducted a detailed analysis of the potential for this exportation. Refiners would have to hydrotreat this material to lower its sulfur content in order to meet the European Union 50 ppm sulfur cap (and increase its cetane) in order for it to be used as a diesel fuel blendstock. Otherwise, its only use without additional treating would be in heating fuel. With Europe and developing countries expected to experience increasing demand for non-diesel, distillate fuel, there may be economic opportunities for exporting such fuel.

We request comments on the possibility that the proposed sulfur cap would cause some refiners to abandon the U.S. highway diesel fuel market or to reduce highway diesel fuel production, as well as on the impact that this would have on diesel fuel supply and price in the U.S. We also request comment on whether refiners would likely desire to shift all their LCO to non-highway diesel fuel markets or just the heavier portion which contains the most sterically hindered compounds. We also request comment on the economic viability of alternative markets for current highway diesel fuel or its more difficult to desulfurize components. We also request comments on the ability of overseas refiners providing highway diesel fuel under the proposed sulfur cap should domestic refiners reduce production. Finally, as discussed in section VI.A., we are also considering various phase-in approaches for implementing the low sulfur diesel standard. A phase-in could help spread out the design, construction, and capital expenditure of refinery modifications necessary to comply with the proposed diesel fuel sulfur standard, and in so doing could further minimize any risk of supply shortages. We request comment on the appropriateness and ability of a phase-in to address these concerns.

2. Cost of Possibly Needed Lubricity Additives

As discussed in section IV, the refinery processes needed to achieve the sulfur standard have some potential to degrade the natural lubricity characteristics of the fuel. Consequently an increase in the use of lubricity additives for diesel fuel may be anticipated over the amounts used today. We contacted various producers of lubricity additives to get their estimates of what costs might be incurred for this increase in the use of lubricity additives. The cost estimates varied from 0.1 to 0.5 cents per gallon. This range is to be expected since the cost will be a strong function of not only the additive type, but also the assumed treatment rate and the volume of fuel that needs to be treated, both of which will be, to some extent, a function of the sulfur cap. As described in more detail in the Draft RIA, we have included in the fuel cost estimate an average cost of 0.2 cents per gallon for lubricity additives over the entire pool of low-sulfur highway diesel fuel. This estimate is comparable to an estimate made by Mathpro in a study sponsored by the EMA. We request comment on our cost estimate. In particular, we request comment on whether there may be unique costs for the military to maintain the lubricity of their distillate fuels. We request that such comments addressing this issue include a detailed discussion of the volumes of fuel effected, current lubricity additive use, and the additional measures that might be needed (and associated costs) to maintain the appropriate level of fuel lubricity.

3. Distribution Costs

Under the proposed 15 ppm sulfur cap, we project that distribution costs would increase by a total of 0.2 cents per gallon as discussed below.

If the proposed sulfur standard is adopted, there would be a greater difference between the sulfur content of highway diesel fuel and other distillate products than presently exists.[141] For example, off-highway diesel fuel currently has a sulfur content that is approximately ten times that of highway diesel. Under the proposed sulfur standard, off-highway diesel fuel would have a sulfur content over two hundred times that of highway diesel fuel. This could potentially make it more difficult to limit the sulfur contamination of highway diesel fuel with other distillate products as the fuel travels through the distribution system. As discussed in section IV, standard industry practices, if followed carefully, should be able to virtually eliminate the potential contamination. To do so, however, is expected to result in slightly increased costs in a few different parts of the distribution system.

We identified three segments in the distribution system (pipeline operators, terminal operators, and tank-truck operators) that might experience increased costs due to increased difficulty in limiting sulfur contamination under the proposed sulfur standard. As discussed in the Draft RIA, we estimate that the total increase in diesel distribution costs associated with adequately limiting sulfur contamination under today's proposal would be no more than 0.1 cents per gallon for the distribution system as a whole. The majority of this increased cost is attributed to the unavoidable mixing of highway diesel with other products that occurs in pipeline shipments. The amount of interface (e.g., mixture of a highway diesel batch and a nonroad diesel batch) that must be downgraded to a lower

[141] Highway diesel fuel currently must have a sulfur content of no more than 500 ppm and typically has an average sulfur content of 350 ppm. Off-highway diesel fuel sulfur content is currently unregulated and is approximately 3,500 ppm on average. The maximum allowed sulfur content of heating oil is 5,000 ppm. The maximum allowed sulfur content of kerosene (and jet fuel) is 3,000 ppm.

price product is expected to grow with a lower sulfur cap for highway diesel, resulting in a slightly increased cost for pipeline shipments. A slight increase in distribution costs is also expected to result at terminals due to the anticipated need for additional quality assurance testing at very low sulfur levels. We believe that, although tank-truck operators may need to more carefully observe current industry practices used to limit product contamination, this will not result in a significant increase in costs.

We invite comment on the amount of sulfur contamination which might be expected from each segment of the distribution system, the measures that might be taken to limit contamination, and the costs associated with these measures. We also request comment on the level of sulfur contamination in the distribution system that might be considered unavoidable without the imposition of an undue burden on diesel distributors and how this bears on the question of what sulfur level the refiner would need to meet at the refinery gate (the compliance margin) to ensure that highway diesel fuel does not exceed the proposed cap on sulfur content. Please refer to section IV.E for discussion of the compliance margin that we anticipate refiners will need to provide.

The energy density of diesel fuel would be decreased as a side effect of reducing sulfur content to the proposed 15 ppm cap. Consequently, to meet the same level of consumer demand an increased volume of diesel fuel would need to move through the distribution system. The cost of distributing this increased volume of diesel fuel was calculated within the model that used to evaluate refining costs (see the Draft RIA). Spread over the total volume of diesel fuel distributed, the additional cost is estimated at 0.1 cents per gallon. We request comment on this cost estimate.

E. Aggregate Costs

Using current data for the size and characteristics of the heavy-duty vehicle fleet and making projections for the future, the diesel per-engine, gasoline per-vehicle, and per-gallon fuel costs described above can be used to estimate the total cost to the nation for the emission standards in any year. Figure V.E–1 portrays the results of these projections.[142] All capital costs have been amortized.

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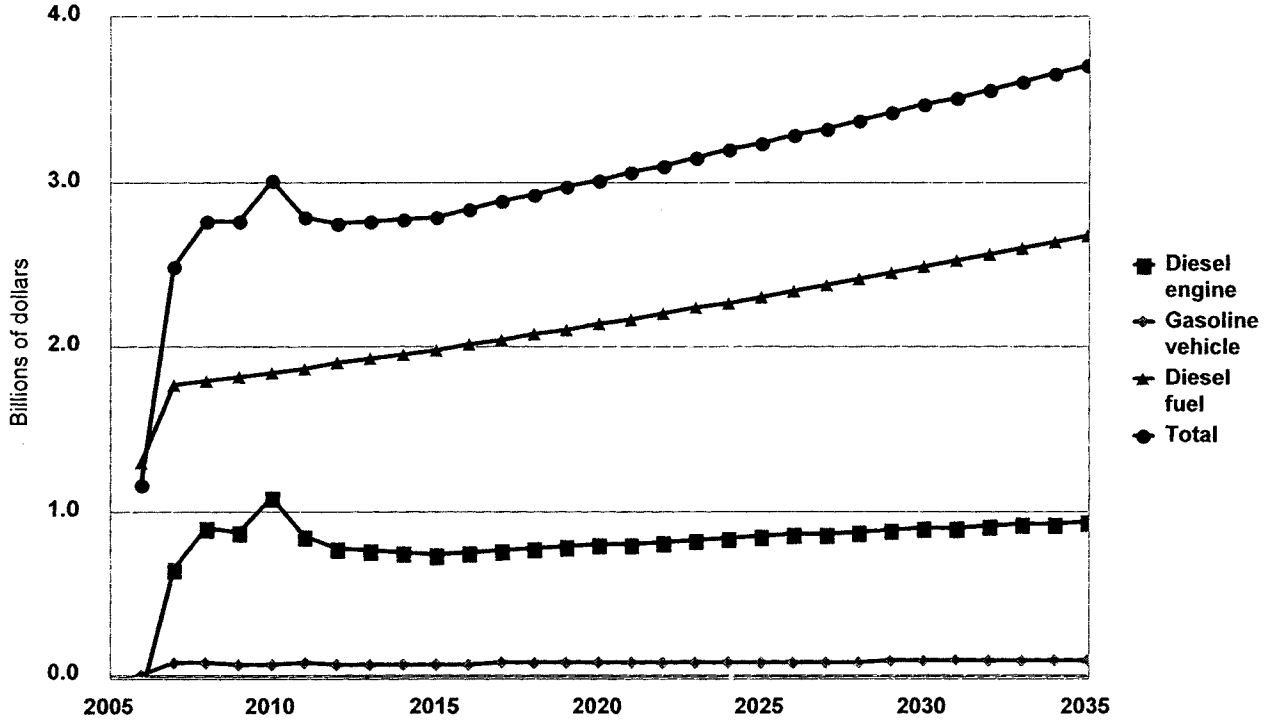
Figure V.E-1 Total Annualized Costs



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As can be seen from the figure, the annual costs start out at less than a billion dollars in year 2006 and increase over the phase-in period to about $2.8 billion in 2015. Thereafter, total annualized costs are projected to continue increasing due to the effects of projected growth in engine sales and fuel consumption. The Draft RIA provides further detail regarding these cost projections.

Future consumption of today's proposed low sulfur diesel fuel may be influenced by a potential influx of diesel-powered cars and light trucks into the light-duty fleet. At the present time, virtually all cars and light trucks being sold are gasoline fueled. However, the possibility exists that diesels will become more prevalent in the car and light-duty truck fleet, since automotive companies have announced their desire to increase their sales of diesel cars and light trucks. For the Tier 2 rulemaking, the Agency performed a sensitivity analysis using A.D.Little's ''most likely'' increased growth scenario of diesel penetration into the light-duty vehicle fleet which culminated in a 9 percent and 24 percent penetration of diesel vehicles in the LDV and LDT markets,

[142] Figure V.E–1 is based on the amortized engine, vehicle and fuel costs as described in the Draft RIA. Actual capital investments, particularly important for fuels, would occur prior to and during the initial years of the program.

respectively, in 2015 (see Tier 2 RIA, Table III.A. 13). Were this scenario to play out, the increased number of diesel-powered cars and light-duty trucks would increase the societal costs (those costs, in total, paid by consumers) for the proposed higher priced diesel fuel because more diesel fuel would be consumed. However, were more diesel vehicles to penetrate the light-duty fleet, less gasoline would be consumed than was estimated in our Tier 2 cost analysis. Also, diesel vehicles tend to get higher fuel economy. In the end, the effect of increased dieselization of the light-duty fleet may have little or no impact on the aggregate costs estimated for today's proposal. While we have not fully analyzed this light-duty diesel penetration scenario, we request comment on it and relevant data which would allow us to perform a sensitivity analysis.

F. Cost Effectiveness

One tool that can be used to assess the value of new standards for heavy-duty vehicles and engines is cost effectiveness, in which the costs incurred to reach the standards are compared to the mass of emission reductions. This analysis results in the calculation of a $/ton value, the purpose of which is to show that the reductions from the engine and fuel controls being proposed today are cost effective, in comparison to alternative means of control. This analysis involves a comparison of our program not only to past measures, but also to other potential future measures that could be implemented. Both EPA and states have already adopted numerous control measures, and remaining measures tend to be more expensive than those previously employed. As we and States tend to employ the most cost effective available measures first, more expensive ones must be adopted to achieve further emission reductions.

1. What Is the Cost Effectiveness of This Proposed Program?

We have calculated the cost-effectiveness of our proposed diesel engine/gasoline vehicle/diesel sulfur standards based on two different approaches. The first considers the net present value of all costs incurred and emission reductions generated over the life of a single vehicle meeting our proposed standards. This per-vehicle approach focuses on the cost-effectiveness of the program from the point of view of the vehicles and engines which will be used to meet the new requirements. However, the per-vehicle approach does not capture all of the costs or emission reductions from our proposed diesel engine/gasoline vehicle/diesel sulfur program since it does not account for the use of low sulfur diesel fuel in current diesel engines. Therefore, we have also calculated an 30-year net present value cost-effectiveness using the net present value of costs and emission reductions for all in-use vehicles over a 30-year time frame. The baseline or point of comparison for this evaluation is the previous set of engine, vehicle, and diesel sulfur standards (in other words, the applicable 2004 model year standards).

As described earlier in the discussion of the cost of this program, the cost of complying with the new standards will decline over time as manufacturing costs are reduced and amortized capital investments are recovered. To show the effect of declining cost in the per-vehicle cost-effectiveness analysis, we have developed both near term and long term cost-effectiveness values. More specifically, these correspond to vehicles sold in years one and six of the vehicle and fuel programs. Chapter VI of the RIA contains a full description of this analysis, and you should look in that document for more details of the results summarized here.

The 30-year net present value approach to calculating the cost-effectiveness of our program involves the net present value of all nationwide emission reductions and costs for a 30 year period beginning with the start of the diesel fuel sulfur program and introduction of model year 2007 vehicles and engines in year 2006. This 30-year timeframe captures both the early period of the program when very few vehicles that meet our proposed standards will be in the fleet, and the later period when essentially all vehicles in the fleet will meet our proposed standards. We have calculated the 30-year net present value cost-effectiveness using the net present value of the nationwide emission reductions and costs for each calender year. These emission reductions and costs are given for every calendar year in the RIA, in addition to details of the methodology we used to calculate the 30-year net present value cost-effectiveness.

Our per-vehicle and 30-year net present value cost-effectiveness values are given in Tables V.F–1 and V.F–2. Table V.F–1 summarizes the per-vehicle, net present value lifetime costs, NMHC + NO_X and PM emission reductions, and resulting cost-effectiveness results for our proposed diesel engine/gasoline vehicle/diesel sulfur standards using sales weighted averages of the costs (both near term and long term) and emission reductions of the various vehicle and engine classes affected. Table V.F–2 provides the same information from the program 30-year net present value perspective. It includes the net present value of the 30 year stream of vehicle and fuel costs, NMHC + NO_X and PM emission reductions, and the resulting 30-year net present value cost-effectiveness. Diesel fuel costs applicable to diesel engines have been divided equally between the adsorber and trap, since low sulfur diesel is intended to enable all technologies to meet our proposed standards. In addition, since the trap produces reductions in both PM and hydrocarbons, we have divided the total trap costs equally between compliance with the proposed PM standard and compliance with the proposed NMHC standard.

Tables V.F–1 and V.F–2 also display cost-effectiveness values based on two approaches to account for the reductions in SO_2 emissions associated with the reduction in diesel fuel sulfur. While these reductions are not central to the program and are therefore not displayed with their own cost-effectiveness, they do represent real emission reductions due to our program. The first set of cost-effectiveness numbers in the tables simply ignores these reductions and bases the cost-effectiveness on only the emission reductions from our proposed program. The second set accounts for these ancillary reductions by crediting some of the cost of the program to SO_2. The amount of cost allocated to SO_2 is based on the cost-effectiveness of SO_2 emission reductions that could be obtained from alternative, potential future EPA programs. The SO_2 credit was applied only to the PM calculation, since SO_2 reductions are primarily a means to reduce ambient PM concentrations.

TABLE V.F–1.—PER-ENGINE COST EFFECTIVENESS OF THE PROPOSED STANDARDS FOR 2007 AND LATER MY VEHICLES

Pollutants	Discounted lifetime vehicle & fuel costs	Discounted lifetime emission reductions (tons)	Discounted lifetime cost effective-ness per ton	Discounted lifetime cost effective-ness per ton with SO_2 credit [a]
Near-term costs [b]:				
NO_X+NMHC	$1535	0.8838	$1,736	$1,736
PM	872	0.0672	12,977	6,338
Long-term costs:				
NO_X+NMHC	1121	0.8838	1,268	1,268
PM	652	0.0672	9,704	3,065

[a] $446 credited to SO_2 (at $4800/ton) for PM cost effectiveness.
[b] As described above, per-engine cost effectiveness does not include any costs or benefits from the existing, pre-control, fleet of vehicles that would use the low sulfur diesel fuel proposed in this document.

TABLE V.F–2.—30-YEAR NET PRESENT VALUE [a] COST EFFECTIVENESS OF THE STANDARDS

	30-year n.p.v. engine, vehicle, & fuel costs (in billions)	30-year n.p.v. reduction (tons) (in millions)	30-year n.p.v. cost effective-ness per ton	30-year n.p.v. cost effective-ness per ton with SO_2 credit [b]
NO_X + NMHC	$28.9	18.9	$1,531	$1,531
PM	8.8	0.79	11,248	1,850

[a] This cost effectiveness methodology reflects the total fuel costs incurred in the early years of the program when the fleet is transitioning from pre-control to post-control diesel vehicles. In 2007 <10% of highway diesel fuel is anticipated to be consumed by 2007 MY vehicles. By 2012 this increases to >50% for 2007 and later MY vehicles.
[b] $7.4 billion credited to SO_2 (at $4800/ton).

2. Comparison With Other Means of Reducing Emissions

In comparison with other mobile source control programs, we believe that our program represents a cost effective strategy for generating substantial NO_X, NMHC, and PM reductions. This can be seen by comparing the cost effectiveness of today's program with a number of mobile source standards that EPA has adopted in the past. Table V.F–3 summarizes the cost effectiveness of several past EPA actions for NO_X+NMHC. Table V.F–4 summarizes the cost effectiveness of several past EPA actions for PM.

TABLE V.F–3.—COST EFFECTIVENESS OF PREVIOUS MOBILE SOURCE PROGRAMS FOR NO_X+NMHC

Program	$/ton
Tier 2 vehicle/gasoline sulfur	1,311–2,211
2004 Highway HD diesel	207–405
Nonroad diesel engine	416–660
Tier 1 vehicle	2,010–2,732
NLEV	1,888
Marine SI engines	1,146–1,806
On-board diagnostics	2,263
Marine CI engines	23–172

Note.—costs adjusted to 1998 dollars.

TABLE V.F–4.—COST EFFECTIVENESS OF PREVIOUS MOBILE SOURCE PROGRAMS FOR PM

Program	$/ton
Marine CI engines	511–3,797
1996 urban bus	12,000–19,200
Urban bus retrofit/rebuild	29,600
1994 highway HD diesel	20,450–23,940

Note.—costs adjusted to 1998 dollars.

We can see from these tables that the cost effectiveness of our proposed diesel engine/gasoline vehicle/diesel sulfur standards falls within the range of these other programs for both NO_X+NMHC and PM. Our proposed program overlaps the range of the recently promulgated standards for Tier 2 light-duty vehicles and gasoline sulfur shown in Table V.F–3. Our proposed program also overlaps the cost-effectiveness of past programs for PM. It is true that some previous programs have been more cost efficient than the program we are proposing today. However, it should be expected that the next generation of standards will be more expensive than the last, since the least costly means for reducing emissions is generally pursued first.

In evaluating the cost effectiveness of our proposed diesel engine/gasoline vehicle/diesel sulfur program, we also considered whether our proposal is cost effective in comparison with possible stationary source controls. In the context of the Agency's rulemaking which would have revised the ozone and PM NAAQS,[143] the Agency compiled a list of additional known technologies that could be considered in devising new emission reductions strategies.[144] Through this broad review, over 50 technologies were identified that could reduce NOx, VOC, or PM. The cost effectiveness of these technologies averaged approximately $5,000/ton for VOC, $13,000/ton for NO_X, and $40,000/ton for PM. Although a $10,000/ton limit was actually used in the air quality analysis presented in the NAAQS revisions rule, these values clearly indicate that, not only are future emission control strategies likely to be more expensive (less cost effective) than past strategies, but the cost effectiveness of our proposed program falls well

[143] This rulemaking was remanded by the DC Circuit Court on May 14, 1999. However, the analyses completed in support of that rulemaking are still relevant, since they were designed to investigate the cost effectiveness of a wide variety of potential future emission control strategies.

[144] "Regulatory Impact Analyses for the Particulate Matter and Ozone National Ambient Air Quality Standards and Proposed Regional Haze Rule," Appendix B, "Summary of control measures in the PM, regional haze, and ozone partial attainment analyses," Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC, July 17, 1997.

below the average of those choices, and is near the lower end of the range of potential future strategies.

In summary, we believe that the weight of the evidence from alternative means of providing substantial NO_X+NMHC and PM emission reductions indicates that our proposed diesel engine/gasoline vehicle/diesel sulfur program is cost effective. We believe this is true from the perspective of other mobile source control programs and from the perspective of other stationary source technologies that might be considered. We request comment on the cost-effectiveness of this program.

G. Does the Value of the Benefits Outweigh the Cost of the Proposed Standards?

In addition to cost-effectiveness, further insight regarding the merits of the standards can be provided by benefit-cost analysis. The purpose of this section is to propose the methods to be used in conducting an analysis of the economic benefits of the final rule for heavy-duty vehicles and diesel fuel, and to discuss the potential for economic benefits associated with the rule. While the quantification of the benefits will not be available until the final rule, it is our belief that, based on the similarity between today's proposed rule and Tier 2/gasoline sulfur rule in terms of the costs per ton of emissions reduced and types of health and welfare benefits expected, the health and welfare benefits would substantially outweigh the costs.

1. What Is the Purpose of This Benefit-Cost Comparison?

Benefit-cost analysis (BCA) is a useful tool for evaluating the economic merits of proposed changes in environmental programs and policies. In its traditional application, BCA estimates the economic ''efficiency'' of proposed changes in public policy by organizing the various expected consequences and representing those changes in terms of dollars. Expressing the effects of these policy changes in dollar terms provides a common basis for measuring and comparing these various effects. Because improvement in economic efficiency is typically defined to mean maximization of total wealth spread among all members of society, traditional BCA must be supplemented with other analyses in order to gain a full appreciation of the potential merits of new policies and programs. These other analyses may include such things as examinations of legal and institutional constraints and effects; engineering analyses of technology feasibility, performance and cost; or assessment of the air quality need.

In addition to the economic efficiency focus of most BCAs, the technique is also limited in its ability to project future economic consequences of alternative policies in a definitive way. Critical limitations on the availability, validity, or reliability of data; limitations in the scope and capabilities of environmental and economic effect models; and controversies and uncertainties surrounding key underlying scientific and economic literature all contribute to an inability to estimate the economic effects of environmental policy changes in exact and unambiguous terms. Under these circumstances, we consider it most appropriate to view BCA as a tool to inform, but not dictate, regulatory decisions such as the ones reflected in today's proposed rule.

Despite the limitations inherent in BCA of environmental programs, we consider it useful to analyze the potential benefits of today's proposed action both in terms of physical changes in human health and welfare and environmental change, and in terms of the estimated economic value of those physical changes.

2. What Is Our Overall Approach to the Benefit-Cost Analysis?

The basic question we will seek to answer in the BCA is: ''What are the net yearly economic benefits to society of the reduction in air pollutant emissions likely to be achieved by the proposed rule for heavy-duty vehicles and diesel fuel?'' In designing an analysis to answer this question, we will model the benefits in a future year (2030) that is representative of full-implementation of the program. We will also adopt an analytical structure and sequence similar to that of the benefit analysis for the Tier 2/gasoline sulfur rulemaking and used for the ''section 812 studies'' [145] to estimate the total benefits and costs of the entire Clean Air Act. Moreover, we will use many of the same models and assumptions actually used in the section 812 studies, and other Regulatory Impact Analyses (RIA's) prepared by the Office of Air and Radiation. By adopting the major design elements, models, and assumptions developed for the section 812 studies and other RIA's, we will largely rely on methods which have already received extensive review by the independent Science Advisory Board (SAB), by the public, and by other federal agencies. In addition to the 2030 analysis, we plan to provide further characterization of the benefits for the interim period between 2007 and 2030.

3. What Are the Significant Limitations of the Benefit-Cost Analysis?

Every BCA examining the potential effects of a change in environmental protection requirements is limited to some extent by data gaps, limitations in model capabilities (such as geographic coverage), and uncertainties in the underlying scientific and economic studies used to configure the benefit and cost models. Deficiencies in the scientific literature often result in the inability to estimate changes in health and environmental effects, such as potential increases in premature mortality associated with increased exposure to carbon monoxide. Deficiencies in the economics literature often result in the inability to assign economic values even to those health and environmental outcomes which can be quantified, such as changes in visibility in residential areas. While these general uncertainties in the underlying scientific and economics literatures will be discussed in detail in the RIA for the final action, the key uncertainties are:

- The exclusion of potentially significant benefit categories (*e.g.,* health and ecological benefits of incidentally controlled hazardous air pollutants),
- Errors in measurement and projection for variables such as population growth,
- Variability in the estimated relationships of health and welfare effects to changes in pollutant concentrations.

In addition to these uncertainties and shortcomings which pervade all analyses of criteria air pollutant control programs, a number of limitations apply specifically to a BCA. Though we will use the best data and models available, we will likely be required to adopt a number of simplifying assumptions and to use data sets which, while reasonably close, will not match precisely the conditions and effects expected to result from implementation of the standards. For example, to estimate the effects of the program at full implementation we will need to project vehicle miles traveled and populations in the year 2030. These assumptions may play a significant role in determining the magnitude of the benefits estimate. In addition, the emissions data sets which

[145] The ''section 812 studies'' refers to (1) US EPA, Report to Congress: The Benefits and Costs of the Clean Air Act, 1970 to 1990, October 1997 (also known as the ''section 812 Retrospective); and (2) the first in the ongoing series of prospective studies estimating the total costs and benefits of the Clean Air Act (see EPA report number: EPA–410–R–99–001, November 1999).

will be used for the analysis may not anticipate the emissions reductions realized by other future actions and by expected near-future control programs. For example, it is possible that the proposed heavy-duty vehicle and diesel fuel sulfur standards will not be the governing vehicle emissions standards in 2030. In the years before 2030, the benefits from the proposed rule for heavy-duty vehicles and diesel fuel will be less than in 2030 because the heavy-duty fleet will not be fully phased in.

The key limitations and uncertainties unique to the BCA of the final rule, therefore, will include:

- Uncertainties in the estimation of future year emissions inventories and air quality,
- Uncertainties associated with the extrapolation of air quality monitoring data to some unmonitored areas required to better capture the effects of the standards on affected populations, and
- Uncertainties associated with the effect of potential future actions to limit emissions.

Despite these uncertainties, we believe the BCA will provide a reasonable indication of the expected economic benefits of the proposed rule for heavy-duty vehicles and diesel fuel in 2030 under one set of assumptions. This is because the analysis will focus on estimating the economic effects of the *changes* in air quality conditions expected to result from today's proposed action, rather than focusing on developing a precise prediction of the *absolute* levels of air quality likely to prevail in 2030. An analysis focusing on the changes in air quality can give useful insights into the likely economic effects of emission reductions of the magnitude expected to result from today's proposed rule.

4. How Will the Benefit-Cost Analysis Change From the Tier 2 Benefit-Cost Analysis?

We will evaluate the economics and scientific literature prior to conducting the benefit-cost analysis for the final rule. Our final benefit-cost methodology will reflect the most up to date set of health and welfare effects and the most current economic valuation methods. In addition, we will use updated emission inventories. We will also be evaluating the air quality models used to predict changes in future air quality for use in the benefits analysis.

5. How Will We Perform the Benefit-Cost Analysis?

The analytical sequence begins with a projection of the mix of technologies likely to be deployed to comply with the new standards, and the costs incurred and emissions reductions achieved by these changes in technology. The proposed rule for heavy-duty vehicles and diesel fuel has various cost and emission related components. These components would begin at various times and in some cases would phase in over time. This means that during the early years of the program there would not be a consistent match between cost and benefits. This is especially true for the vehicle control portions of the program, where the full vehicle cost would be incurred at the time of vehicle purchase, while the cost for low sulfur diesel fuel along with the emission reductions and benefits would occur throughout the lifetime of the vehicle.

To develop a benefit-cost number that is representative of a fleet of heavy-duty vehicles, we need to have a stable set of cost and emission reductions to use. This means using a future year where the fleet is fully turned over and there is a consistent annual cost and annual emission reduction. For the proposed rule for heavy-duty vehicles and diesel fuel, this stability would not occur until well into the future. For this analysis, we selected the year 2030. The resulting analysis will represent a snapshot of benefits and costs in a future year in which the heavy-duty fleet consists almost entirely of heavy-duty vehicles meeting the proposed standards. As such, it depicts the maximum emission reductions (and resultant benefits) and among the lowest costs that would be achieved in any one year by the program on a ''per mile'' basis. (Note, however, that net benefits would continue to grow over time beyond those resulting from this analysis, because of growth in population and vehicle miles traveled.) Thus, based on the long-term costs for a fully turned over fleet, the resulting benefit-cost ratio will be close to its maximum point (for those benefits which we have been able to value).

To present a BCA, we are designing the cost estimate to reflect conditions in the same year as the benefit valuation. Costs, therefore, will be developed for the year 2030 fleet. For this purpose we will use the long term cost once the capital costs have been recovered and the manufacturing learning curve reductions have been realized, since this will be the case in 2030.

We will also make adjustments in the costs to account for the fact that there is a time difference between when some of the costs are expended and when the benefits are realized. The vehicle costs are expended when the vehicle is sold, while the fuel related costs and the benefits are distributed over the life of the vehicle. We will resolve this difference by using costs distributed over time such that there is a constant cost per ton of emissions reduction and such that the net present value of these distributed costs corresponds to the net present value of the actual costs.

The resulting adjusted costs will be somewhat greater than the expected actual annual cost of the program, reflecting the time value adjustment. Thus, the costs will not represent expected actual annual costs for 2030. Rather, they will represent an approximation of the steady-state cost per ton that would likely prevail in that time period. The benefit cost ratio for the earlier years of the program would be expected to be lower than that based on these costs, since the per-vehicle costs are larger in the early years of the program while the benefits are smaller.

In order to estimate the changes in air quality conditions which would result from these emissions reductions, we will develop two separate, year 2030 emissions inventories to be used as inputs to the air quality models. The first, baseline inventory, will reflect the best available approximation of the county-by-county emissions for NO_X, VOC, and SO_2 expected to prevail in the year 2030 in the absence of the standards. To generate the second, control case inventory, we will first estimate the change in vehicle emissions, by pollutant and by county, expected to be achieved by the 2030 control scenario described above. We will then take the baseline emissions inventory and subtract the estimated reduction for each county-pollutant combination to generate the second, control case emissions inventory. Taken together, the two resulting emissions inventories will reflect two alternative states of the world and the differences between them will represent our best estimate of the reductions in emissions which would result from our control scenario.

With these two emissions inventories in hand, the next step will be to ''map'' the county-by-county and pollutant-by-pollutant emission estimates to the input grid cells of appropriately selected air quality and deposition models. One such model, called the Urban Airshed Model (UAM), is designed to estimate the tropospheric ozone concentrations resulting from a specific inventory of emissions of ozone precursor pollutants, particularly NO_X and NMHC. Another model, called the Climatological Regional Dispersion Model Source-Receptor Matrix model (S–R Matrix), is designed to estimate the changes in ambient particulate matter and visibility which would result from a specific set of changes in emissions of primary

particulate matter and secondary particulate matter precursors, such as SO_2, NO_X, and NMHC. Also, nitrogen loadings to watersheds can be estimated using factors derived from previous modeling from the Regional Acid Deposition Model (RADM). By running both the baseline and control case emissions inventories through models such as these, we will be able to estimate the expected 2030 air quality conditions and the changes in air quality conditions which would result from the emissions reductions expected to be achieved by the proposed rule for heavy-duty vehicles and diesel fuel.

After developing these two sets of year 2030 air quality profiles, we will use the same health and environmental effect models used in the section 812 studies to calculate the differences in human health and environmental outcomes projected to occur with and without the proposed standards. Specifically, we will use the Criteria Air Pollutant Modeling System (CAPMS) to estimate changes in human health outcomes, and the Agricultural Simulation Model (AGSIM) to estimate changes in yields of a selected few agricultural crops. In addition, the impacts of reduced visibility impairment and estimates of the effect of changes in nitrogen deposition to a selection of sensitive estuaries will be estimated using slightly modified versions of the methods used in the section 812 studies. At proposal, we expect that several air quality-related health and environmental benefits, however, will not be able to be calculated for the BCA of today's proposed standards. Changes in human health and environmental effects due to changes in ambient concentrations of carbon monoxide (CO), gaseous sulfur dioxide (SO_2), gaseous nitrogen dioxide (NO_2), and hazardous air pollutants will likely not be included. In addition, some health and environmental benefits from changes in ozone and PM may not be included in our analysis (i.e., commercial forestry benefits). However, if our review of the economics and scientific literature reveals new information that will allow us to quantify these effects, they will be considered for inclusion in the estimate of total benefits for the final rule. Table IV–X lists the set of effects that we expect to be able to quantify for the BCA of the final rule, along with those effects which are known to exist, but that are currently unquantifiable.

To characterize the total economic value of the reductions in adverse effects achieved across the lower 48 states, we plan to use the same set of economic valuation coefficients and models used in the section 812 studies and the Tier 2 benefits analysis, as approved by the SAB. The set of coefficients and their sources are listed in the final Tier 2 RIA. However, any new methods uncovered in our evaluation of the economic and scientific literature may be incorporated into our final analysis. The net monetary benefits of the proposed rule for heavy-duty vehicles and diesel fuel will then be calculated by subtracting the estimated costs of compliance from the estimated monetary benefits of the reductions in adverse health and environmental effects.

The last step of the analysis will be to characterize the uncertainty surrounding our estimate of benefits. Again, we will follow the recommendations of the SAB for the presentation of uncertainty. They recommend that a primary estimate should be presented along with a description of the uncertainty associated with each endpoint.

Therefore, for the final rule for heavy-duty vehicles and diesel fuel, the benefit analysis will adopt an approach similar to the section 812 study and the final Tier 2/gasoline sulfur benefit-cost analysis. Our analysis will first present our estimate for a primary set of benefit endpoints followed by a presentation of ''alternative calculations'' of key health and welfare endpoints to characterize the uncertainty in this primary set. However, the adoption of a value for the projected reduction in the risk of premature mortality is the subject of continuing discussion within the economic and public policy analysis community within and outside the Administration. In response to the sensitivity on this issue, we will provide estimates reflecting two alternative approaches. The first approach—supported by some in the above community and preferred by EPA—uses a Value of a Statistical Life (VSL) approach developed for the Clean Air Act section 812 benefit-cost studies. This VSL estimate of $5.9 million (1997$) was derived from a set of 26 studies identified by EPA using criteria established in Viscusi (1992), as those most appropriate for environmental policy analysis applications.

TABLE V.G–1.—HUMAN HEALTH AND WELFARE EFFECTS OF POLLUTANTS AFFECTED BY THE PROPOSED HEAVY-DUTY VEHICLE RULE

Pollutant	Quantified and monetized effects	Alternative quantified and/or monetized effects	Unquantified effects
Ozone Health	Minor restricted activity days/acute respiratory symptoms; Hospital admissions—respiratory and cardiovascular; Emergency room visits for asthma.		Premature mortality;[a] Increased airway responsiveness to stimuli; Inflammation in the lung; Chronic respiratory damage; Premature aging of the lungs; Acute inflammation and respiratory cell damage; Increased susceptibility to respiratory infection; Non-asthma respiratory emergency room visits.
Ozone Welfare	Decreased worker productivity; Decreased yields for commercial crops.		Decreased yields for commercial forests; Decreased yields for fruits and vegetables.
PM Health	Premature mortality; Bronchitis—chronic and acute; Hospital admissions—respiratory and cardiovascular; Emergency room visits for asthma; Lower and upper respiratory illness; Shortness of breath; Minor restricted activity days/acute respiratory symptoms; Work loss days.		Infant mortality; Low birth weight; Changes in pulmonary function; Chronic respiratory diseases other than chronic bronchitis; Morphological changes; Altered host defense mechanisms; Cancer; Non-asthma respiratory emergency room visits.

TABLE V.G–1.—HUMAN HEALTH AND WELFARE EFFECTS OF POLLUTANTS AFFECTED BY THE PROPOSED HEAVY-DUTY VEHICLE RULE—Continued

Pollutant	Quantified and monetized effects	Alternative quantified and/or monetized effects	Unquantified effects
PM Welfare	Visibility in California, Southwestern, and Southeastern Class I areas.	Visibility in Northeastern, Northwestern, and Midwestern Class I areas; Household soiling.	
Nitrogen and Sulfate Deposition Welfare.		Costs of nitrogen controls to reduce eutrophication in selected eastern estuaries.	Impacts of acidic sulfate and nitrate deposition on commercial forests; Impacts of acidic deposition to commercial freshwater fishing; Impacts of acidic deposition in terrestrial ecosystems; Impacts of nitrogen deposition on commercial fishing, agriculture, and forests; Impacts of nitrogen deposition on recreation in estuarine ecosystems; Reduced existence values for currently healthy ecosystems.
CO Health			Premature mortality;[a] Behavioral effects; Hospital admissions—respiratory, cardiovascular, and other; Other cardiovascular effects; Developmental effects; Decreased time to onset of angina.
HAPS Health			Cancer (benzene, 1,3-butadiene, formaldehyde, acetaldehyde); Anemia (benzene); Disruption of production of blood components (benzene); Reduction in the number of blood platelets (benzene); Excessive bone marrow formation (benzene); Depression of lymphocyte counts (benzene); Reproductive and developmental effects (1,3-butadiene); Irritation of eyes and mucus membranes (formaldehyde); Respiratory irritation (formaldehyde); Asthma attacks in asthmatics (formaldehyde).
HAPS Welfare			Direct toxic effects to animals; Bioaccumlation in the food chain.

[a] Premature mortality associated with ozone is not separately included in this analysis. It is assumed that the Pope, et al. C–R function for premature mortality captures both PM mortality benefits and any mortality benefits associated with other air pollutants.

An alternative, age-adjusted approach is preferred by some others in the above community both within and outside the Administration. This approach was also developed for the Section 812 studies and addresses concerns with applying the VSL estimate—reflecting a valuation derived mostly from labor market studies involving healthy working-age manual laborers—to PM-related mortality risks that are primarily associated with older populations and those with impaired health status. This alternative approach leads to an estimate of the value of a statistical life year (VSLY), which is derived directly from the VSL estimate. It differs only in incorporating an explicit assumption about the number of life years saved and an implicit assumption that the valuation of each life year is not affected by age.[146] The mean VSLY is $360,000 (1997$); combining this number with a mean life expectancy of 14 years yields an age-adjusted VSL of $3.6 million (1997$).

Both approaches are imperfect, and raise difficult methodological issues which are discussed in depth in the recently published Section 812 Prospective Study, the draft EPA Economic Guidelines, and the peer-review commentaries prepared in support of each of these documents. For example, both methodologies embed assumptions (explicit or implicit) about which there is little or no definitive scientific guidance. In particular, both methods adopt the assumption that the risk versus dollars trade-offs revealed by available labor market studies are applicable to the risk versus dollar trade-offs in an air pollution context.

EPA currently prefers the VSL approach because, essentially, the method reflects the direct application of what EPA considers to be the most reliable estimates for valuation of premature mortality available in the current economic literature. While there are several differences between the labor market studies EPA uses to derive a VSL estimate and the particulate matter air pollution context addressed here, those differences in the affected populations and the nature of the risks imply both upward and downward adjustments. For example, adjusting for age differences may imply the need to adjust the $5.9 million VSL downward as would adjusting for health differences, but the involuntary nature of air pollution-related risks and the lower level of risk-aversion of the

[146] Specifically, the VSLY estimate is calculated by amortizing the $5.9 million mean VSL estimate over the 35 years of life expectancy asssociated with subjects in the labor market studies. The resulting estimate, using a 5 percent discount rate, is $360,000 per life-year saved in 1997 dollars. This annual average value of a life-year is then multiplied times the number of years of remaining life expectancy for the affected population (in the case of PM-related premature mortality, the average number of $ life-years saved is 14).

manual laborers in the labor market studies may imply the need for upward adjustments. In the absence of a comprehensive and balanced set of adjustment factors, EPA believes it is reasonable to continue to use the $5.9 million value while acknowledging the significant limitations and uncertainties in the available literature. Furthermore, EPA prefers not to draw distinctions in the monetary value assigned to the lives saved even if they differ in age, health status, socioeconomic status, gender or other characteristic of the adult population.

Those who favor the alternative, age-adjusted approach (i.e. the VSLY approach) emphasize that the value of a statistical life is not a single number relevant for all situations. Indeed, the VSL estimate of $5.9 million (1997 dollars) is itself the central tendency of a number of estimates of the VSL for some rather narrowly defined populations. When there are significant differences between the population affected by a particular health risk and the populations used in the labor market studies—as is the case here—they prefer to adjust the VSL estimate to reflect those differences. While acknowledging that the VSLY approach provides an admittedly crude adjustment (for age though not for other possible differences between the populations), they point out that it has the advantage of yielding an estimate that is not presumptively biased. Proponents of adjusting for age differences using the VSLY approach fully concur that enormous uncertainty remains on both sides of this estimate—upwards as well as downwards—and that the populations differ in ways other than age (and therefore life expectancy). But rather than waiting for all relevant questions to be answered, they prefer a process of refining estimates by incorporating new information and evidence as it becomes available.

The presentation of the alternative calculations for certain endpoints will demonstrate how much the overall benefit estimate might vary based on the value EPA gives to a parameter (which has some uncertainty associated with it) underlying the estimates for human health and environmental effect incidence and the economic valuation of those effects. These alternative calculations will represent conditions that are possible to occur, however, EPA has selected the best supported values based on current scientific literature for use in the primary estimate. The alternate calculations will include:

- Presentation of an estimated confidence interval around the Primary estimate of benefits to characterize the standard error in the C–R and valuation studies used in developing benefit estimates for each endpoint;
- Valuing PM-related premature mortality based on a different C–R study;
- Value of avoided premature mortality incidences based on statistical life years;
- Consideration of reversals in chronic bronchitis treated as lowest severity cases;
- Value of visibility changes in all Class I areas;
- Value of visibility changes in Eastern U.S. residential areas;
- Value of visibility changes in Western U.S. residential areas;
- Value of reduced household soiling damage; and
- Avoided costs of reducing nitrogen loadings in east coast estuaries.

For instance, the estimate of the relationship between PM exposure and premature mortality from the study by Dockery, et al. is a plausible alternative to the Pope, et al. study used for the Primary estimate of benefits. The SAB has noted that ''the study had better monitoring with less measurement error than did most other studies'' (EPA–SAB–COUNCIL–ADV–99–012, 1999). The Dockery study had a more limited geographic scope (and a smaller study population) than the Pope, et al. study and the Pope study appears more likely to mitigate a key source of potential confounding. The Dockery study also covered a broader age category (25 and older compared to 30 and older in the Pope study) and followed the cohort for a longer period (15 years compared to 8 years in the Pope study). For these reasons, the Dockery study is considered to be a plausible alternative estimate of the avoided premature mortality incidences that are expected to be associated with the final heavy-duty rule rule. The alternative estimate for mortality can be substituted for the valuation component in our primary estimate of mortality benefits to observe how the net benefits of the program may be influenced by this assumption. Unfortunately, it is not possible to combine all of the assumptions used in the alternate calculations to arrive at different total benefit estimates because it is highly unlikely that the selected combination of alternative values would all occur simultaneously. Therefore, it will be more appropriate to consider each alternative calculation individually to assess the uncertainty in the estimate.

In addition to the estimate for the primary set of endpoints and alternative calculations of benefits, our RIA for the final rule will also present an appendix with supplemental benefit estimates and sensitivity analyses of other key parameters in the benefit analysis that have greater uncertainty surrounding them due to limitations in the scientific literature. Supplemental estimates will be presented for premature mortality associated with short-term exposures to PM and ozone, asthma attacks, occurrences of moderate or worse asthma symptoms, and the avoided incidences of premature mortality in infants.

Even with our efforts to fully disclose the uncertainty in our estimate, this uncertainty presentation method does not provide a definitive or complete picture of the true range of monetized benefits estimates. This proposed approach, to be implemented in the BCA for the final rule, will not reflect important uncertainties in earlier steps of the analysis, including estimation of compliance technologies and strategies, emissions reductions and costs associated with those technologies and strategies, and air quality and deposition changes achieved by those emissions reductions. Nor does this approach provide a full accounting of all potential benefits associated with the proposed rule for heavy-duty vehicles and diesel fuel, due to data or methodological limitations. Therefore, the uncertainty range will only be representative of those benefits that we will be able to quantify and monetize.

6. What Types of Results Will Be Presented in the Benefit-Cost Analysis?

The BCA for the final rule for heavy-duty vehicles and diesel fuel will reflect a single year ''snapshot'' of the yearly benefits and costs expected to be realized once the standards have been fully implemented and non-compliant vehicles have all been retired. Near-term costs will be higher than long-run costs as vehicle manufacturers and oil companies invest in new capital equipment and develop and implement new technologies. In addition, near-term benefits will be lower than long-run benefits because it will take a number of years for compliant heavy-duty vehicles to fully displace older, more polluting vehicles. However, we will adjust the cost estimates upward to compensate for some of this discrepancy in the timing of benefits and costs and to ensure that the long-term benefits and costs are calculated on a consistent basis. Because of the adjustment process, the cost estimates should not be interpreted as reflecting the actual costs expected to be incurred in the year 2030. Actual program costs can be found earlier in this preamble.

With respect to the benefits, the BCA for the final rule for heavy-duty vehicles and diesel fuel will follow the

presentation format used in the Tier 2 BCA, presenting several different measures of benefits which will be useful to compare and contrast to the estimated compliance costs. These benefit measures include (a) the tons of emissions reductions achieved, (b) the reductions in incidences of adverse health and environmental effects, and (c) the estimated economic value of those reduced adverse effects. Calculating the cost per ton of pollutant reduced is particularly useful for comparing the cost-effectiveness of the new standards or programs against existing programs or alternative new programs achieving reductions in the same pollutant or combination of pollutants. Considering the absolute numbers of avoided adverse health and environmental effects can also provide valuable insights into the nature of the health and environmental problem being addressed by the proposed rule as well as the magnitude of the total public health and environmental gains potentially achieved. Finally, when considered along with other important economic dimensions—including environmental justice, small business financial effects, and other outcomes related to the distribution of benefits and costs among particular groups—the direct comparison of quantified economic benefits and economic costs can provide useful insights into the potential magnitude of the estimated net economic effect of the rule, keeping in mind the limited set of effects we expect to be able to monetize.

VI. Alternative Program Options

In the course of developing the proposal, we considered a broad range of options, many of which were raised by commenters on the ANPRM. Various options were considered for the best manner to implement a change to diesel fuel, on how to structure a sulfur standard, on fuel changes other than sulfur, and on the geographic scope of the program. This section helps to explain many alternative program options that we considered in designing today's proposal. In this section, we also are seeking comment on voluntary phase-in options for implementing the fuel program (see section VI.A.2), and on issues connected with the use of JP–8 fuel in highway-going military vehicles (see section VI.D).

A. What Other Fuel Implementation Options Have We Considered?

A broad spectrum of approaches for implementing the fuel program were either raised by the Agency in the ANPRM, received as public comments on the ANPRM, or raised by various parties during the development of this proposal. Below, we discuss some of the options we have considered, including alternatives on which we are seeking comment.

1. What Are the Advantages and Disadvantages of a Phase-in Approach to Implementing the Low Sulfur Fuel Program?

EPA is proposing, as discussed in section IV.C., that the entire pool of highway diesel fuel be converted to low sulfur diesel fuel all at once in 2006. In the early years of the program, the use of low sulfur diesel fuel will result in reductions in the amount of direct and secondary particulate matter from the existing fleet of heavy-duty vehicles. Nevertheless, the primary benefit of the fuel change is the emission reductions that would occur over time from the new vehicle fleet as a result of the enablement of advanced aftertreatment exhaust emission control technologies. Consequently, we believe there may be some advantages, particularly in the early years, to allowing some flexibility in the program so that not all of the highway diesel fuel pool must be converted to low sulfur all at once. First, owners of old vehicles could continue to refuel on higher-sulfur (500 ppm) diesel fuel, potentially saving money for consumers. Second, we believe a phase-in approach, if designed properly, has the potential to be beneficial for refiners, by reducing the fuel production costs in the early years of the program. This flexibility could reduce operating costs, if the entire volume of highway fuel does not have to meet the low sulfur standard. If coupled with averaging, banking and trading provisions, some refineries may be able to delay desulfurization investments for several years. Even for refiners planning to desulfurize their entire highway fuel pool to low sulfur levels at the beginning of the program, there may be circumstances where the actual fuel produced is slightly off-spec (i.e., above the low sulfur standard). A phase-in approach could allow refiners to continue selling that fuel to the highway market (as 500 ppm fuel), rather than to other distillate markets. Refiners could also have more flexibility to continue producing highway diesel (as 500 ppm fuel) during unit downtime (e.g., turnarounds and upsets).

While a phase-in approach could provide flexibility for refiners and potentially lower costs for consumers, a number of concerns would need to be addressed before such an approach could be implemented. These include: ensuring sufficient availability of the low sulfur fuel when and where it is needed, minimizing the potential for misfueling, minimizing the risk of spot outages, and minimizing impacts on the fuel distribution and retail industries. These issues are discussed further below. It is not obvious at what level the fuel production and distribution systems can provide two grades of highway diesel fuel while minimizing the potential for localized supply shortages and price spikes, and misfueling problems. For example, we expect that in the first year of the program only about 10 percent of highway diesel fuel would be consumed by 2007 model year vehicles requiring the use of low sulfur fuel. In a perfect world where the distribution system could, without additional cost, make low sulfur diesel fuel widely available (in addition to the current 500 ppm fuel), only about 10 percent of the highway diesel fuel produced by refiners in the first year would then have to be low sulfur. Unfortunately, since this perfect world does not exist, the question remains whether, and to what extent, the system can distribute two grades of highway diesel fuel in a way that takes advantage of any flexibilities offered, and ensures sufficient supply of fuel for the new vehicles that need it.

During the process of developing this proposal (including comments received on the ANPRM), many industry stakeholders (many diesel distributors, marketers, larger refiners, and end-users such as truckers and centrally-fueled fleets) have commented on ways to implement the fuel program. While each stakeholder may have had different assumptions behind their position (including assumptions about the structure of a phase-in, and expectations about the resulting costs and fuel prices), many stakeholders have encouraged EPA to implement any fuel change all at once, rather than incur the added distribution costs and marketplace complication of phasing in a new grade of highway diesel fuel. The following sections discuss some of the challenges in implementing a phase-in approach.

a. Availability of Low Sulfur Diesel Fuel

Because new vehicles would need to be fueled exclusively with low sulfur diesel, for a phase-in approach to be workable, low sulfur diesel fuel would have to be available in all parts of the country. It is not clear what minimum level of availability would be necessary to meet the needs of diesel vehicles. The trucking industry has indicated that a limited number of phased-in fueling locations would not meet the needs of the trucking industry.

We seek comment on what level of availability would be appropriate under a phase-in approach, to ensure that the low sulfur diesel fuel is available, within a reasonable distance, to all consumers in all parts of the country. For example, would sufficient availability be achieved if all major truck stops across the country offered low sulfur fuel, or if some minimum percentage of diesel retailers in different geographic areas offered low sulfur fuel? Are there studies on fuel availability that would serve to inform efforts to assure adequate availability? We request that commenters consider what fraction of truck stops and other retail outlets would need to make low sulfur fuel available within any given area in order to ensure reasonable availability from the public's perspective.

b. Misfueling

Any phase-in approach would introduce an additional grade of highway diesel fuel into the market, by allowing both high and low-sulfur grades to coexist, with a potential for a price differential between the grades. Many industry stakeholders, including diesel marketers, truck stop operators, and engine manufacturers, have commented that misfueling would be significant under a phase-in approach.[147] That is, customers with new vehicles that need low-sulfur fuel might use the higher-sulfur fuel, mistakenly or deliberately, which could increase emissions and damage the emissions control technology on the vehicle. Diesel marketers have also raised the issue that a phase-in system could create incentives for consumers to tamper with the emission control equipment of new vehicles, if they believe that will enable them to use a lower priced fuel. Therefore, we are concerned about the potential for misfueling, as it could reduce the emission benefits of the program. However, if a phase-in approach were to work well and misfueling were not an issue, we would expect to achieve the same environmental benefits as the proposed single fuel approach.

Some degree of misfueling occurs even today with a single grade of highway diesel fuel, due to the availability of tax exempt off-highway diesel fuel. The opportunity for misfueling with off-highway diesel fuel, however, is somewhat limited by the limited number of highway diesel refueling locations that market both grades of diesel fuel. Nevertheless, since off-highway diesel fuel will still be available even under a complete switch of highway diesel fuel to low sulfur, the problem of misfueling is not entirely unique to the phase-in approach. It is, however, true that the greater availability of 500 ppm diesel fuel alongside the low sulfur fuel will make misfueling easier. Thus, the appropriate question to ask when considering a phase-in approach is not ''will people misfuel?'' but ''to what extent?'' and ''how can the design of the program minimize the potential for misfueling?''

One factor that might encourage misfueling would be the existence of a price differential between low sulfur diesel fuel and 500 ppm fuel. For many diesel vehicles, particularly line-haul tractor trailers, the fuel cost can be as much as 20 percent of annual operating costs, so drivers have a strong incentive to save on fuel costs. On the other hand, there are also several factors that might serve as a deterrent to misfueling. First, the potential risk associated with voiding a manufacturer emission warranty or damaging the engine and exhaust system on an expensive vehicle might cause owners and operators of heavy-duty trucks to be more circumspect in ensuring that their vehicles are fueled properly. Second, misfueled vehicles could experience a loss in performance, such as poor acceleration or even engine stalling (as discussed in section III.F.1.a). Third, under the proposed regulations it would be unlawful for any person to misfuel.

Depending on the potential for misfueling, EPA may need to require that new vehicles be fitted with a unique nozzle interface, with a corresponding size nozzle for the low-sulfur diesel. This would be analogous to the nozzle interface approach used to discourage misfueling in the unleaded gasoline program. However, diesel marketers have indicated that they do not support the use of unique nozzle interfaces for the low sulfur fuel, particularly if it would affect volume delivery. They have expressed the concern that a smaller nozzle size would reduce the volume of fuel delivered, result in slower refuelings, and increase wait times at retail stations. Further, based on our experience with unleaded gasoline,[148] it is likely that people intent on misfueling would quickly find ways around a unique nozzle/nozzle interface. We request comment on ways to structure a unique nozzle/nozzle interface approach that would discourage misfueling while avoiding these problems. We also request comment on any alternative methods that could be used to discourage misfueling.

We invite comment on the potential for misfueling under phase-in approaches, what factors would influence misfueling, and how the potential for misfueling might vary under the different phase-in approaches described in subsection 2 below. We further seek comment on how these phase-in approaches could be designed to minimize the potential for misfueling.

c. Distribution System Impacts

While providing flexibility for refiners and potentially lower costs to consumers, a phase-in approach would rely on the fuel distribution infrastructure being able to accommodate the second grade of highway diesel fuel. The economics of modifying the distribution infrastructure to handle two grades of highway diesel fuel would affect the extent to which refiners can take advantage of the flexibility, and consumers enjoy the cost-savings, of a phase-in. There are a vast array of businesses in the diesel fuel distribution system, encompassing thousands of companies, including pipelines, bulk terminals, bulk plants, petroleum marketers (who carry the fuel from bulk terminals and bulk plants via transport trucks and fuel tank wagons to retail outlets and fleet customers), fuel oil dealers, service stations, truck stops, and centrally-fueled fleets (commercial fleets, federal/state/local government fleets, and farms). Based on available data, the vast majority of these are small businesses according to the Small Business Administration's definitions.[149] These businesses may make investments and change their practices to accommodate two grades of highway diesel fuel. The economics of a phase-in could be viewed as follows: Through intermediate price mark-ups on the product, the system would distribute some of the cost savings experienced by the refiners and consumers to those making capital investments. If the potential cost savings

[147] Comment letters from the Engine Manufacturers Association (Item II–D–35), National Association of Truck Stop Operators (Included in Report of the Small Business Advocacy Review (SBAR) Panel, Appendix B, Page 30), and Petroleum Marketers Association of America (Included in SBAR Panel Report, Appendix B, Page 38).

[148] ''An Analysis of the Factors Leading to the Use of Leading to the Use of Leaded Gasoline in Automobiles Requiring Unleaded Gasoline,'' September 29, 1978, Sobotka & Company, Inc. See also ''Motor Vehicle Tampering Survey—1983,'' July 1984, U.S. EPA, Office of Air and Radiation, Docket A–99–06. See also ''Anti-Tampering and Anti-Misfueling Programs to Reduce In-Use Emissions From Motor Vehicles,'' May 25, 1983 (EPA/AA/83–3). Contained in Docket A–99–06.

[149] For more information, see the Report of the Small Business Advocacy Review Panel, contained in the docket.

were not sufficient to justify such investments, then those investments would not occur and the entire system would convert to low sulfur diesel. We seek comment on how the economics of a phase-in would actually play out.

If the cost savings of a phase-in are substantial, many bulk terminals and bulk plants may find it economical to add new tank capacity to accommodate a second grade of highway diesel fuel. However, if the cost savings of a phase-in are modest, fewer terminal operators would profit from such investments, since some have commented on the costs, space constraints, and permitting difficulties associated with new tankage.[150] The magnitude of the cost savings also affects the role of diesel marketers in this market. Some marketers have commented that if some terminals offer two grades while others offer only one grade, the costs of transporting fuel would increase since some trucks would have to travel greater distances to alternate terminals or bulk plants.[151] The share of the cost savings that marketers could enjoy from the mark-up on diesel products would have to at least equal the higher transport costs for them to offer to handle two grades of fuel.

Similarly, many service stations, truck stops, and centrally-fueled fleets would be faced with a decision of whether to add additional underground storage tanks to carry the extra grade of diesel fuel. Retailers with more than one diesel tank, such as many truck stops and some fleets, could choose to demanifold existing tanks (involving breaking concrete) in order to dedicate one or more tanks to the new fuel. Those that find it economical to do so will undertake the investment and offer two grades, while those that would not find the investment profitable would forego this option.

Generally we would expect that where businesses could profit from managing two grades they would do so and provide some 500 ppm diesel to the market. Thus, the impact to the distribution system of a phase-in would include costs from new investments, but these could be compensated by higher profits. Where the costs of handling two fuels in the distribution system are larger than the cost savings enjoyed by refineries (and passed down to consumers in lower fuel prices), then only low sulfur diesel would be offered. Some refiners and distributors have expressed the concern, however, that these additional investments would be ''stranded'' after the phase-in period ends. A key question will be whether each party in the refining/distribution system can accurately anticipate what the others will do, so as to avoid unnecessary investments (e.g., if the system should switch over the low sulfur more quickly than expected). Since the diesel fleet transitions over relatively quickly (greater than 50 percent of VMT is typically driven by new diesel vehicles after just 5 years), there may be limited time to recoup any investment made to handle an additional grade of highway diesel fuel. We request comment overall on the economics of a phase-in approach.

In addition to overall impacts on the distribution system, an additional grade of highway diesel fuel could reduce the flexibility of the distribution system to carry all grades of fuels that it does today. This may particularly be a concern with specialty fuels or segregated shipments of fuel through pipelines that require separate tankage such as those utilized by the Department of Defense (DOD). DOD stated that since its specialty fuels (F–76, JP–5, and JP–8) are not fungible fuels, if today's rule places additional stress on an already capacity-strained pipeline system, it may limit DOD's ability to transport adequate volumes of their specialty fuels to meet operational readiness requirements. Consequently we request comment on this particular impact on the distribution system in regard to accommodating a second grade of highway diesel fuel.

d. Uncertainty in the Transition to Low Sulfur

We believe the proposed single fuel approach provides more certainty to the market for making the large investments needed to introduce low-sulfur fuel. Yet even under a single fuel approach, refiners have indicated that there is uncertainty in refiner decisions to invest or not (or to underinvest) in desulfurization, which could lead to a risk of supply shortfalls and high prices. Refiners may make this choice to exit the highway diesel market, or to reduce production volume of highway diesel fuel, especially if faced with uncertainty about the ability to recover their investments (see further discussion in section V.D.1). A phase-in approach could minimize any potential for such a shortfall in the overall highway diesel fuel supply. Under a phase-in, the level of uncertainty is different, however, in that since the highway diesel pool would be split into two grades, refiners would need to predict in advance the relative demand for each grade.

Under the phase-in flexibility approaches (described in the following section), the presumption is that the fuel production and distribution system will react to both the market demand and the incentive of the various programs to produce and distribute the low sulfur fuel at reasonable prices to all parts of the country. Turning any of these approaches into a reality requires embracing the possibility that the market reacts differently than anticipated. For example, diesel retailers have indicated that it would be extremely difficult to predict how retailers would respond to making low sulfur fuel available, given the many factors that influence retail decisions. Consequently, refiners might have little certainty about continued markets for 500 ppm fuel when making their investment decisions and all of them might choose to convert to low sulfur. Given the lead time needed for additional desulfurization capacity at refineries to come on line, it is important for a smooth transition to low sulfur diesel fuel that predictions of demand be similar to the actual demand. Each of the phase-in approaches described in the following section is intended to be designed to allow the market the flexibility to find a lower cost option than full initial conversion to low sulfur fuel if such a solution exists, and to default to a full low sulfur program if such a solution does not exist. Each approach is, however, subject to different sources of uncertainty. We request comment on the ability of refiners to accurately predict demand for desulfurization capacity under a phase-in approach. Commenters should discuss this issue in the context of the phase-in approaches described below and in the context of the proposed single fuel approach.

e. Cost Considerations Under a Phase-in Approach

Because it avoids the need to produce all of the fuel to the low sulfur standard in the first year, a phase-in approach could provide an opportunity for cost savings to refiners and could significantly lower overall diesel fuel production costs. Consumers of pre-2007 diesel vehicles could also realize a savings if the current 500 ppm fuel were still available and priced lower than the new low sulfur fuel. In a perfect world with a distribution system capable of distributing a second grade of highway diesel fuel at no cost, if low sulfur production could be matched with the demand from new vehicles, the fraction of highway diesel fuel that would have to be low sulfur would increase from approximately 9% in

[150] Letter from Independent Terminal Operators Association, July 13, 1999 (Item # II–D–80).

[151] Letter from Petroleum Marketers Association of America, November 8, 1999, Docket A–99–06.

2007 to approximately 60% in 2012 based on typical fleet turnover rates. Thus, the amount of low sulfur fuel refiners would have to produce in the early years of the program could be reduced significantly, with a corresponding reduction in production costs theoretically as high as $4 billion, using our estimated per gallon fuel costs discussed in section IV. This theoretical distribution system does not exist and there would be a number of important and potentially significant costs incurred in the distribution system that could impact these savings. As discussed above, a wide array of entities in the distribution system, including refiners, bulk terminals, pipelines, bulk plants, petroleum marketers, fuel oil dealers service stations, truck stops, and centrally fuelled fleets would have to make investment decisions in order to distribute a second grade of highway diesel fuel. We seek comment on the potential cost savings associated with a phase-in approach, including the potential costs of managing two grades of highway diesel fuel in the distribution system, how these costs would vary depending on the relative volumes of the two grades of highway diesel fuel, the necessary margin for businesses in the distribution system to find it economic to manage two grades of highway fuel, and how these cost savings and margins could vary depending on the range of ways the distribution system might respond.

2. What Phase-in Options Is EPA Seeking Comment on in Today's Proposal?

In this section, we are requesting comment on three different phase-in approaches for implementing a program for low sulfur highway diesel fuel.

a. Refiner Compliance Flexibility

Despite the concerns described above with a phase-in approach for implementing the diesel fuel sulfur control program, EPA nevertheless believes that a program, if voluntary, can be devised which can address these concerns and take advantage of at least some of the benefits a phase-in approach has to offer. Consequently, as part of our proposed program for implementing low sulfur highway diesel, as described in section IV.C, we also are seeking comment on a voluntary option that would provide compliance flexibilities for refiners, while still achieving the environmental benefits of the program. In this section, we describe this refiner compliance flexibility concept and seek comment on all aspects of its design. We also discuss how this compliance flexibility relates to the options for small refiner flexibility (which we're seeking comment on in section VIII.E).

i. Overview of Compliance Flexibility

We are seeking comment on a voluntary compliance flexibility that would allow refiners to continue producing fuel at the 500 ppm level for a fraction of their total highway diesel fuel volume in the first few years of the program. The fraction of 500 ppm fuel allowed to be produced by refiners would phase-down over a period of several years. Specifically, we request comment on the appropriate fraction of highway diesel fuel allowed to be produced as 500 ppm fuel beginning in 2006. Three possible scenarios are shown in Table VI.A–1 below. The level at which this flexibility begins would significantly affect its design. We are seeking comment on a range of production percentages for the 500 ppm fuel. We are particularly interested in the degree to which percentages of 500 ppm at the higher end of this range could pose challenges for ensuring sufficient availability of the low sulfur fuel and minimizing the potential for misfueling. In addition, we request comment on the extent to which different proportions of 500 ppm fuel will pose different challenges for the distribution system. Several issues and implications of setting the 500 ppm production limits at higher or lower levels are discussed below. We seek comment on our assumptions and the implications of these issues for the design of such a compliance flexibility program. Further, we request comment on the number of years this flexibility should be provided.

TABLE VI.A–1.—TWO POSSIBLE SCENARIOS FOR IMPLEMENTING THE COMPLIANCE FLEXIBILITY

	Percent of highway diesel fuel permitted to be 500 ppm						
	2006	2007	2008	2009	2010	2011	2012
Scenario A	20	20	10	10	0	0	0
Scenario B	50	50	30	15	0	0	0
Scenario C	75	75	60	45	30	15	0

We believe this compliance flexibility would be potentially beneficial for refiners. This flexibility could reduce operating costs, by not requiring the entire volume of highway fuel to meet the low sulfur standard. With averaging, banking and trading provisions as a component of this compliance flexibility (as discussed below), some refineries may be able to delay desulfurization investments for several years. Even for refiners planning to desulfurize their entire highway fuel pool to low sulfur levels at the beginning of the program, there may be circumstances where the actual fuel produced is slightly off-spec (i.e., above the low sulfur standard). This flexibility would allow refiners to continue selling that fuel to the highway market (as 500 ppm fuel), rather than to other distillate markets. Refiners would also have more flexibility to continue producing highway diesel (as 500 ppm fuel) during unit downtime (e.g., turnarounds and upsets).

This approach would need appropriate safeguards to minimize contamination of the low sulfur fuel and misfueling. Thus, low sulfur highway diesel would have to remain a segregated product throughout its distribution (see further discussion of segregation requirements in section VI.A.2.a.v). Further, any retail pumps carrying 500 ppm fuel would have to be prominently labeled to prevent misfueling of 2007 and later model year vehicles. We seek comment on whether other measures to discourage misfueling might also be necessary. For example, the use of a unique refueling nozzle/vehicle nozzle interface could further discourage misfueling, although we question the need to pursue this approach if the 500 ppm fuel were in the market in relatively low volumes and only during the initial years when new vehicles still comprise a relatively small percent of the fleet. Other issues regarding the potential for misfueling are discussed in subsection 1 above.

We also propose an averaging, banking and trading (ABT) program as part of this compliance flexibility. Refiners owning more than one refinery would be allowed to average their

production volumes across refineries in determining compliance. This could provide flexibility for some refining companies to delay making desulfurization investments at some smaller refineries for several years. Refiners also could generate credits based on the volume of low sulfur fuel produced above the required percentage. For example, if a refinery were required to produce a minimum of 80 percent of its highway diesel pool as low sulfur in the first year, and that refinery actually produced 100 percent of its highway diesel as low sulfur that year, it could generate credits based on the volume of the ''extra'' 20 percent of low sulfur fuel it produced. Those credits could be sold or traded with another refinery, which could in turn use the credits to produce a greater percentage of 500 ppm sulfur highway diesel fuel. More details on how these ABT provisions could be structured are discussed in section VI.A.2.a.iv below.

We believe a credit trading program may be particularly beneficial for refiners whose volumes of highway diesel are relatively small. It is possible that the credits generated by a refiner producing a large volume of low sulfur diesel could potentially be sufficient to offset a smaller refiner's entire highway diesel production, thereby enabling a smaller refiner to comply solely by the use of credits—and avoid desulfurization investments—for several years.

While we believe that a credit trading program could add meaningful flexibility under this approach, we are concerned about the potential for shortfalls in supply of low sulfur highway diesel in those areas supplied exclusively or primarily by refiners complying by the use of credits (i.e., producing only 500 ppm fuel). This situation could potentially occur, for example, in the Rocky Mountain area, or other areas served primarily by smaller refineries, or areas with relatively isolated fuel distribution systems. This concern becomes more salient as the percentage of 500 ppm fuel allowed to be produced increases. If the flexibility were to begin with 20 percent (of 500 ppm fuel) in the first year, the likelihood of a supply shortfall would be less likely than if the program begins with 50 percent (of 500 ppm fuel). Therefore, we seek comment on the extent to which this situation could occur and ways to structure the credit trading system to prevent low sulfur fuel supply shortfalls in any area, perhaps through regional restrictions in credit trading, or providing incentives for refiners to supply sufficient volumes of low sulfur fuel. We have been, and will continue, working with the Western states (for example, through the Western Governors Association) to discuss the best ways of implementing the program in that area.

Alternatively, we request comment on a regional approach to designing a compliance flexibility (for example, different refiner production levels and/or availability provisions for different areas of the country). We seek comment on whether and how this compliance flexibility could be enhanced by such a regional approach, including information and data that would help us to better understand regional differences in highway diesel fuel supply, demand and distribution.

Refiners have expressed concern that under some phase-in approaches it might be difficult for them to recover their capital investments. We request comment this issue, including how the potential for cost recovery under a phase-in approach compares with that under the single-fuel approach, and what the implications are for the optimal production level of low sulfur diesel under the compliance flexibility approach.

We also invite comment on an alternative in which we simply establish a minimum production percentage for low sulfur fuel in the beginning of the program, and allow the market to take over in determining the appropriate supply and distribution from that point on. One concern with this approach is that it would perpetuate the potential for misfueling for as long as two grades of highway fuel remained in the market. We request comment on how long two grades of highway diesel would likely coexist in the market under this approach. Further, the level of this minimum low sulfur production percentage would have to be carefully designed to assure sufficient availability throughout the country. If you believe this or other alternative approaches would make the program more useful, please share your specific suggestions with us.

ii. What Are the Key Considerations in Designing the Compliance Flexibility?

A key consideration in designing this compliance flexibility is whether or not it should be accompanied by a retailer availability requirement. Under an availability requirement, diesel retailers would have to offer low sulfur fuel, but would have the flexibility to offer the 500 ppm fuel as well. We believe the need for an availability requirement is linked to the refiners' 500 ppm fuel production limits. At a 500 ppm fuel production limit beginning at 20 percent, our concerns for lack of availability and misfueling would likely be low enough not to warrant a retailer availability requirement or additional misfueling controls such as special nozzles. Our presumption is that if at least 80 percent of the highway fuel volume is low sulfur (i.e., a maximum 20 percent is 500 ppm), the low sulfur fuel should be sufficiently available across the country. Alternatively, if refiners were allowed to produce some greater proportion of their highway diesel fuel as 500 ppm fuel in the first few years, there would be a greater likelihood of low sulfur fuel supply shortfalls, lack of availability, and misfueling , and there would be a more compelling need to ensure that some minimum fraction of diesel retailers offered the low sulfur fuel. We request comment on the level of the 500 ppm fuel production limit at which concerns about low sulfur shortfalls, lack of availability, and misfueling would be great enough to warrant imposing a retailer availability requirement. We ask that commenters also consider whether they would prefer a ''blended'' program (i.e., a program with both a production limit on 500 ppm fuel and some form of a retailer availability requirement) to a program that permits a slightly lower level of 500 ppm fuel, but with no availability requirement.

In considering this issue, note that the percentage of low sulfur diesel fuel produced would not necessarily match the availability level. For example, if 80 percent of the highway fuel pool were low sulfur, this would not necessarily translate into the low sulfur fuel being available at 80 percent of retail stations currently selling diesel fuel. Since large retail stations (e.g., large truck stops) and centrally-fueled fleets represent a disproportionate share of the diesel sales volume, it is possible that the percentage of retail stations offering low sulfur fuel could be much lower than 80 percent of the diesel retail stations. If this were the case, would there still be concerns with lack of availability of the low sulfur fuel (e.g., even with 20 percent of highway fuel as low sulfur)?

We believe there are merits to designing this compliance flexibility in a way that avoids the need for a retailer availability requirement. With no availability requirement, retailers would be free to choose to sell 500 ppm fuel only, low sulfur fuel only, or both. We have heard from refiners and diesel marketers that they believe that retailers, if faced with an availability requirement, would likely decide not to carry both grades of fuel but, rather, would switch over to the low sulfur fuel to avoid the expense of installing new tanks and pumps. If this were true, an

availability requirement could have the effect of significantly limiting a refiner's markets for its 500 ppm fuel, thus, limiting the benefits of the compliance flexibility approach. Nevertheless, we seek comment on whether an availability requirement for low sulfur diesel fuel should be a condition for retailers marketing 500 ppm fuel.

We seek comment on whether a retailer availability requirement would diminish the utility of the compliance flexibility approach, and at what point in designing this option (e.g., at what 500 ppm fuel production limit) a retailer availability requirement would become necessary to encourage sufficient availability of low sulfur fuel.

Since this compliance flexibility is voluntary, we anticipate that refiners would only produce and market 500 ppm fuel under the allowed percentages to the extent that the costs of distributing it are offset by savings elsewhere. The distribution system has only a limited ability to accommodate a second grade of highway diesel without incurring significant costs (e.g., installing new tankage). Therefore, while refiners may be able to reduce the costs of diesel fuel production if higher percentages of high sulfur diesel fuel are permitted, they may find it difficult to market 500 ppm fuel in volumes much above even the 20 percent level, due to distribution system costs. We request comment on the degree to which the distribution and retail costs associated with accommodating two grades of highway diesel fuel depend on the relative volumes of those fuels. For example, how would the costs incurred in the distribution system vary as the amount of 500 ppm fuel produced by refiners increases from zero to 50 percent, or even beyond?

iii. How Does This Compliance Flexibility Relate to the Options for Small Refiner Flexibility?

In section VIII.E., we seek comment on three approaches for small refiner flexibility. One of these approaches would allow small refiners to continue selling 500 ppm fuel for an unspecified period of time (although we seek comment on an appropriate duration for this flexibility). If the compliance flexibility approach described here were implemented for the refining industry as a whole, we seek comment on the best ways to meld this flexibility with approaches for minimizing the burden on small refiners. For example, we seek comment on whether it would be appropriate to either relax or remove any 500 ppm production limits for small refiners. In other words, we may consider allowing small refiners to continue selling their full production volume of highway diesel as 500 ppm fuel for some period of time (likely at least as long as the compliance flexibility provided to the refining industry as a whole, if not for some or an unlimited number of years beyond that). We request comment on the appropriate duration of this flexibility for small refiners. Further, we seek comment on whether small refiners should be allowed to generate and sell credits under the compliance flexibility's ABT program, even if small refiners are not required to produce any portion of their highway fuel as low sulfur diesel. The ABT approach could minimize the burden on small refiners by allowing them to make some additional profit to offset their desulfurization investments, thus giving them an incentive to produce low sulfur highway diesel fuel earlier than they otherwise would. We seek comment on other ways this compliance flexibility could be crafted to minimize burden on small refiners and to better meld with the approaches for small refiner flexibility described in section VIII.E.

It should be noted that our approach to allow small refiners to continue selling 500 ppm highway diesel (on which we're seeking public comment in section VIII.E.1.) does not include a retailer availability requirement. During the SBREFA process, small refiners expressed concern that an availability requirement would significantly limit their potential markets for 500 ppm fuel, since they believe that few retail outlets would be willing to offer both grades of highway diesel due to the significant costs of installing new tanks and pumps. Therefore, if this option for small refiner flexibility is promulgated in the final rule, we would reconsider its design in light of any decisions made for compliance flexibilities for the whole refining industry (e.g., the issue of whether an availability requirement would be necessary).

iv. How Would the Averaging, Banking and Trading Program Work?

This section discusses in more detail how we envision an averaging, banking and trading (ABT) program working in conjunction with the compliance flexibility approach. The goal of the ABT provisions is to maximize the flexibility provided by the program without diminishing its environmental benefits. We envision that this ABT program could apply to the program regardless of the actual level of the minimum refiner production requirement for low sulfur highway diesel. We request comment on all aspects of these ABT provisions. If you have ideas on how these provisions could be structured differently to enhance the program, please share your specific suggestions with us.

Averaging

Refiners and importers could be allowed to meet the required minimum percentage of low sulfur fuel production averaged over their entire corporate highway diesel pool. The minimum required percentage of low sulfur fuel production under the compliance flexibility would be determined on an annual average basis, across all refineries owned by that refiner (or all highway diesel fuel imported by the importer in the calendar year). Thus, within a given refining company, the volume of low sulfur fuel produced at one refinery could be below the minimum required percentage, so long as the volume produced at another refinery exceeded the minimum percentage by a sufficient amount such that the minimum required percent of low sulfur volume was met at the corporate level.

Generating Credits

Beginning in 2006, refineries and importers could generate credits based on the volume of low sulfur fuel produced above the required percentage. For example, a refinery produced 10 million gallons of highway diesel fuel in 2006 and was required to produce a minimum of 80 percent of its highway diesel volume (8 million gallons) as low sulfur that year. That refinery actually produced 100 percent of its highway diesel as low sulfur that year. Thus, it could generate credits based on the volume of the ''extra'' 20 percent of low sulfur fuel it produced above the required minimal percentage '' that is, 2 million gallons of credits. Under this program, we do not envision a need to establish a baseline volume of diesel fuel, since credits would be generated based on the volume of low sulfur diesel fuel actually produced above the required percentage.

Credits could be generated in each year that the compliance flexibility provisions are in place. In other words, if the duration of the compliance flexibility were for four years (i.e., refiners were allowed to continue producing some specified percentage of 500 ppm fuel for four years after the start of the low sulfur program), from 2006 through 2009, credits could be generated in each of those years.

We seek comment on whether there could be circumstances where the use of low sulfur highway diesel could be shown to demonstrate environmental benefits significant enough to warrant

the generation of early credits. To the extent there may be circumstances that warrant early credit generation, we seek comment on whether there should be an appropriate discount factor applied to such credits, to ensure they would be comparable with the environmental benefits achieved by the use of low sulfur fuel in vehicles meeting today's proposed standards. See section IV.F.

As an additional aspect to implementing the compliance flexibility program, we seek comment on whether it would be advantageous for EPA to offer to sell additional ABT credits to refineries at a predetermined price. This would provide more certainty about the cost of supplying low sulfur diesel fuel by establishing a ceiling price on the ABT credits. We request comment on (1) what should be the appropriate predetermined price for these ABT credits; (2) whether there should be a cap on the total number of credits available from EPA to assure availability of low sulfur diesel; and (3) if there is a cap, whether credits should be sold on a first-come, first-serve basis.

Using Credits

Refiners and importers would be able to use credits to demonstrate compliance with the minimum required percentage of low sulfur highway diesel fuel, if they are unable to meet this requirement with actual highway diesel fuel production. Although credits would not officially exist until the end of the calendar year (based on the generating refinery's actual low sulfur fuel production) there is nothing to prevent companies from contracting with each other for credit sales prior to the end of the year, based on anticipated production. The actual credit transfer would not take place until the end of the year. All credit transfer transactions would have to be concluded by the last day of February after the close of the annual compliance period (e.g., February 28, 2007 for the 2006 compliance period).

For example, refiners who wish to purchase credits to comply with the 2006 required percentage of low sulfur fuel could do so based on the generating refinery's projections of low sulfur fuel production. By the end of February the following year, both the purchaser and the seller would need to reconcile the validity of the credits, as well as their compliance with the required percentages of low sulfur fuel produced.

We seek comment on allowing an individual refinery that does not meet the required percentage of low sulfur fuel production in a given year to carry forward a credit deficit for one year. Under this provision, the refinery would have to make up the credit deficit and come into compliance with the required low sulfur production percentage in the next calendar year, or face penalties. This provision would give some relief to refiners faced with an unexpected shutdown or that otherwise were unable to obtain sufficient credits to meet the required percentage of low sulfur fuel production.

We recognize that there is potential for credits to be generated by one party and subsequently purchased and used in good faith by another party, yet later found to have been calculated or created improperly, or otherwise determined to be invalid. Our preference would be to hold the credit seller, as opposed to the credit purchaser, liable for the violation. Generally, we would anticipate enforcing a compliance shortfall (caused by the good faith purchase of invalid credits) against a good faith purchaser only in cases where the seller is unable to recover valid credits to cover the compliance shortfall. Moreover, in settlement of such cases, we would strongly encourage the seller to purchase credits to cover the good faith purchaser's credit shortfall.

We believe that any person could act as a broker in facilitating credit transactions, whether or not such person is a refiner or importer, so long as the title to the credits are transferred directly from the generator to the purchaser. Whether credits are transferred directly from the generator to the purchaser, or through a broker, the purchaser needs to have sufficient information to fully assess the likelihood that credits would be valid. Any party that can generate and hold credits could also resell them, but the credits should not be resold more than twice. Repeated sales of credits could significantly reduce the ability to verify the validity of those credits.

How Long Would Credits Last?

The goal of these ABT provisions is to provide refiners additional flexibility in the early years of the low sulfur fuel program. After the first few years of the program, there would be a significantly greater proportion of aftertreatment-equipped vehicles in the fleet. It would be important to ensure a full transition to the new low sulfur fuel to prevent misfueling of those vehicles and preserve the environmental benefits of the program. Therefore, we do not currently envision allowing credits to be used more than a few years beyond the compliance flexibility period. We seek comment on whether credit lifetime should be limited, and if so on the appropriate length of time credits should be allowed to be used (in other words, the ''lifetime'' of credits).

v. Compliance, Recordkeeping, and Reporting Requirements

This section describes the types of provisions we believe the regulations would need to include if a compliance flexibility approach were adopted, to ensure that diesel fuel subject to the 500 ppm sulfur standard would not be introduced into model year 2007 and later diesel vehicles.

Refiners and importers of 500 ppm highway diesel fuel would be required to designate all highway diesel fuel produced as meeting the 500 ppm sulfur standard or meeting the proposed 15 ppm standard. Such refiners and importers would be required to maintain records regarding each batch of motor vehicle diesel fuel produced or imported, including the volume of each batch, and would be required to maintain records, and to report regarding credits earned and credit transactions. Reporting would also be required regarding volumes of highway diesel fuel produced or imported.

All parties in the distribution system that chose to carry 500 ppm fuel would be required to segregate that fuel from 15 ppm sulfur fuel, and would be responsible for ensuring that fuel designated as 15 ppm or 500 ppm meets the respective sulfur standards, throughout the distribution system. Such segregation requirements would likely be modeled after those of the reformulated gasoline (RFG) program (e.g., the RFG program's requirements for product transfer documents, refiners' designations of the standards to which each batch of fuel applies, and registration requirements for refiners producing both highway diesel fuels). However, the RFG program's segregation provisions are somewhat different, in that they were designed to segregate RFG from conventional gasoline by geographic area. In the highway diesel program, the segregation provisions would be much more widespread, because both grades of highway fuel could be distributed throughout the country, depending on how refiners choose to take advantage of the compliance flexibility. We seek comment on the need to require refiners producing 500 ppm fuel to conduct some form of downstream quality assurance sampling, similar to the surveys required under the RFG program.

Further, all parties in the distribution system would be subject to prohibitions against selling, transporting, storing, or introducing or causing or allowing the introduction of diesel fuel having a

sulfur content greater than: (1) the proposed 15 ppm standard into highway diesel vehicles manufactured in the 2007 model year and beyond; and (2) 500 ppm into any highway vehicle. Under the proposed presumptive liability scheme (as discussed in section VIII.A.8), if a violation is found at any point in the distribution system, all parties in the distribution system for the fuel in violation are responsible unless they can establish a defense. Because of our concerns for contamination and misfueling with having two grades of highway diesel in the market, we seek comment on whether a refiner should lose its flexibility to continue producing 500 ppm fuel if it is found liable for a violation.

All parties handling 500 ppm fuel also would be required to maintain product transfer documents for five years that indicate to which highway diesel fuel standard the fuel is subject. Pump labels would be required at retail outlets and wholesale purchaser-consumer facilities providing notice regarding the different highway fuel types and the vehicles they may/may not be used in. As mentioned above, nozzle requirements might also be considered if the minimum volume requirement for low sulfur diesel is low enough to warrant it.

The rule would prohibit any refiner from producing more 500 ppm highway diesel fuel than allotted, and would prohibit any party from distributing or selling diesel fuel not meeting the proposed 15 ppm standard unless it is properly designated and accompanied by appropriate product transfer documents. The rule would also prohibit any person from introducing or causing or allowing the introduction of highway diesel fuel not meeting the 15 ppm sulfur standard into any model year 2007 or later vehicle.

As with any ABT program, we would need refiners to keep appropriate records, and to file necessary reports, to ensure compliance as well as the integrity of any credit generation, trading, and use. If this program is promulgated in the final rule, we would envision that refiners would likely be required to keep records of key information pertaining to the ABT program. Beginning the first year that credits are generated, any refiner for each of its refineries, and any importer for the highway diesel fuel it imports, would keep information regarding credits generated, separately kept according to the year of generation. We envision that refiners would keep records of the following information, at a minimum, and report such information to EPA on an annual basis, for any year in which credits are generated, transferred, or used:

- The total volume of highway diesel fuel produced
- The total volume of highway diesel fuel produced meeting the 500 ppm sulfur standard
- The total volume of highway diesel fuel produced meeting the low sulfur standard
- The total volume of highway diesel fuel produced (delineating both 500 ppm fuel and low sulfur fuel) after inclusion of any credits
- The number of credits in the refiner's or importer's possession at the beginning of the averaging period
- The number of credits used
- If any credits were obtained from or transferred to other parties, for each other party, its name, its EPA refiner or importer registration number, and the number of credits obtained from or transferred to the other party;
- The number of credits in the refiner's or importer's possession that will carry over into the next averaging period
- Contracts or other commercial documents that establish each transfer of credits from the transferor to the transferee
- The calculations used to determine compliance with the minimum required percentage of low sulfur highway diesel fuel
- The calculations used to determine the number of credits generated

b. Refiner-Ensured Availability

An alternative concept suggested to the Agency to accomplish the objective of ensuring widespread availability of low sulfur diesel fuel while still allowing flexibility for producing less than all of the diesel fuel pool as low sulfur is to have the refiners ensure that it is widely available. The base program would still be a requirement that refiners produce only highway diesel fuel which meets the sulfur standard proposed today. However, refiners could voluntarily choose to participate in a program where they would be allowed to sell a larger fraction of their highway diesel fuel as 500 ppm fuel, in exchange for ensuring that low sulfur diesel fuel is made widely available at the retail level.

This concept may entail a refinery contracting with, or purchasing credits from, retailers, who in exchange for incentives from the refiner, agree to make low sulfur diesel fuel available. This could mean that the retailer decides to switch over entirely to selling low sulfur diesel fuel, or that they offer both low sulfur and high sulfur diesel fuel simultaneously. The retailer would have to make a showing that: (1) the low sulfur diesel was ''meaningfully'' available; (2) there was an assured supply chain for obtaining low sulfur diesel fuel; and (3) the diesel fuels were segregated and properly labeled at the pumps. ''Meaningfully'' available might mean having dedicated pumps and tankage for low sulfur diesel with a capacity in the thousands of gallons range, and operating all year long. To be clear, the contract/credits would be for making low sulfur diesel available for sale, not necessarily selling a given volume of low sulfur diesel.

The relief that refiners receive in exchange for providing for low sulfur availability could be calculated on the basis of the retailer's total diesel sales volume. For example, the refiner would be permitted to produce a certain volume of highway diesel fuel at the current 500 ppm cap in proportion to the total diesel sales volume of the retailers that the refiner contracts with (or purchases credits from). A ratio could be applied to the retailer's sales volume to ensure sufficient retail availability.

An example of how this concept might work is as follows: A refinery producing highway diesel fuel contracts with several truck stops and service stations to make low sulfur fuel available at their stations. The refiner would then be permitted to produce 500 ppm grade diesel fuel in an amount up to the combined diesel sales volume (or some multiple thereof) for these retailers. The retailers may receive their low sulfur diesel fuel from this refiner or from other refiners to comply with the contract.

Under this approach, refiners would likely make arrangements with, or purchase credits from, the largest retailers (since they have the largest fuel volumes), in order to minimize transaction costs. Because the largest 5 percent of diesel retail stations represent 60 percent of the sales volume, [152] to achieve any meaningful availability of low sulfur fuel at retail stations, the program may require a considerably larger percentage of the sales volume to be targeted by weighting more heavily credits generated by smaller retail outlets.

We ask for comment on this concept, on its advantages and disadvantages compared to other implementation options, on the percentage of retail outlets that may be sufficient under this concept to achieve satisfactory low

[152] Memorandum to Docket A–99–06 from Jeffrey Herzog, EPA, entitled: ''Diesel Throughput Volume by Percentage of Diesel Fuel Retailers,'' May 5, 2000.

sulfur diesel fuel availability, on means of ensuring adequate geographic distribution of low sulfur diesel fuel throughout the year, and on the appropriate means of calculating the volumes that refiners should be permitted to produce as high sulfur in exchange for making low sulfur available. We also request comment on how such a program could be implemented and enforced. In particular, we request comment on the type of recordkeeping and reporting EPA should require in ensuring a refiner actually has legitimate credits, contracts or other binding arrangements with retailers to make low sulfur diesel fuel ''meaningfully'' available. We further request comment on whether and what type of recordkeeping and reporting may be necessary for retailers and distributors, particularly if the program were structured to allow retailers to generate and sell credits.

c. Retailer Availability Requirement

One way of ensuring widespread availability of the low sulfur fuel under a phase-in approach would be to require retailers selling highway diesel to make available the low-sulfur diesel (i.e., a retailer availability requirement). Retailers would be free to sell the current 500 ppm sulfur fuel as well, but at a minimum would have to offer the low sulfur fuel. This approach could either be a stand-alone program design (i.e., with no refiner production requirement for a minimum amount of low sulfur diesel), or could be coupled with a refiner production requirement. Retailers would be responsible for getting low-sulfur diesel from the distribution system. The premise of this approach is that the fuel distribution system would react to the market demands, and supply and distribute the second grade of fuel in all parts of the country.

In order to turn this premise into a reality, the fundamental issues associated with a phase-in approach, as discussed in subsection 1 above, would have to be addressed. Consequently, in the context of an availability requirement, we seek comment on how to resolve the concerns raised in subsection 1. With regard to the structure of such an availability requirement, we seek comment on when it should begin, whether it could be limited to just a fraction of the diesel fuel retail outlets, and what fraction would constitute acceptable availability in the marketplace. We specifically request comment on the merits of limiting an availability requirement to the larger diesel retailers. Under such an approach, the larger diesel retailers would have to carry low sulfur diesel, but could also choose to carry the 500 ppm grade as well. Smaller retailers not subject to the availability requirement would have the flexibility to choose to carry only the low sulfur grade, only the 500 ppm grade, or both. For example, we seek comment on the merits of limiting the requirement to only truck stops selling more than 200,000 gallons of diesel fuel per month, and other retail outlets selling more than 20,000 gallons of diesel per month, as suggested by some Panel members during the Small Business Advocacy Review process. We encourage commenters to consider other appropriate throughput thresholds, for both truck stops and service stations that could limit an availability requirement to the larger retailers, while still ensuring sufficient availability.

While desirable to limit the fraction of retailers subject to an availability requirement, ensuring sufficient availability is complicated by the fact that diesel fuel is sold at a portion of all retail outlets today. [153] If less than 100 percent of diesel retail outlets are required to make the new fuel available, how would we ensure availability in all parts of the country? Commenters should consider the distribution of diesel fuel outlets around the country, and the distances between outlets in addressing this issue. How would the rest of the distribution system respond to supply the low sulfur fuel to the retail outlets needing to make it available? To help protect against fuel shortages either nationally or regionally, would an availability requirement need to be coupled with a production requirement on refiners to ensure supply of a minimum amount of low-sulfur diesel fuel? If so, how should such a production requirement be structured? Conversely, could an availability requirement be coupled with a production requirement in a way that would allow a larger percentage of 500 ppm fuel production in the early years? (See the discussion above in subsection 2.a.ii)

With regard to the impacts on the diesel fuel retail and distribution system, numerous parties in the industry have commented that managing two grades of highway diesel in the distribution system would raise their costs. We seek comment on what actions retailers, centrally fueled fleets, wholesalers, terminals, pipelines, and refiners would take to manage two grades of highway diesel, and in particular on the cost impacts resulting from those actions. We especially seek comment on what cost savings refiners might realize under such an approach, and whether these savings would be greater than the costs incurred by the distribution system to distribute a second grade of highway diesel fuel. In this context, we also seek comment on how refiners would plan their refinery changes given the uncertainty of low sulfur diesel demand from retailers under such a phase-in approach. When would they make their capital investments, and for what volume of fuel would they plan to build desulfurization capacity? How would they predict demand in the time frame when they would need to make their capital investments? How would they adjust to different volumes from predicted demand levels, and what would be the implications?

Commenters should address this approach from the perspective of the issues discussed above in subsection A.1 (including misfueling, distribution system impacts, potential costs, etc). We are also interested in the implications of such an approach on prices in the wholesale and retail markets, and on the ability of retailers and distributors to recover costs under such an approach.

We also invite comment on the merits of applying an averaging, banking and trading program within the context of a retailer availability requirement. Such a credit trading program could entail elements similar to the program described in subsection 2.a.v. for refiners under the compliance flexibility approach, but would be tailored specifically to retailers subject to an availability requirement. Commenters should address how such a credit trading program might be structured, if they believe it should differ significantly from the refiner-based approach discussed above.

Finally, the trucking industry and diesel marketers have also commented that an availability requirement would be administratively intensive for the Agency to implement and enforce, especially in verifying actual fuel availability. Therefore, we ask comment on ways to streamline the enforcement of such a program to avoid unnecessary burden on both industry and the Agency.

2. Why Is a Regulation Necessary to Implement the Fuel Program?

Some commenters on the ANPRM suggested simply leaving it up to the market to introduce low-sulfur highway diesel fuel—that is, establish no regulatory requirements for refiners to produce the fuel and no requirements for retailers to sell the fuel. The

[153] ''Summary Data on Diesel Fuel Retailers,'' Memo to the docket from Jeffrey Herzog, EPA, March 23, 2000 (Docket item # II–B–07).

commenters' line of reasoning for this suggestion is as follows. The vehicle and engine manufacturers would be forced by emission standards to introduce vehicles meeting stringent emission standards. Since the engines and vehicles would need low-sulfur diesel fuel to meet the emission standards, then the vehicle purchasers would have to refuel only with low-sulfur diesel fuel. The fuel production and distribution system would then respond to the demand and provide the fuel if, when, and where necessary.

Such an approach raises many of the same issues discussed above with respect to phase-in approaches (*e.g.,* fuel availability, misfueling, and uncertainties in the transition to low sulfur). These concerns, however, would be heightened by the fact that no regulatory measures would be in place to mitigate them. We seek comment on whether a market-based approach could adequately ensure availability of the low sulfur fuel for the vehicles that need it.

3. Why Not Just Require Low-Sulfur Diesel Fuel for Light-Duty Vehicles and Light-Duty Trucks?

In the ANPRM, we requested and received considerable comment on focusing the rulemaking effort on providing low-sulfur diesel fuel for light-duty vehicles and trucks only. By providing a clean grade of diesel fuel, exhaust emission control technology would be enabled. This in turn would give light-duty diesel vehicles a much better chance of meeting the final Tier 2 emission standards. The appeal of a light-duty only approach is that the program would be relatively small and could set the stage for future expansion of low-sulfur diesel fuel into the heavy-duty market if the demand developed.

Based on the comments received on the ANPRM and our own analysis, however, there appears to be little justification for such a regulatory approach. First, and most importantly, such an approach would provide no environmental benefit to justify the costs of the program. Under the Tier 2 program, all LDVs and LDTs must meet on average a certain NO_X emission standard. There are a number of emission standards or ''bins'' that individual vehicles can be certified to, but an overall fleet average emission standard must still be met. Consequently, regardless of whether or not the Tier 2 fleet is comprised of a large number of diesel vehicles, the same overall fleet average NO_X emission rate will be achieved. The only anticipated difference would be in particulate emissions where, even though the emission standards are the same, in-use emissions are assumed to be somewhat lower for gasoline vehicles than for diesel vehicles. In contrast, today's proposed program for setting new emission standards for heavy-duty engines and vehicles in conjunction with lower sulfur highway diesel fuel would achieve significant reductions in NO_X and particulate matter, as discussed further in section II.

Secondly, the comments received on the ANPRM from the fuel production and distribution system indicated that such an approach would be very costly. The Engine Manufacturers Association conducted a study of the cost increase associated with distributing a unique grade of diesel fuel for just light-duty vehicles and trucks.[154] The results of this study indicated that the distribution costs alone (i.e., not including refiner production costs) for such a fuel could be 3 to 4 cents per gallon. Moreover, this study made some simplifying assumptions that served to underestimate actual volume of highway diesel fuel that would have to be produced and the costs. The study assumed a production volume of 5 percent low sulfur diesel, which is not realistic because many retailers might choose to switch over entirely to the low sulfur fuel. Thus, refiners would have to make the investments to produce a considerably larger volume of low sulfur diesel fuel than might be required for new light-duty vehicles and trucks only.

Third, commenters indicated that such an approach may be impractical. In areas where there are few fuel distribution options (e.g., areas not served by pipelines, areas with few diesel retail outlets), the low-sulfur diesel fuel may not be made available or, if it is, it could only be sold at retail prices considerably higher than the refiners' cost to produce the fuel. Consumer demand for light-duty diesel vehicles could be reduced by both unavailability of the low sulfur fuel and uncertainty about it being available at reasonable prices.

Finally, a light-duty only approach would appear to be inappropriate in light of our demonstrated air quality need for additional emission reductions and the opportunity available with recent advancements in diesel engine exhaust emission control technology to obtain these emission reductions from heavy-duty engines. If the technology necessary to meet very low emission standards for light-duty diesel vehicles is feasible with the control of diesel fuel sulfur, and if that same technology is applicable to heavy-duty diesel vehicles, then we have an obligation under the Clean Air Act to consider emission standards for heavy-duty vehicles that would be enabled by that technology as well. Given the air quality need, we would be remiss in our obligations under section 202(a)(3)(A) of the Act which requires us to set the most stringent standards feasible for heavy-duty vehicles, taking into consideration cost and other factors. EPA can revise such standards, however, based on available information regarding the effects of air pollutants from heavy-duty engines on public health or welfare.

4. Why Not Phase-Down the Concentration of Sulfur in Diesel Fuel Over Time as Was Done With Gasoline in the Tier 2 Program?

There are a number of ways a fuel change can be introduced over time. The most recent example is in the Tier 2 rulemaking where the concentration of sulfur in gasoline was phased-down over time. Such an approach is not workable for diesel fuel, however, due to the demands of the exhaust emission control technology. As discussed in section III, the efficiency of both the NO_X and PM exhaust emission control drops off quickly if the vehicle is operated on sulfur levels higher than the standard proposed. Thus, the vehicles would be unable to meet the emission standards, and there would be very little if any emission benefit to be gained until the end of any such phase-down. Furthermore, as discussed in section III, in some applications it is possible that operation on higher sulfur levels may not only cause permanent damage to the PM trap, but also could result in vehicle driveability and safety concerns. Consequently, it is imperative that aftertreatment-equipped vehicles are fueled exclusively with fuel meeting the proposed low sulfur levels, and that the low sulfur fuel remain segregated in the distribution system.

This contrasts with the gasoline sulfur control program, where the impact of sulfur on the exhaust emission control technology was thought to be less severe and emission benefits accrued even at the phased-down sulfur levels. Furthermore, if gasoline vehicles are operated on higher sulfur fuel, no driveability concerns are anticipated; higher sulfur diesel would have detrimental effects on the driveability of diesel engines. Thus, in the gasoline sulfur program there was not a need to require that low sulfur gasoline remain segregated from the remaining gasoline pool while sulfur levels are being phased-down. Here there is a need to

[154] ''Very-Low-Sulfur Diesel Distribution Cost,'' Baker & O'Brien Inc., for the Engine Manufacturers Association, August 1999.

segregate low sulfur highway diesel fuel to ensure the new technology vehicles are not damaged by higher sulfur levels.

B. What Other Fuel Standards Have We Considered in Developing This Proposal?

1. What About Setting the 15 ppm Sulfur Level as an Average?

We have considered several potential diesel fuel sulfur alternatives in developing today's proposed rulemaking, including two alternatives centered around a 15 ppm sulfur level: a cap at this level as proposed, and an average at this level with a 25 ppm cap to ensure that sulfur levels would not exceed a 15 ppm average level by too much. The analyses of technology enablement, costs, emission reductions, and cost effectiveness discussed in the preceding sections are based on a 15 ppm cap. In this section we provide the results of these analyses for the 15 ppm average sulfur level case.

a. Emission Control Technology Enablement Under a 15 ppm Average Standard

Having a 15 ppm average standard with a 25 ppm cap would increase uncertainty around the advanced technologies required here and would therefore be less attractive to diesel engine and vehicle manufacturers. As discussed at length in Section III, fuel sulfur adversely impacts the effectiveness of all known and projected exhaust emission control devices. Despite these adverse effects, it may be possible that the design, precious metal loading, and application of exhaust emission control devices could be fundamentally similar under both a 15 ppm cap and a 15 ppm average. However, we would expect that the exhaust emission control devices would not operate at the same level of efficiency as expected under the 15 ppm cap program and there would be some sacrifice in the durability and reliability of these devices due to the higher sulfur level.

PM trap regeneration would be compromised due to sulfur's adverse impacts on the NO to NO_2 conversion necessary for completely passive PM trap regeneration.[155] Because of this effect, concerns have been raised that a 15 average/25 cap program would require that some vehicle applications, particularly lighter applications having lower operating temperatures, incorporate some form of active PM trap regeneration strategy. Such an active regeneration strategy could take the form of a fueling strategy capable of increasing exhaust temperature as opposed to an electrical heater or some other ''added'' hardware. The active regeneration scheme would likely be incorporated into the design as a backup, or protective measure, and would not function at all times. Instead, the active regeneration would kick in under conditions such as very cold ambient temperature conditions or extended idles where exhaust temperatures might be too low for too long to enable passive regeneration. There are also concerns that fuel economy would be reduced both due to the use of active regeneration and due to the higher, on average, PM trap backpressure. This would likely occur due to the slightly higher soot loading, on average, resulting from less efficient passive trap regeneration. This higher backpressure would probably occur on all applications, not just the lighter applications. Nonetheless, we believe that the fuel economy effect would probably not be greater than one percent.

Under a 15 ppm average standard, we would expect the in-use average sulfur level to be roughly double the in-use average under a 15 ppm cap program. The higher in-use sulfur level would roughly double in-use PM emissions. Since an average limit would be in place and be enforced, and since in-use emissions would be expected to approximate the average, we might consider allowing engine manufacturers to certify their engines on diesel fuel meeting the average sulfur level rather than the cap. If this approach were taken, setting the sulfur standard at a 15 ppm average instead of a 15 ppm cap would not necessitate an increase in the PM standard. However, in-use PM emissions would nearly double due to the increased average fuel sulfur level (when compared to the 15 ppm cap base case).

Regarding the NO_X adsorber, we believe that a 15 average/25 cap program may have the potential to enable NO_X adsorber technology, though with increased uncertainty. However, while the NO_X adsorber would continue to adsorb and subsequently reduce NO_X despite the higher sulfur fuel, the frequency of sulfur regeneration events, referred to as desulfation in section III, would roughly double relative to the rate with a 15 ppm cap. The increased frequency of desulfation would increase fuel consumption probably on the order of one percent and would be realized on all diesel applications equipped with NO_X adsorber technology.[156] Additionally, the increased frequency of desulfation may adversely impact NO_X adsorber durability because the thermal strain placed on the adsorber during any desulfation event would increase in frequency. Also, because of the increased frequency of desulfation events, there would be a corresponding decrease in the likelihood of being able to perform the desulfation during ideal operating conditions. This may cause more thermal strain on the NO_X adsorber and/or less efficient desulfation with a corresponding increase in fuel usage. The result would be a decrease in our level of confidence that the NO_X adsorber would be capable of fulfilling the demands of heavy-duty diesel engines in terms of fuel consumption and durability.

Note that, although the analysis finds that a 15 ppm average/25 ppm cap standard has potential to be adequate for enabling high-efficiency exhaust emissions controls, this finding involves a significantly higher level of uncertainty than the proposed 15 ppm sulfur cap, because it is based on the assumption that exhaust emission control designs could be focused on the average fuel sulfur levels. Manufacturers have commented that the possibility of some in-use fuel at near-cap levels would necessitate designing to accommodate this level, and they contend that this would not allow the high-efficiency technology to be enabled. If so, the technology enablement for this case would likely be similar to that for the 50 ppm cap case.

b. Vehicle and Operating Costs for Diesel Vehicles To Meet the Proposed Emissions Standards With a 15 ppm Average Standard

As pointed out above, we believe it may be possible that the design, precious metal loading, and application of exhaust emission control devices could be fundamentally similar under both a 15 ppm cap and a 15 ppm average. Therefore, we believe that having a 15 ppm average sulfur standard would have no quantifiable impact on the cost of emission control hardware relative to the costs associated with a 15 ppm cap standard. However, as mentioned, we would expect a one percent fuel economy decrease (*i.e.,* a one percent increase in fuel consumption) due to the increased frequency of desulfation of the NO_X adsorber. This reduction in fuel economy would result in consumption

[155] Cooper and Thoss, Johnson Matthey, SAE 890404.

[156] See section III and Table III.F–2 for more detail on desulfation and the associated fuel economy impacts.

of more fuel and, therefore, higher costs. We have estimated the discounted lifetime cost of this one percent fuel economy impact at $108, $207, $755, and $893 for a light, medium, and heavy heavy-duty diesel, and urban buses, respectively. See the draft RIA for details on how this cost was calculated.

c. Diesel Fuel Costs Under a 15 ppm Average Standard

Having a 15 ppm average with a 25 ppm cap sulfur standard would be directionally more attractive to the petroleum industry because of the slightly higher sulfur levels. Overall, we would expect this approach to provide more flexibility to refiners and distributors, and directionally help in addressing concerns that have been expressed about the difficulties of distributing diesel fuel with very low sulfur specifications. The cost of meeting a 15 ppm sulfur average at the refinery (with a 25 ppm cap) would be significantly less than meeting the proposed cap of 15 ppm. We project that roughly half of all refiners would be able to meet a 15 ppm average by modifying their existing one-stage hydrotreating unit by adding a hydrogen sulfide scrubbing unit, a PSA unit to increase hydrogen purity and a second reactor. A new, high activity catalyst would also replace today's catalyst. Refiners who would be capable of meeting a 15 ppm average with a one-stage unit would likely be those blending low amounts of light cycle oil (LCO) into their diesel fuel or those having substantial excess hydrotreating capacity in their current unit. The remaining refiners would require essentially the same two-stage hydrotreating unit that would be required to meet the proposed 15 ppm cap. In all cases, hydrogen consumption would be somewhat less than that required to meet the proposed 15 ppm cap standard.

As for fuel distribution, under the proposed 15 ppm cap on diesel sulfur content, we estimate that sulfur contamination in the distribution system can be adequately controlled at modest additional cost through the consistent and careful observation of current industry practices. A 0.2 cent per gallon increase in distribution cost is anticipated due to the need for an increase in pipeline shipment interface volumes, increased quality testing at product terminals, and the need to distribute an increased volume of fuel to meet the same level of consumer demand due to a reduction in energy density. Having a 15 ppm average standard would mean that the increase in pipeline interface volumes would likely be somewhat smaller than under the proposed 15 ppm cap. However, we do not expect that the savings in interface volumes would be proportional to the difference between the standards. This is due to the similarity of the alternative standards with the proposed 15 ppm sulfur cap relative to their comparison with the sulfur level of other products in the distribution system such as nonroad diesel fuel (3,400 ppm average sulfur content). Consequently, we estimate that distribution costs under a 15 ppm average standard would only be marginally lower (approximately 0.003 cents per gallon less) than under the proposed 15 ppm cap.

Overall, we project that the average cost of meeting the 15 ppm average at the refinery would be about 3.0 cents per gallon, about 1.0 cents per gallon less than the corresponding cost for fuel meeting a 15 ppm sulfur cap. Adding the cost of lubricity additives and increase in distribution costs, the final cost for the 15 ppm average/25 ppm cap fuel would be 3.4 cents/gallon, as compared to 4.4 cents per gallon under the proposed 15 ppm cap standard.

d. Emission Reductions Under a 15 ppm Average Standard

As discussed above, we believe that the same basic exhaust emission control technology could be used to reduce exhaust emissions from HDDEs even if we required a 15 ppm average rather than a 15 ppm cap. However, as pointed out above, there would likely be penalties in durability, fuel consumption, and emissions.

At this higher fuel sulfur level, we believe that the particulate trap will still result in large reductions of HC, CO, and carbon soot. We also believe that the 0.2 g/bhp-hr NO_X standard may be achieved using a NO_X adsorber. Nonetheless, the total PM reductions would be lower under a 15 ppm average standard. Sulfur in the fuel impacts the amount of direct sulfate PM in the exhaust gas. We estimate that a 15 ppm average standard would result in almost double the total PM emissions as compared to a 15 ppm cap standard because the 15 ppm cap is assumed to result in a 7 ppm in-use average. Table VI.B–1 presents projected nationwide HDDE PM emissions for the baseline and control case for a 15 ppm average/25 ppm sulfur cap standard along with the corresponding reductions. For comparison, the same information is shown for the proposed 15 ppm cap. Refer to the draft RIA for details of this analysis.

TABLE VI.B–1.—HDDE PM EMISSIONS WITH A 15 PPM AVERAGE/25 PPM SULFUR CAP

[Thousand short tons]

Calendar year	Baseline	15 ppm average	15 ppm cap (for comparison)
		Controlled	Controlled
2007	100	89	88
2010	94	60	59
2015	93	33	30
2020	98	19	15
2030	119	13	8

A higher average sulfur level also results in lower SO_X emission reductions. We assume that the sulfur in the fuel that is not converted to sulfate PM is converted to SO_2. Because we base SO_X emissions on the amount of sulfur flowing through the engine, the increase in fuel consumption also negatively impacts SO_X emissions. Table VI.B–2 presents projected nationwide HDDE SO_X reductions for a 15 ppm average/25 ppm sulfur cap standard and for the proposed 15 ppm cap.

TABLE VI.B–2.—HDDE SO_X EMISSION REDUCTIONS WITH A 15 PPM AVERAGE/25 PPM SULFUR CAP

[Thousand short tons]

Calendar year	15 ppm average	15 ppm cap
2007	86	88
2010	91	93
2015	99	102
2020	107	109
2030	120	123

e. Cost Effectiveness of a 15 ppm Average Standard

The methodology used to determine the cost-effectiveness of a 15 ppm average sulfur standard follows that described in Section V for our proposed 15 ppm cap standard. The alternative standard of 15 ppm on average does have impacts on specific values in the calculations, including lower desulfurization and distribution, lower in-use PM benefits, and lower SO_2 benefits all of which were pointed out above. Engine costs are assumed not to change under either a 15 ppm cap or 15 ppm average standard. We have calculated cost-effectiveness using both the per-vehicle and aggregate approaches, consistent with our cost-effectiveness presentation in Section V for our proposed program. The results are shown in Tables VI.B–3 and VI.B–4 which can be directly compared to Tables V.F–1 and V.F–2, respectively, showing values for the proposed 15 ppm cap standard. Details of the calculations are presented in the draft RIA which can be found in the docket for this rulemaking.

TABLE VI.B–3.—PER-VEHICLE COST-EFFECTIVENESS OF A 15 PPM AVERAGE/25 PPM CAP SULFUR STANDARD

Pollutants	Discounted lifetime vehicle & fuel costs	Discounted lifetime emission reductions (tons)	Discounted lifetime cost effectiveness per ton	Discounted lifetime cost effectiveness per ton with SO_2 credit [a]
Near-term costs:[b]				
NO_X + NMHC	$1,565	0.88	$1,800	$1,800
PM	774	0.064	12,100	5,200
Long-term costs:				
NO_X + NMHC	$1,151	0.88	$1,300	$1,300
PM	554	0.064	8,700	1,800

[a] $440 credited to SO_2 (at $4800/ton) for PM cost effectiveness.

[b] As described above, per-engine cost effectiveness does not include any costs or benefits from the existing, pre-control, fleet of vehicles that would use the low sulfur diesel fuel proposed in this document.

TABLE VI.B–4.— 30-YEAR NET PRESENT VALUE COST-EFFECTIVENESS OF A 15 PPM AVERAGE/25 PPM CAP SULFUR STANDARD

	30-year NPV costs (billion)	30-year NPV reduction (million tons)	30-year NPV cost effectiveness per ton	30-year NPV cost effectiveness per ton with SO_2 credit [a]
NO_X + NMHC	$26.4	18.9	$1,400	$1,400
PM	$8.0	0.75	$10,700	$1,100

[a] $7.2 billion credited to SO_2 (at $4800/ton).

2. What About a 5 ppm Sulfur Level?

Some diesel engine and automobile manufacturers have expressed support for a sulfur cap of 5 ppm (sometimes termed ''near-zero'') for some or all of the highway diesel fuel pool.[157] They view the technology solutions envisioned in this rulemaking to be infeasible at higher fuel sulfur levels. Although the feasibility analysis results of this proposal lead us to disagree with this conclusion, we have evaluated the impact that a 5 ppm sulfur cap would have on technology enablement, vehicle and fuel costs, and emissions reductions. The results of this analysis are provided below. Analysis details are provided in the Draft RIA. We encourage comment on our assessment, preferably accompanied by data and analysis supporting the commenter's views.

Capping diesel fuel sulfur at 5 ppm would clearly strengthen the viability of new emissions control technologies enabled at 15 ppm, although we are aware of no additional technologies that this lower sulfur level would enable. PM traps would emit somewhat less sulfate PM, but non-sulfate PM emissions and certification test measurement tolerances would effectively limit the extent to which the standard could be lowered from the proposed 0.01 g/bhp-hr level at this time. Given the level of precision implicit in the 0.01 numerical standard, we would not expect a 5 ppm sulfur cap to result in a lower PM standard. Nevertheless, there would be an in-use benefit compared to a 15 ppm cap, because the average fuel sulfur would be lower (perhaps 2–3 ppm compared to about 7 ppm) and so new vehicles

[157] See for example letter from Patrick Charbonneau of Navistar to Robert Perciasepe of EPA dated July 21, 1999, EPA, docket A–99–06.

would emit less sulfate PM, providing a projected 86,000 ton per year PM benefit in these vehicles in 2020, compared to 83,000 tons per year achieved under a 15 ppm cap. We have assumed that the small margins involved and the extremely high trapping efficiencies of filters that are already readily available would give manufacturers no incentive to take advantage of the lower sulfate emissions to design for higher non-sulfate emissions under the standard.

Lower sulfate PM emissions in the *existing fleet* would provide a 105 tons per year additional PM benefit (in 2007 when this benefit peaks) from adoption of a 5 ppm sulfur cap compared to a 15 ppm cap. However this is quite small compared to the corresponding 7100 ton per year existing fleet PM benefit of reducing fuel sulfur from typical current average levels of around 340 ppm to levels near 15 ppm, which in turn is a small fraction of the total direct PM emissions benefit of the 15 ppm cap, most of which comes from enabling PM traps on new engines (see Figure II.D–2). SO_X and SO_X-derived secondary PM would also be reduced in about the same small proportion.

The robustness of the PM trap regeneration process would also be directionally aided by the near zero sulfur fuel, because less of the catalyst sites that promote regeneration would be blocked by sulfur poisoning. (This phenomenon is described in section III.F.1.a). In fact, designers could further increase regeneration robustness by increasing precious metal loading without fear of inordinate sulfate production because of the lower fuel sulfur level (though at added cost). However, we have not quantified this directional benefit or cost difference because we deem the 15 ppm level adequate for robust regeneration already.

Five ppm sulfur fuel would also benefit NO_X adsorber technology. Adsorber desulfation would be needed about four times less often than that required under a 15 ppm sulfur cap, providing a projected 1 percent improvement in fuel economy. There may also be a small gain in NO_X adsorber durability due to the less frequent thermal cycling built into the desulfation process. However, available evidence suggests that at any fuel sulfur level under 15 ppm, these cycles are not likely to be so numerous or severe over the vehicle life as to seriously constrain durability. NO_X emissions would not be much affected because the basic NO_X storage and removal processes would occur in much the same way, and desulfation events would be programmed to occur frequently enough to maintain NO_X reduction efficiencies high enough to meet the standard with a minimum of fuel consumption.

We have not performed an extensive analysis of the refining cost of meeting a 5 ppm sulfur cap. However, Mathpro, under contract to EMA, did estimate the refining cost of producing diesel fuel with an average sulfur level of 2 ppm, a reasonable average under a 5 ppm cap. Mathpro examined two sets of cases where average on-highway diesel fuel sulfur levels were reduced from 20 ppm to 2 ppm, one with nonroad diesel fuel sulfur at 350 ppm (Cases 1 and MP1) and the other with nonroad diesel fuel sulfur at 20 ppm (Cases 4 and 8). From these cases, Mathpro's estimated cost of reducing highway diesel fuel sulfur from 20 ppm to 2 ppm ranges from 1.7 to 2.1 cents per gallon. Assuming a linear relationship between sulfur and cost per gallon in this range, the cost of reducing average sulfur levels from 7 ppm (that projected under the proposed 15 ppm cap) to 2 ppm would be 0.7–0.8 cents per gallon. Although it is possible that the cost per ppm of sulfur reduced would actually increase as sulfur was reduced, the extent of this increase is difficult to estimate. Thus, the best cost that we can project at this time is 0.7–0.8 cents per gallon, incremental to the cost of the 15 ppm sulfur cap program.

Although we have not attempted to analyze in detail the cost impacts of distributing a fuel with a cap on sulfur content as low as 5 ppm, the American Petroleum Institute recently had a contractor do so.[158] That study estimated that, compared to current costs, distribution costs would increase by 0.9 to 2.1 cents per gallon if a 5 ppm standard were adopted for the entire highway diesel pool.[159] The following reasons were cited for why, as the sulfur specification is decreased, it becomes more difficult to maintain product purity and supply:

—There is increased difficulty and cost associated with correcting off-specification batches in the distribution system.

—Measurement accuracy becomes more limiting.

—The pipeline compliance margin becomes more limiting at refineries.

—Supply outages due to off-specification product will become more common.

—The difference between the sulfur content of highway diesel fuel and that of abutting higher sulfur products in the pipeline system becomes larger.

Even with the estimated increase in distribution costs, the report still concluded that it was probably impractical to attain continuous supply availability of diesel fuel in all areas and outlets within the current distribution system at a 5 ppm cap on fuel sulfur content. If such problems are to be avoided, additional, more costly measures may be necessary. Should a segregated distribution system be needed to control contamination, including dedicated pipelines and tank trucks, the costs would be considerably higher than the 0.9 to 2.1 cents per gallon estimated in the report.

We too are concerned that the measures which form the basis for the 0.9 to 2.1 cents per gallon cost estimate in the API-sponsored study may not ensure widespread compliance. Under a 5 ppm standard, sulfur measurement variability would need to be reduced appreciably from current tolerances, perhaps to a level of 1 ppm or less, and the test equipment purchases and quality control steps needed to attain this could prove costly. Yet the bulk of the impact would come from the major shift likely to be needed in the practices used to avoid contamination in the distribution system. Assuming an extremely demanding maximum sulfur specification of 3 ppm at the refinery gate and a test variability of 1 ppm, only 1 ppm contamination through the distribution system could be tolerated, and this would need to be maintained nationwide and year round in a distribution system that routinely handles products with sulfur levels of up to several thousand ppm. Refiners would also need to take additional measures to meet the 3 ppm refinery gate standard that would likely be set by pipeline operators. Similar to the distribution system, the measures that refiners would need to take to further reduce sulfur content and limit process variability are unclear, and might prove quite costly.

The overall cost of a program with a 5 ppm sulfur cap is comprised of the program's cost in producing and distributing the fuel, offset by the cost of the projected 1 percent fuel economy gain. As the sulfur level reaches this very low level, the types of process changes in the refinery and fuel distribution systems necessary to eliminate contamination and maintain sufficient process flexibility in the system become much more uncertain. Consequently, serious concerns have

[158] "Costs/Impacts of Distributing Potential Ultra Low Sulfur Diesel, Turner, Mason, & Company Consulting Engineers," February 2000. EPA Docket A–99–06, item II–G–49.

[159] "Costs/Impacts of Distributing Potential Ultra Low Sulfur Diesel, Turner, Mason, & Company Consulting Engineers," February 2000. EPA Docket A–99–06, item II–G–49.

been raised concerning the ability to achieve a 5 ppm sulfur cap without drastic and costly changes to how diesel fuel is produced and distributed today. Nevertheless, assuming the average of the per gallon production and distribution cost ranges discussed above, this corresponds to a net $47.1 billion 30-year NPV cost, compared to $37.7 billion for the 15 ppm sulfur cap proposal. Considering the NO_X emissions benefits (unchanged from the 15 ppm sulfur cap case) and the PM emissions benefits (slightly improved), the resulting aggregate cost effectiveness is projected to be $1900 per ton of NO_X+NMHC and $4500 per ton of PM (including the SO_2 credit). These compare to $1500 per ton of NO_X+NMHC and $1900 per ton of PM for the 15 ppm sulfur cap proposal.

3. What About a 50 ppm Sulfur Level?

The American Petroleum Institute has proposed that we set a sulfur cap for highway diesel fuel of 50 ppm with a required refinery output average of 30 ppm, along with other proposal elements.[160] API's proposal is based on their assessment of technological need and viability. Key to API's position is the view that, ''while EPA may set standards to encourage advanced technology, EPA must not base a sulfur level on a particular technology the Agency predicts might prove viable.'' However, we believe that we must set standards in the context of real technologies that can be expected to be feasible, rather than as a means of generally encouraging advanced technology. With this in mind, we have analyzed the impact that a 50 ppm sulfur cap would have on technology enablement, vehicle and fuel costs, and emissions reductions. The results of this analysis are provided below. Analysis details are provided in the Draft RIA. We encourage comment on this assessment, preferably accompanied by data and analysis supporting the commenter's views.

As discussed in detail in section III.F, we believe that diesel fuel needs to be desulfurized to the 15 ppm level to enable emission control technologies capable of meeting the proposed standards. Setting a fuel sulfur cap of 50 ppm would require that the PM standard be set at a less stringent level to accommodate the approximate tripling of sulfate PM production in the trap compared to a 15 ppm cap. However, we believe increased fuel sulfur would have an even larger effect on robust trap regeneration than on sulfate production, bringing into question the very viability of PM traps at the higher sulfur levels. As discussed in section III.F.1, field experience in Sweden, where below 10 ppm diesel fuel sulfur is readily available, has been good. Experience has also been good in regions without extended periods of cold ambient conditions (such as the United Kingdom) using 50 ppm cap low sulfur fuel. However, field tests in Finland, where colder winter conditions are sometimes encountered (similar to many parts of the United States), have revealed a failure rate of 10 percent, due to insufficient trap regeneration. We believe that failures of the severity experienced with 50 ppm fuel in Finland would be unacceptable. These problems could become even more pronounced in light-duty applications, which tend to involve cooler exhaust streams, making regeneration more difficult. Field data with such applications is still sparse.

One means of attempting to resolve these problems is through use of an active regeneration mechanism, such as electric heaters or fuel burners. These could potentially introduce additional hardware and fuel consumption costs. They would also raise reliability concerns, based on past experience with such approaches. Active regeneration failures in PM traps would be of more concern than in NO_X exhaust emission control devices because they involve the potential for complete exhaust stream plugging, runaway regeneration at very high temperatures, trap melting, engine stalling, and stranding of motorists in severe weather. As a result, we do not consider dependence on active PM trap regeneration to be a sufficient basis for establishing PM trap feasibility.

NO_X adsorber technology would likely be infeasible with 50 ppm sulfur fuel as well, due to the rapid poisoning of NO_X storage sites. Desulfation would be needed much more frequently and with a much higher resulting fuel consumption. Even if the fuel economy penalty could somehow be justified, we expect that overly frequent desulfation could cause unacceptable adsorber durability or driveability problems (because of the difficulty in timing the desulfation to avoid driving modes in which it might be noticed by the driver). A less stringent NO_X standard could help to mitigate these concerns by allowing the NO_X storage bed to sulfate up to a greater degree before desulfating. However, this might then cause deeper sulfate penetration into the storage bed and thus possible long-term degradation because of the difficulty of removing this deeper sulfate.

Instead, we expect that diesel fuel with an average fuel sulfur level of 30 ppm and a cap of 50 ppm could enable lean NO_X catalyst technology (described in section III.E). These devices can provide modest NO_X reductions and, because of their reliance on precious metal catalyst, also serve the function of a diesel oxidation catalyst, removing some of the gaseous hydrocarbons and the soluble organic fraction of PM. Unfortunately, lean NO_X catalysts also share the oxidation catalyst's tendency to convert fuel sulfur into sulfate PM, and do so even more aggressively because they require higher precious metal loadings to reduce NO_X. They also require a fairly large addition of diesel fuel to accomplish NO_X reduction, typically about 4 percent or more of total fuel consumption. The injected fuel also makes it difficult to achieve an overall hydrocarbon reduction, despite the potential to convert much of the engine-out hydrocarbons over the catalyst. Typically, current lean NO_X catalyst designs actually show a net hydrocarbon increase.

We have assumed that lean NO_X catalysts could be developed over time to deliver 20 percent reductions in NO_X (well beyond their current proven performance over the Federal Test Procedure) with a net PM reduction of 20 percent and no net increase in gaseous hydrocarbons with a 4 percent fuel economy penalty. Although this PM reduction level is below that achieved by current diesel oxidation catalysts, it represents an ambitious target to designers attempting to balance NO_X reduction with sulfate production from the still substantial sulfur in the fuel. We have estimated that lean NO_X catalysts (including their diesel oxidation catalyst function) would add an average long term cost of $603 to a heavy-duty vehicle, inclusive of maintenance savings realized through the use of low sulfur fuel. This is lower than the cost increase for technologies enabled by 15 ppm sulfur fuel.

Based on the 20% expected emission reductions, we believe the appropriate emissions standards at a 30 ppm average / 50 ppm cap diesel sulfur level would be 1.8 g/bhp-hr NO_X and 0.08 g/hp-hr PM. Because the enabled technologies do not allow very large emission reductions and stringent emission standards, it is conceivable that continued progress in engine design may eventually allow these standards to be met through improvements in EGR and combustion optimization, although we cannot outline such a technology path at this time. It is likely that such a path would still involve a substantial fuel economy penalty.

[160] Letter from Red Cavaney of API to EPA Administrator Carol Browner, dated February 7, 2000, EPA docket A–99–06.

The 50 ppm sulfur cap would therefore result in projected NO_X and PM emission reductions in 2020 of 540,000 and 17,000 tons per year, respectively, compared to 2.0 million and 83,000 tons per year for a 15 ppm cap. It should be noted that virtually none of the PM reduction comes from a reduction in the soot component of PM.

The cost of meeting a 50 ppm sulfur cap at the refinery would be substantially less costly than meeting the proposed cap of 15 ppm. In some cases, refiners may be able to meet a 50 ppm cap with only relatively minor capital investment of a few million dollars for a new hydrogen sulfide scrubbing unit and a PSA unit to increase hydrogen purity. New, high activity catalyst would also replace today's catalyst. In other cases, refiners would also have to add a second reactor. Finally, some refiners would require essentially the same two-stage hydrotreating unit that would be required to meet the proposed 15 ppm standard. In all cases, hydrogen consumption would be somewhat less than that required to meet the proposed 15 ppm standard.

Refiners who would be capable of meeting a 50 ppm cap with only minor capital investment would likely be those not blending any LCO into their diesel fuel, or those having substantial excess hydrotreating capacity in their current unit. We estimate that about 15 percent of on-highway diesel fuel production would fall into this category. Refiners blending some LCO into their diesel fuel (e.g., 15 percent or less), or with somewhat greater levels of LCO but also having significant excess current hydrotreating capacity, would likely be capable of meeting a 50 ppm cap with an additional reactor. We estimate that about 35 percent of on-highway diesel fuel production would fall into this category. Finally, about 50 percent of on-highway diesel fuel production would likely require a two-stage hydrotreating unit due to their higher LCO fraction or lack of excess current hydrotreating capacity. Overall, we project that the average cost of meeting the 50 ppm standard at the refinery would be about 2.3 cents per gallon, about 1.7 cents per gallon less than the corresponding cost for fuel meeting a 15 ppm sulfur cap.

It would be slightly less expensive to distribute the 50 ppm sulfur fuel than the15 ppm sulfur fuel. The pipeline interface between highway diesel fuel and higher sulfur products that must be sold with the higher sulfur product to ensure quality of the highway diesel fuel could be reduced. We estimate the cost savings per gallon of diesel fuel to be about 0.01 cents.

The overall cost of a program with a 50 ppm sulfur cap with a 30 ppm average is comprised of the hardware cost of lean NO_X catalyst technology, the cost increase in producing and distributing the fuel, and the cost of the projected 4% fuel economy loss. This corresponds to a net $35.4 billion 30-year NPV cost, compared to $37.7 billion for the 15 ppm sulfur cap proposal. Considering the PM and NO_X emissions benefits, the resulting aggregate cost effectiveness is projected to be $3600 per ton of NO_X+NMHC and $56,700 per ton of PM (including the SO_2 credit). These compare to $1500 per ton of NO_X+NMHC and $1900 per ton of PM for the 15 ppm sulfur cap proposal. The large difference in PM cost effectiveness is primarily due to the fuel economy penalty and the fact that none of the fuel cost could be allocated to hydrocarbon control, because of the lack of a hydrocarbon benefit.

Table VI.B–5 summarizes key emissions and cost impacts of a program adopting the sulfur levels analyzed. Note that, although the analysis finds that a 15 ppm average/25 ppm cap standard has potential to be adequate for enabling high-efficiency exhaust emissions controls, this finding involves a significantly higher level of uncertainty than the proposed 15 ppm sulfur cap, because it is based on the assumption that exhaust emission control designs could be focused on the average fuel sulfur levels. We believe that the possibility of some in-use fuel at near-cap levels would necessitate designing to accommodate this level, and they contend that this would not allow the high-efficiency technology to be enabled. If so, the technology enablement for this case would likely be similar to that for the 50 ppm cap case. The analysis results show that the 50 ppm cap case does not enable high-efficiency exhaust control technology at all.

TABLE VI.B–5.—SUMMARY OF EMISSIONS AND COST IMPACTS AT DIFFERENT FUEL SULFUR LEVELS

Sulfur level	2020 emission reductions (thousand tons/year)		Cost impacts			
	NO_X	PM	Vehicle [c]	Fuel consumption (percent)	Fuel (¢/gal)	Aggregate 30-yr NPV ($ billion)
5 ppm cap	2,020	86	$1,133	–1	[d] 6.0–7.3	[d] 47.1
15 ppm cap	2,020	83	1,133	0	4.4	37.7
25 ppm cap w/15 ppm average [a]	2,020	79	1,133	1	3.4	34.5
50 ppm cap w/30 ppm average [b]	538	17	603	4	2.7	35.4

[a] Note that this sulfur level involves significant increased uncertainty with respect to technology enablement. Manufacturers have commented that the possibility of some in-use fuel at or near the 25 ppm cap level would necessitate designing to accommodate this level, thus precluding high-efficiency technology enablement, and making technology for this case similar to that for the 50 ppm cap case.

[b] This sulfur level is not expected to enable high-efficiency exhaust control technology.

[c] Costs of added hardware combined with lifetime maintenance cost impacts; figures shown for comparison purposes are long-term costs for heavy heavy-duty vehicles.

[d] Fuel cost based on industry analyses of refinery and distribution costs; costs could range much higher depending on fuel segregation measures required.

We welcome comments on all aspects of these analyses for alternative fuel sulfur standards, including the technology enablement assessments, vehicle and fuel costs, emissions reductions, and cost effectiveness.

4. What Other Fuel Properties Were Considered for Highway Diesel Fuel?

In addition to changes in highway diesel fuel sulfur content, we also considered changes to other fuel properties such as cetane number, aromatics, density, or distillation. Each of these fuel properties has the potential to affect the combustion chemistry within the engine, and so aid in reducing emissions of regulated pollutants. Indeed, some manufacturers have made public statements to the effect that an idealized highway diesel fuel is necessary in order to optimize

the efficiency of the next generation of heavy-duty diesel vehicles.

The focus of the fuel changes we are proposing today is to enable diesel engines to meet much more stringent emission standards. As described earlier in this section, we believe that diesel engines can meet much more stringent emission standards using advanced exhaust emission control systems, but the performance of these systems is dramatically reduced by sulfur. Thus, we have determined that sulfur in diesel fuel would need to be lowered. It does not appear that other fuel properties have the same sort of effect on advanced exhaust emission controls, and as a result we do not believe that changes in fuel properties other than sulfur are necessary in order for heavy-duty engines to reach the low emission levels offered by the advanced exhaust emission controls discussed above. In fact, after conducting a research study on this topic, industry members concluded that, ''If in the future, fuel sulfur levels are significantly reduced in order to enable efficient exhaust emission controls, then it should be recognized that the exhaust emission control device becomes the primary driver on tailpipe emissions and that all other fuel properties will have only minor or secondary effects on the tailpipe emissions.'' [161]

Emission reductions can also be achieved through changes in diesel fuel properties as a direct means for reducing engine-out emissions. In this approach, it is not the exhaust emission control which is being ''enabled,'' but rather the combustion process itself which is being optimized. This approach has the advantage that the effects are fleet-wide and immediate upon introduction of the new fuel, whereas new engine standards do not produce significant emission reductions until the fleet turns over. However, regulated changes in diesel fuel properties may produce emission reductions that disappear over time, if compliance test fuel is changed concurrently with the changes to in-use fuel (to assure that such fuel remains representative of in-use fuels). Manufacturers will redesign their new engines to take advantage of any benefit a cleaner fuel provides, resulting in engines still meeting the same emission standards in-use. Consequently, it would only be those engines sold before the compliance test fuel changes that would be likely to produce emission benefits, and as these engines drop out of the fleet, so also would the benefit of changes to diesel fuel.

[161] Lee, et al., SAE 982649.

Even so, it is useful to consider what emission reductions are achievable through changes to non-sulfur diesel fuel properties. The non-sulfur fuel properties most often touted as good candidates for producing emission reductions from heavy-duty engines are cetane number and aromatics content. According to correlations between these fuel properties and emissions that have been presented in various published documents, the effects are rather small. We have estimated that an increase in cetane number from 44 to 50 would reduce both NO_X and PM emissions by about 1 percent for the in-use fleet in calender year 2004.[162] Likewise a reduction in total aromatics content from 34 volume percent to 20 volume percent would reduce both NO_X and PM emissions by about 3 percent. We expect changes in other fuel properties to produce emission reductions that are no greater than these effects. These reductions are insignificant in comparison to the emission benefits projected to result from today's proposal, and would come at a considerable refining cost. As a result, at this time we do not believe that it is appropriate to require changes to non-sulfur diesel fuel properties as a means for producing reductions in engine-out emissions. There may, however, be performance or engine design optimization benefits associated with non-sulfur changes to diesel fuel that could justify their cost. Therefore we welcome cross-industry collaboration on voluntary diesel fuel improvements beyond the sulfur reduction proposed in this notice, and we continue to solicit information on the impact of non-sulfur fuel changes on exhaust emission control, engine-out emissions, and engine design and performance.

C. Should Any States or Territories Be Excluded From This Rule?

1. What Are the Anticipated Impacts of Using High-Sulfur Fuel in New and Emerging Diesel Engine Technologies if Areas Are Excluded From This Rule?

Section III discusses the technological feasibility of the emission standards being proposed today and the critical need to have sulfur levels reduced to 15 ppm for the technology to achieve these emission standards. The implications to be drawn from section III with regard to exemptions from the sulfur standards for States and Territories is fairly straightforward. If vehicles and engines employing these technologies to achieve the proposed emission standards will be operated in these states or territories, then low-sulfur diesel fuel must be available for their use.

[162] ''Exhaust emissions as a function of fuel properties for diesel-powered heavy-duty engines,'' memorandum from David Korotney to EPA Air Docket A–99–06, September 13, 1999.

Some have suggested allowing persons in Alaska to remove emission control equipment to enhance the viability of using high-sulfur fuel. In addressing this issue, we note that, under the Clean Air Act, it is prohibited in all 50 states to remove emission control equipment from an engine, unless that equipment is damaged or not properly functioning, and then is replaced with equivalent properly functioning equipment.

2. Alaska

a. Why is Alaska Unique?

There are important nationwide environmental and public health benefits that can be achieved with cleaner diesel engines and fuel, particularly from reduced particulate emissions, nitrogen oxides, and air toxics (as further discussed in section II). Therefore, it is also important to implement this program in Alaska. Any 2007 and later model year diesel vehicles in Alaska would have to be fueled with low sulfur highway diesel, or risk potential damage to the aftertreatment technologies or even the engines themselves. Although the engine standards proposed today do not have different technology and cost implications for Alaska as compared to the rest of the country, the low sulfur fuel program would have different implications (described below). Therefore, in evaluating the best approach for implementing the low sulfur fuel program, it is important to consider the extremely unique factors in Alaska.

Section 211(i)(4) provides that the states of Alaska and Hawaii may seek an exemption from the 500 ppm sulfur standard in the same manner as provided in section 325 of the Clean Air Act. Section 325 provides that upon request of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, EPA may exempt any person or source, or class of persons or sources, in that territory from any requirement of the CAA, with some specific exceptions. The requested exemption could be granted if EPA determines that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of the territory, or other local factors as EPA considers significant.

Unlike the rest of the nation, Alaska is currently exempt from the 500 ppm

sulfur standard for highway diesel fuel (as discussed in section c below). Since the beginning of the 500 ppm highway diesel fuel program, we have granted Alaska exemptions from meeting the sulfur standard and dye requirements, because of its unique geographical, meteorological, air quality, and economic factors. These unique factors are described in more detail in the Draft Regulatory Impact Analysis contained in the docket.

Second, in Alaska, unlike in the rest of the country, diesel fuel consumption for highway use represents only five percent of the State's total distillate fuel consumption, because of the relatively small numbers of vehicles in the State. Most of this fuel is produced by refineries located in Alaska, primarily because of the more severe cloud point specification needed for the extremely low temperatures experienced in much of Alaska during the winter. There are four commercial refineries in Alaska. Only one of these refineries currently has any desulfurization capacity, which is relatively small. Consequently, because these refineries would have to reduce sulfur from uncontrolled levels to meet the proposed 15 ppm standard, these refineries could incur substantially higher costs than those in the rest of the nation. Given the very small highway diesel demand, however, it is doubtful that more than one or two Alaska refineries would choose to produce low sulfur highway fuel, and these refiners could even decide to import it from refineries outside of Alaska.

Third, Alaska's highway diesel vehicle fleet is relatively small, particularly outside the Federal Aid Highway System. The State estimates that there are less than 9000 diesel vehicles in the entire State, with less than 600 of these vehicles in all of rural Alaska. The State also indicates that these vehicles are predominantly older than the average elsewhere.[163]

Finally, Alaska's fuel distribution system faces many unique challenges. Unlike the rest of the country, because of its current exemption from the 500 ppm sulfur standard, Alaska does not currently segregate highway diesel fuel from that used for off-road, marine, heating oil, and other distillate uses. Therefore, the distribution system costs for segregating a low sulfur grade of diesel for highway uses will be significant. The existing fuel storage facilities limit the number of fuel types that can be stored. In addition to significant obstacles to expanding tankage in Alaska, the cost of constructing separate storage facilities, and providing separate tanks for transporting low-sulfur diesel fuel (e.g., by barge or truck), could be significant. Most of Alaska's communities rely on barge deliveries, and ice formation on the navigable waters during the winter months restricts fuel delivery to these areas. Construction costs are 30 percent higher in Alaska than in the lower-48 states, due to higher costs for freight deliveries, materials, electrical, mechanical, and labor. There is also a shorter period of time during which construction can occur, because of seasonal extremes in temperature and the amount of daily sunlight.

b. What Flexibilities Are We Proposing for Alaska?

Because of the unique circumstances in Alaska, we are proposing an alternative option for implementing the low sulfur fuel program in Alaska. We are proposing to provide the State an opportunity to develop an alternative low sulfur transition plan for Alaska. We would intend to facilitate the development of this plan by working in close cooperation with the State and key stakeholders. This plan would need to ensure that sufficient supplies of low sulfur diesel fuel are available in Alaska to meet the demand of any new 2007 and later model year diesel vehicles. Given that Alaska's demand for highway diesel fuel is very low and only a small number of new diesel vehicles are introduced each year, it may be possible to develop an alternative implementation plan for Alaska in the early years of the program that provides low sulfur diesel only in sufficient quantities to meet the demand from the small number of new diesel vehicles. This would give Alaska refiners more flexibility during the transition period because they would not have to desulfurize the entire highway diesel volume. Our goal in offering this additional flexibility would be to transition Alaska into the low sulfur fuel program in a manner that minimizes costs, while still ensuring that the new vehicles receive the low sulfur fuel they need. We expect that the transition plan would begin to be implemented at the same time as the national program, but the State would have an opportunity to determine what volumes of low sulfur fuel would need to supplied, and in what timeframes, in different areas of the State.

At a minimum, such a transition plan would need to: (1) Ensure an adequate supply (either through production or imports), (2) ensure sufficient retail availability of low sulfur fuel for new vehicles in Alaska, (3) address the growth of supply and availability over time as more new vehicles enter the fleet, (4) include measures to prevent misfueling, and (5) ensure enforceability. We would anticipate that, to develop a workable transition plan, the State would likely work in close cooperation with refiners and other key stakeholders, including retailers, distributors, truckers, engine manufacturers, environmental groups, and other interested groups. For example, the State would likely rely on input from the trucking industry in determining the expected low sulfur fuel volume needed in Alaska, based on the anticipated number of new vehicles, and how this volume is expected to grow during the first few years of the program. Similarly, the State would likely rely on the Alaska refiners' input regarding plans for supplying (either through production or imports) low sulfur fuel to meet the expected demand. Further, the State would likely rely on input and cooperation from retailers and distributors to determine at which locations the low sulfur fuel should be made available. Retailers offering low sulfur fuel would have to take measures to prevent misfueling, such as pump labeling. All parties in the distribution system would need to ensure the low sulfur fuel remains segregated and take measures to prevent sulfur contamination, in the same manner as described for the national program in section VIII.

If the State anticipates that the primary demand for low sulfur fuel will be along the highway system (*e.g.*, to address truck traffic from the lower 48 states) in the early years of the program, then the initial stages of the transition plan could be focused in these areas. We believe it would be appropriate for the State to consider an extended transition schedule for implementing the low sulfur program in rural Alaska, as part of the state's overall plan, based on when they anticipate the introduction of a significant number of 2007 and later model year vehicles in the remote areas.

Under such an approach, the State would be given the opportunity to develop such a transition plan, as an alternative to the national program, and submit it to EPA. Our goal would be to help facilitate the development of the plan, by working closely with the State and the stakeholder group so they would have an opportunity to address EPA's concerns in their submittal. We envision that the State would develop and submit this plan to EPA within about one year of the final diesel rule. Our goal would be to conduct a rulemaking and publish a final rule

[163] See further discussion in the Draft RIA (Chapter VIII).

promulgating a new regulatory scheme for Alaska, if appropriate. The goal would be to issue a final rule within one year of Alaska's submittal of the plan, so that refiners and other affected parties would have certainty as to their regulatory requirements. We request comment on the timing for the State to submit such an alternative plan, and for EPA to conduct the rulemaking action. If the State chose not to submit an alternative plan, or if the plan did not provide a reasonable alternative for Alaska as described above, then Alaska would be subject to the national program.

We seek comment on all aspects of this approach, and on other approaches that may have merit, to provide additional flexibility in transitioning the low sulfur fuel program for Alaska.

c. How Do We Propose to Address Alaska's Petition Regarding the 500 ppm Standard?

Background

On February 12, 1993, Alaska submitted a petition under section 325 of the Act to exempt highway vehicle diesel fuel in Alaska from paragraphs (1) and (2) of section 211(i) of the Act, except for the minimum cetane index requirement.[164] The petition requested that we temporarily exempt highway vehicle diesel fuel in communities served by the Federal Aid Highway System from meeting the sulfur content specified in section 211(i) of the Act and the dye requirement for non-highway diesel fuel of 40 CFR 80.29, until October 1, 1996. The petition also requested a permanent exemption from those requirements for areas of Alaska not reachable by the Federal Aid Highway System—the remote areas. On March 22, 1994, (59 FR 13610), we granted the petition based on geographical, meteorological, air quality, and economic factors unique to Alaska.

On December 12, 1995, Alaska submitted a petition for a permanent exemption for all areas of the State served by the Federal Aid Highway System, that is, those areas covered only by the temporary exemption. On August 19, 1996, we extended the temporary exemption until October 1, 1998 (61 FR 42812), to give us time to consider comments to that petition that were subsequently submitted by stakeholders. On April 28, 1998 (63 FR 23241) we proposed to grant the petition for permanent exemption. Substantial public comments and substantive new information were submitted in response to the proposal. To give us time to consider those comments and new information, we extended the temporary exemption for another nine months until July 1, 1999 (September 16, 1998, 63 FR 49459). During this time period, we started work on a nationwide rule to consider more stringent diesel fuel requirements, particularly for the sulfur content (i.e., today's proposed rule). To coordinate the decision on Alaska's request for a permanent exemption with this nationwide rule on diesel fuel quality, we extended the temporary exemption until January 1, 2004 (June 25, 1999 64 FR 34126).

Today's Proposed Action

As mentioned above, Alaska has submitted a petition for a permanent exemption from the 500 ppm standard for areas not served by the Federal Aid Highway System. Our goal is to take action on this petition in a way that minimizes costs through Alaska's transition to the low sulfur program. The cost of compliance could be reduced if Alaska refiners were given the flexibility to meet the low sulfur standard in one step, rather than two steps (i.e., once for the current 500 ppm sulfur standard in 2004 when the temporary exemption expires, and again for the proposed 15 ppm standard in 2006). Therefore, we propose to extend the temporary exemption for the areas of Alaska served by the Federal Aid Highway System from January 1, 2004 (the current expiration date) to the proposed effective date for the proposed 15 ppm sulfur standard (i.e., April 1, 2006 at the refinery level; May 1, 2006 at the terminal level; and June 1, 2006 at all downstream locations).

As discussed in section b above, we are proposing to allow Alaska to develop a transition plan for implementing the 15 ppm sulfur program. During this transition period, it is possible that both 15 ppm (for proposed 2007 and later model year vehicles) and higher sulfur (for older vehicles) highway fuels might be available in Alaska. To avoid the two-step sulfur program described above, we seek comment on whether we should consider additional extensions to the temporary exemption of the 500 ppm standard beyond 2006 (e.g., for that portion of the highway pool that is available for the older technology vehicles during Alaska's transition period). We would expect that any additional temporary extensions, if appropriate, would be made in the context of the separate rulemaking taking action on Alaska's transition plan (as described in the previous section).

As in previous actions to grant Alaska sulfur exemptions, we would not base any vehicle or engine recall on emissions exceedences caused by the use of high-sulfur (>500 ppm) fuel in Alaska during the period of the temporary sulfur exemption. In addition, manufacturers may have a reasonable basis for denying emission related warranties where damage or failures are caused by the use of high-sulfur (>500 ppm) fuel in Alaska.

Finally, the costs of complying could be reduced significantly if Alaska were not required to dye the non-highway fuel. Dye contamination of other fuels, particularly jet fuel, is a serious potential problem. This is a serious issue in Alaska since the same transport and storage tanks used for jet fuel are generally also used for other diesel products, including off-highway diesel products which are required to be dyed under the current national program. This issue is discussed further in the Draft RIA (Chapter VIII). Therefore, we also propose to grant Alaska's request for a permanent exemption from the dye requirement of 40 CFR 80.29 and 40 CFR 80.446 for the entire State.

We are interested in comments on all aspects of this proposal.

3. American Samoa, Guam, and the Commonwealth of Northern Mariana Islands

a. Why Are We Considering Excluding American Samoa, Guam, and the Commonwealth of Northern Mariana Islands?

Prior to the effective date of the current highway diesel sulfur standard of 500 ppm, the territories of American Samoa, Guam and the Commonwealth of Northern Mariana Islands (CNMI) petitioned EPA for an exemption under section 325 of the Act from the sulfur requirement under section 211(i) of the Act and associated regulations at 40 CFR 80.29. The petitions were based on geographical, meteorological, air quality, and economic factors unique to those territories. We subsequently granted the petitions.[165] With today's proposal we need to evaluate whether to include or exclude the territories in areas for which the fuel sulfur standard would apply.

b. What are the Relevant Factors?

The key relevant factors unique to these territories, briefly discussed below, are discussed in detail in the

[164] Copies of information regarding Alaska's petition for exemption and subsequent requests by Alaska and actions by EPA are available in public docket A–96–26.

[165] See 57 FR 32010, July 20, 1992 for American Samoa; 57 FR 32010, July 30, 1992 for Guam; and 59 FR 26129, May 19, 1994 for CNMI.

Draft RIA. These U.S. Territories are islands with limited transportation networks. Consequently among these three territories there are currently only approximately 1300 registered diesel vehicles. Diesel fuel consumption in these vehicles represents just a tiny fraction of the total diesel fuel volume consumed in these places; the bulk of diesel fuel is burned in marine, nonroad, and stationary applications. Consequently highway diesel vehicles are believed to have a negligible impact on the air quality in these territories, which, with minor exceptions, is very good.

All three of these territories lack internal petroleum supplies and refining capabilities and rely on long distance imports. Given their remote location from the U.S. mainland, petroleum products are imported from east rim nations, particularly Singapore. Although Australia, the Philippines, and certain other Asian countries have or will soon require low-sulfur diesel fuel, this requirement is a 500 ppm sulfur limit, not the proposed 15 ppm sulfur limit. Compliance with low-sulfur requirements for highway fuel would require construction of separate storage and handling facilities for a unique grade of diesel fuel for highway purposes, or importation of low-sulfur diesel fuel for all purposes, either of which would significantly add to the already high cost of diesel fuel in territories which rely heavily on United States support for their economies.

c. What Are the Options and Proposed Provisions for the Territories?

We could include or exclude the territories in the areas for which the proposed diesel fuel sulfur standard would apply. As in the early 1990's when the 500 ppm sulfur standard was implemented, we believe that compliance with the proposed 15 ppm sulfur standard would result in relatively small environmental benefit, but major economic burden. We are also concerned about the impact to vehicle owners and operators of running the new and upcoming engine and emission control technologies using high-sulfur fuel. We believe that for the sulfur exemption to be viable for vehicle owners and operators, they would need access to either low-sulfur fuel or vehicles meeting the pre-2007 HDV emission standards that could be run on high-sulfur fuel without significant engine damage or performance degradation.

We are proposing to exclude American Samoa, Guam and CNMI from the proposed diesel fuel sulfur requirement of 15 ppm because of the high economic cost of compliance and minimal air quality benefits. We are also proposing to exclude, but not prohibit, the territories from the 2007 heavy-duty diesel vehicle and engine emissions standards, and other requirements associated with those emission standards based on the increased costs associated with implementing the vehicle and fuel standards together in these territories. Thus, the territories would continue to have access to 2006 diesel vehicle and engine technologies. This exclusion from standards would not apply to gasoline engines and vehicles because gasoline that complies with our regulations will be available, and so concerns about damage to engines and emissions control systems will not exist. As proposed this exclusion from standards does not apply to light-duty diesel vehicles and trucks because gasoline vehicles meeting the emission standards and capable of fulfilling the same function would be available.

We are proposing to continue requiring all diesel motor vehicles and engines to be certified and labeled to the applicable requirements (either to the 2006 model year standards and associated requirements, or to the standards and associated requirements applicable for the model year of production) and warranted, as otherwise required under the Clean Air Act and EPA regulations. Special recall and warranty considerations due to the use of exempted high-sulfur fuel are proposed to be the same as those proposed for Alaska during its proposed transition period. To protect against this exclusion being used to circumvent the emission requirements applicable to the rest of the United States (i.e., continental United States, Alaska, Hawaii, Puerto Rico and the U.S. Virgin Islands) after 2006 by routing pre-2007 technology vehicles and engines through one of these territories, we propose to restrict the importation of vehicles and engines from these territories into the rest of the United States. After the 2006 model year, diesel vehicles and engines certified under this exclusion to meet the 2006 model year emission standards for sale in American Samoa, Guam and CNMI would not be permitted entry into the rest of the United States.

We request comment on these exclusions and particularly on whether it should be extended to light-duty diesel vehicle and truck standards as well.

D. What About the Use of JP–8 Fuel in Diesel-Equipped Military Vehicles?

In 1995, EPA issued a letter to the Deputy Under Secretary of Defense for Environmental Security which concluded that the military specification fuel known as JP–8 did not meet the definition of diesel fuel under EPA's regulations and was, therefore, not subject to the 0.05 percent by weight sulfur standard. EPA also determined that despite the slightly higher sulfur levels, the use of JP–8 in motor vehicles by the military would not be a violation of EPA regulations as a matter of policy. This decision was made after careful consideration of the impact on operational readiness, logistical considerations and cost for the military. EPA also evaluated data presented by the military which compared the emissions of vehicles operated on typical highway diesel and JP–8. These data supported the conclusion that there would not be a significant adverse environmental consequence from the limited use of JP–8 fuel. EPA's evaluation of the emissions impact was, of course, based on the results of tests conducted using vehicles representative of diesel emission control technology and diesel fuel in use at that time.

The technical basis for EPA's decision on this matter may be affected by the prospect of military vehicles equipped with the highly sulfur sensitive technology that is expected to be used on vehicles and engines designed to meet the standards for 2007 and beyond. We request comment from interested parties on how to best deal with this situation, including comment on the extent to which national security exemptions pursued under 40 CFR 85.1708 may affect resolution of the issue.

VII. Requirements for Engine and Vehicle Manufacturers

A. Compliance With Standards and Enforcement

We are not proposing any changes to the enforcement scheme currently applicable to vehicles and engines under Title II of the CAA. Thus, they would continue to apply to the vehicles and engines subject to today's proposed standards. This includes the enforcement provisions relating to the manufacture, importation and in-use compliance of these vehicles and engines (see sections 202–208 of the CAA). Manufacturers are required to obtain a certificate of conformity for their engine designs prior to introducing them into commerce, and are subject to Selective Enforcement Audits during production. Although there are

currently no regulatory requirements for manufacturers to test in-use engines, they are responsible for the emission performance of their engines in use. If we determine that a substantial number of properly maintained and used engines in any engine family is not complying with the standards in use, then we may require the manufacturer to recall the engines and remedy the noncompliance. Failure by a manufacturer to comply with the certification, warranty, reporting, and other requirements of Title II can result in sanctions including civil penalties and injunctive relief (see sections 202–208 of the CAA). Other enforcement provisions regulating persons in addition to manufacturers would also be applicable to the affected diesel vehicles, including provisions such as the tampering and defeat device prohibitions. It is also important to note that, because the CAA defines manufacturer to include importers, all of these requirements and prohibitions apply equally to importers.

Consideration has been given to in-use issues that may arise from use of the new exhaust emission control technology. While it is believed that the technology is sufficient to ensure that emission control devices and elements of design will be effective throughout the useful life of the vehicle, some concern has been expressed regarding the possibility that instances of driveability or other operational problems could occur in-use. One example brought up, is the possibility that a vehicle could experience severe driveability problems if the PM trap becomes plugged. At this time, however, we are confident that the technologies will be developed to prevent these types of problems from occurring provided the vehicle is operated on the appropriate fuel. Nevertheless, comments are requested on any in-use problems that may arise as a result of inclusion of exhaust emission control technology. Your comments should address the nature of the problem, likelihood of its occurrence and options for ensuring it does not occur.

Another issue related to certification is what (if any) maintenance we should allow for adsorbers and traps. Our existing regulations define these to be critical emission-related components, which means that the amount of maintenance of them that the manufacturer is allowed to conduct during durability testing (or specify in the maintenance instructions that it gives to operators) is limited. We believe that this is appropriate because, as we already noted, we expect that these technologies will be very durable in use and will last the full useful life with little or no scheduled maintenance. However, our existing regulations (40 CFR 86.004–25) would allow a manufacturer to specify something as drastic as replacement of the adsorber catalyst bed or the trap filter after as little as 100,000–150,000 miles if there was a ''reasonable likelihood'' that the maintenance would get done. We are concerned that some manufacturers may underdesign the adsorbers and traps compared to the level of durability that is achievable. If this occurred, even if most users replaced their adsorber or trap according to the manufacturer's schedule, there would certainly be some users that did not. Therefore, we are proposing to require that these technologies be designed to last for the full useful life of the engine. More specifically, the proposed regulations state that scheduled replacement of the PM filter element or catalyst bed is not allowed during the useful life. Only cleaning and adjustment will be allowed as scheduled maintenance.

It may be appropriate to establish non-conformance penalties (NCPs) for the standards being proposed today. NCPs are monetary penalties that manufacturers can pay instead of complying with an emission standard. In order for us to establish NCPs for a specific standard, we would have to find that: (1) Substantial work will be required to meet the standard for which the NCP is offered; and (2) there is likely to be a ''technological laggard'' (*i.e.*, a manufacturer that cannot meet the standard because of technological (not economic) difficulties and, without NCPs, might be forced from the marketplace). According to the CAA (section 206(g)), such NCPs ''shall remove any competitive disadvantage to manufacturers whose engines or vehicles achieve the required degree of emission reduction.'' We also must determine compliance costs so that appropriate penalties can be established. We have established NCPs in past rulemakings. However, since the implementation of our averaging, banking and trading program, their use has been rare. We believe manufacturers have taken advantage of the averaging, banking and trading program as a preferred alternative to incurring monetary losses. At this time, we have insufficient information to evaluate these criteria for heavy-duty engines. While we believe that substantial work will be required to meet the 2007 standards, we currently have no information indicating that a technological laggard is likely to exist. Recognizing that it may be premature for manufacturers to comment on these criteria, since implementation of these standards is still more than six years away, we expect to consider NCPs in a future action. We welcome comment on this approach.

Today's proposal includes PM standards for heavy-duty gasoline engines. Because gasoline engines have inherently low PM emissions, it may be appropriate in some cases to waive the requirement to measure PM emissions. Therefore, we are proposing to maintain the flexibility to allow manufacturers to certify gasoline engines without measuring PM emissions, provided they have previous data, analyses, or other information demonstrating that they comply with the standards. The flexibility is the same as that allowed for PM emissions from light-duty gasoline vehicles and for CO emissions from heavy-duty diesel engines.

B. Certification Fuel

It is well established that measured emissions are affected by the properties of the fuel used during the test. For this reason, we have historically specified allowable ranges for test fuel properties such as cetane and sulfur content. These specifications are intended to represent most typical fuels that are commercially available in use. Because today's action is proposing to lower the upper limit for sulfur content in the field, we are also proposing a new range of allowable sulfur content for testing that would be 7 to 15 ppm (by weight). Beginning in the 2007 model year, these specifications would apply to all emission testing conducted for Certification and Selective Enforcement Audits, as well as any other laboratory engine testing for compliance purposes. Because the same in use fuel is used for light-and heavy-duty highway diesel vehicles, we are also proposing to change the sulfur specification for light-duty diesel vehicle testing to the same 7 to 15 ppm range, beginning in the 2007 model year. We request comment on these test fuel specifications. We also request comment regarding whether the range of allowable test fuel properties should include the full range of in-use properties or include the most typical range around the average properties (*e.g.*, 7 to 10 ppm sulfur).

C. Averaging, Banking, and Trading

We are proposing to continue the basic structure of the existing ABT program for heavy-duty diesel engines. (Note that this includes the Otto-cycle engine and vehicle ABT programs that were proposed on October 29, 1999, 64 FR 58472.) This program allows manufacturers to certify that their

engine families comply with the applicable standards on average. More specifically, manufacturers are allowed to certify their engine families with various family emission limits (FELs), provided the average of the FELs does not exceed the standard when weighted by the numbers of engines produced in each family for that model year. To do this, they generate certification emission credits by producing engine families that are below the applicable standard. These credits can then be used to offset the production of engines in engine families that are certified to have emissions in excess of the applicable standards. Manufacturers are also allowed to bank these credits for later use or trade them to other manufacturers. We are proposing some restrictions to prevent manufacturers from producing very high-emitting engines and unnecessarily delaying the transition to the new exhaust emission control technology. These restrictions are described below. We are continuing this ABT program because we believe that it would provide the manufacturers significant compliance flexibility. This compliance flexibility would be a significant factor in the manufacturers' ability to certify a full line of engines in 2007 and would help to allow implementation of the new, more stringent standard as soon as permissible under the CAA. This is especially true given the very low levels of the proposed standards. In some ways the ABT program is intended to serve the same purpose as the phase-in for diesel engines. As is described below, we have proposed some restrictions to make this program compatible with the phase-in. Thus your comments on this ABT program should address how it fits with the phase-in, and vice versa.

The existing ABT program includes limits on how high the emissions from credit-using engines can be. These limits are referred to as FEL caps. No engine family may be certified above these caps using credits. These limits provide the manufacturers compliance flexibility while protecting against the introduction of unnecessarily high-emitting engines. In today's action, we are proposing to establish lower caps for those engines that are required to comply with the proposed standards. Specifically, we are proposing that the engines subject to the new standards have NO_X emissions no higher than 0.50 g/bhp-hr, and PM emissions no higher than 0.02 g/bhp-hr. Without this cap, we are concerned that one or more manufacturer(s) could use the ABT program to unnecessarily delay the introduction of exhaust emission control technologies. Allowing this would be contrary to one of the goals of the phase-in program, which is to allow manufacturers to gain experience with these technologies on a limited scale before they are applied to their full production. Similarly, we are proposing FEL caps of 1.0 g/mi NO_X and 0.03 g/mi PM for chassis-certified heavy-duty vehicles. We request comment on the need for and the levels of these FEL caps.

We are proposing separate averaging sets during the phase-in period. In one set, engines would be certified to the 2.4 g/bhp-hr NO_X+NMHC standard (which applies for model years 2004–2006), and would be subject to the restrictions and allowances established for those model years. In the other set, engines would be certified to the proposed 0.20 g/bhp-hr NO_X standard, and would be subject to the restrictions and allowances proposed today. Averaging would not be allowed between these two sets within the same model year. The reason for this is similar to that for the low FEL caps. Allowing averaging between the sets would be contrary to one of the goals of the phase-in program, which is to allow manufacturers to introduce engines with ultra-low emission technologies on a limited scale before they are applied to their full production. We are concerned that manufacturers could delay the introduction of NO_X aftertreatment technology, diminishing the projected benefits of the proposed program during the phase-in. We request comment on the need for this restriction. As a part of this restriction of cross-set averaging, we are also proposing that banked NO_X+NMHC and PM credits generated from 2006 and earlier engines may not be used to comply with the stricter standards that apply to 2007 and later engines (unless such credits are generated from engines that meet all of the stricter standards early). We are also requesting comments on alternatives to these restrictions, such as only allowing banked credits generated from engines below some threshold (*e.g.,* 1.5 g/bhp-hr NO_X+NMHC or 0.05 g/bhp-hr PM) to be used for compliance with the 2007 standards. Under the threshold approach, the credits would be calculated in reference to the threshold rather than the applicable standard. Your alternatives should address our two primary concerns: (1) Ensuring that manufacturers produce engines during the phase-in period that are equipped with the advanced NO_X aftertreatment controls; and (2) ensuring that the program produces equivalent or greater emission reductions during the phase-in period.

We propose to apply these same restrictions to the 2007 chassis-based standards. This would affect the averaging program that was proposed previously for model year 2004 (October 29, 1999, 64 FR 58472). We believe that these restrictions are equally necessary for the chassis-based program, but are also open to alternatives. We are particularly interested in the possibility of using the Tier 2 pull-ahead approach that would allow manufacturers to phase in the new standards on a per-vehicle basis rather than on a total gram basis. Under this approach, for each ''2007-technology'' vehicle that a manufacturer introduced before 2007, it could produce one ''2006-technology'' vehicle in 2007 or later. We recognize that this approach would be complicated for heavy-duty vehicles because of the different weight classes, but believe that this problem could be addressed with appropriate weighting factors (*e.g,* setting one 14,000 lb vehicle as equivalent to two 8,500 lb vehicles). While it is less clear that such an approach would work for the engine programs, we would welcome such comments.

The Agency continues to be interested in the potential of early benefits to be gained from retrofitting highway engines. Thus, we are also asking for comment on various concepts by which manufacturers could earn credits potentially to be used in a variety of programs. An example of such credits in the 2007 MY program might include consideration by EPA of the retiring of retrofit credits in deciding whether to make a discretionary determination under section 207(c) of substantial non-conformity. For discussion of related issues, see the final rule for spark-ignition marine engines (61 FR 52088, 52095, October 4, 1996), and the final rule for locomotive engines (63 FR 18978, 18988, April 16, 1998). We ask for comment as to what emission benefits could be achieved by this concept and by what legal authority such credits could be applied. Such systems would bring existing highway engines into compliance with the standards being proposed for new engines, or alternately with some less stringent standards levels that still achieve large emission reductions. We ask comment on how such an emissions reduction calculation should be formulated and how such benefits and resulting credits should be applied. Certification requirements for such retrofit systems could be developed along the lines of those adopted in EPA's urban bus retrofit program (58 FR 21359, April 21, 1993). Credits would be

calculated based on the expected lifetime emissions benefits of the retrofit systems. Because this benefit depends on the remaining life of the retrofitted vehicle, and this could vary considerably, any emission reduction formula would require the certainty to account for this in the calculation, such as by estimating an average remaining life for retrofits in each engine family, or by using a vehicle age-dependent proration factor for each retrofitted system, similar to the approach taken in the locomotive emissions rule (see Appendix K of the Regulatory Support Document for the locomotives final rule. 63 FR 18977, April 16, 1998).

D. Chassis Certification

Heavy-duty vehicles under 14,000 pounds can generally be split into two groupings, complete and incomplete vehicles. Complete vehicles are those that are manufactured with their cargo carrying container attached. These vehicles consist almost entirely of pick-up trucks, vans, and sport utility vehicles. Incomplete vehicles are those chassis that are manufactured by the primary vehicle manufacturer without their cargo carrying container attached. These chassis may or may not have a cab attached. The incomplete chassis are then manufactured into a variety of vehicles such as recreational vehicles, tow trucks, dump trucks, and delivery vehicles.

Recently, we proposed to require all complete Otto-cycle vehicles between 8,500 and 14,000 pounds to be certified to vehicle-based standards rather than engine-based standards beginning in model year 2004 (October 29, 1999, 64 FR 58472). Under this proposal manufacturers would test the vehicles in essentially the same manner light-duty trucks are tested. We continue to believe this approach is reasonable and are thus proposing to continue it with the more stringent standards. We request comment regarding the possible mandatory or voluntary application of this program to complete diesel vehicles under 14,000 pounds.

E. FTP Changes to Accommodate Regeneration of Aftertreatment Devices

It is possible that some of the exhaust emission control devices used to meet the proposed standard will have discrete regeneration events that could effect emission characteristics. For example, NO_X adsorbers and actively regenerated PM traps each incorporate discrete regenerations. The NO_X adsorber stores NO_X under normal conditions until the NO_X storage capacity is nearly full, at which point, the regeneration event is triggered to purge the stored NO_X and reduce it across a catalyst. Actively regenerated PM traps incorporate heating devices to periodically initiate regeneration. In both cases, we would expect that these regeneration events would be controlled by the engine computer, and would thus be generally predictable. Even passively regenerating catalytic PM trap designs can have discrete regeneration events.

Discrete regeneration events can be important because it is possible for exhaust emissions to increase during the regeneration process. The regeneration of a NO_X adsorber for instance, could result in increased particulates, NMHC and NO_X due to the rich exhaust gas required to purge and reduce the NO_X. We expect that in most cases, the regeneration events would be sufficiently frequent to be included in the measured emissions. Our feasibility analysis projects very frequent regeneration of the NO_X adsorbers, and continuously regenerating PM traps. Nevertheless, this issue becomes a regulatory concern because it is also conceivable that these emission storage devices could be designed in such a way that a regeneration event would not necessarily occur over the course of a single heavy-duty FTP cycle, and thus be unmeasured by the current test procedure. Since these regeneration events could produce increased emissions during the regeneration process, it will be important to make sure that regeneration is captured as part of the certification testing. We seek comment on the need to measure regeneration emissions as part of each emission test, and the best method of making such measurements.

In order to verify the emission levels during regeneration, we propose that the transient FTP applicable for certification be repeated until a regeneration occurs. The transient FTP will be repeated until a regeneration event is confirmed. The emissions measured during the cycle in which the regeneration occurs must be below the applicable transient cycle standard. For example, if an actively regenerated heavy-duty PM trap does not regenerate over the cold-soak-hot cycle, the hot portion of the cycle will be repeated until a regeneration is observed. The specific hot cycle with the highest emissions would be used as the representative hot cycle, and its emissions would be weighted with the cold cycle emissions (as is currently required) to determine compliance with the composite emission standard for the cold-soak-hot cycle. We seek comment on the proposed method of capturing regeneration emissions and whether we should allow the manufacturers to use the average hot-start emissions rather than the worst case.

This proposal is based on the assumption that the systems would include a fairly high frequency of regeneration events (*e.g.,* one regeneration event per hour). We seek comment on the need to capture regeneration emissions as part of the certification testing if the regeneration events occur much less frequently. Similarly, we request comment on the need to measure emissions during desulfurization of the NO_X adsorber. Would it be appropriate to allow manufacturers to use a mathematical adjustment of measured emissions to account for increased emissions during infrequent regeneration or desulfurization events? For example, if a system required a desulfurization after every 20 transient cycles, and PM emissions increased by 20 percent during desulfurization, would it be appropriate to adjust measured emissions upward by one percent (20 percent divided by 20 cycles)?

F. On-Board Diagnostics

OBD systems help ensure continued compliance with emission standards during in-use operation, and they help mechanics to properly diagnose and repair malfunctioning vehicles while minimizing the associated time and effort. We implemented OBD requirements on light-duty applications in the 1994 model year (58 FR 9468, February 19, 1993). We recently proposed OBD requirements for 8500 to 14,000 pound heavy-duty gasoline and diesel applications (October 29, 1999, 64 FR 58472). The 8500 to 14,000 pound requirements are scheduled for implementation in the 2004 model year with a phase-in running through the 2006 model year; the 2007 model year would be the first year of 100 percent OBD compliance on 8500 to 14,000 pound applications. We are currently working with industry to develop OBD requirements for the over 14,000 pound heavy-duty gasoline and diesel engines. Those requirements will be proposed in a separate rulemaking and are anticipated to be effective on or before the 2007 model year; consequently, we are not proposing them here.

As discussed in the October 29, 1999, proposed rule, OBD system requirements would allow for potential inclusion of heavy-duty vehicles and engines in inspection/maintenance programs via a simple check of the OBD system. The OBD system must monitor emission control components for any malfunction or deterioration that could cause exceedance of certain emission thresholds. The OBD system also

notifies the driver when repairs are needed via a dashboard light, or malfunction indicator light (MIL), when the diagnostic system detects a problem.

An OBD system is important on heavy-duty vehicles and engines for many reasons. In the past, heavy-duty diesel engines have relied primarily on in-cylinder modifications to meet emission standards. For example, emission standards have been met through changes in injection timing, piston design, combustion chamber design, use of four valves per cylinder rather than two valves, and piston ring pack design and location improvements. In contrast, the proposed 2004 and 2007 standards represent a significant technological challenge that would require use of EGR and exhaust emission control devices whose deterioration or malfunction can easily go unnoticed by the driver. The same argument is true for heavy-duty gasoline vehicles and engines; while emission control is managed both with engine design elements and exhaust emission control devices, the latter are the primary emission control features. Because deterioration and malfunction of these devices can go unnoticed by the driver, and because their sole purpose is emissions control, some form of detection is crucial. An OBD system is well suited to detect such deterioration or malfunction.

Today's proposal does not contain any new OBD requirements. The vehicles and engines designed to comply with today's proposed emission standards would be required to comply with the OBD requirements already in place or proposed for implementation in the 2004 model year (*i.e.,* light-duty and heavy-duty through 14,000 pounds). However, because some of the existing OBD requirements are based on multipliers of the applicable emission standards, we request comment regarding the effect of the low levels of the proposed standards on these OBD requirements. We believe that these requirements will be feasible for these engines. If you believe that the OBD requirements will not be feasible, you should include in your comments suggestions for how they should be revised to make them feasible.

We are also requesting comment regarding whether there are new OBD requirements that should be adopted for these exhaust emission control technologies. Comments supporting new requirements should indicate whether they would be intended only to prevent emission problems, or would also be intended to prevent performance problems, such as exhaust emission control plugging.

G. Supplemental Test Procedures

To ensure better control of in-use emissions, we recently proposed (October 29, 1999, 64 FR 58472) [166] to add two supplemental sets of requirements for heavy-duty diesel engines: (1) A supplemental steady-state test and accompanying limits; and (2) NTE Limits. Both types of these proposed supplemental emission requirements are expressed as multiples of the normal duty cycle-weighted emission standards, or FEL if the engine is certified under the ABT program, whichever is applicable. For example, the diesel engine NTE limit for NO_X + NMHC emissions from 2004 engines would be 1.25 times the 2.4 g/bhp-hr emission standard, or 1.25 times the applicable FEL. Although we are not proposing any changes to these requirements, we are requesting comment on the feasibility of technologies needed to meet the standards being proposed in this notice, in the context of applying these multipliers to these new standards.

Like current requirements, these new requirements would apply to certification, production line testing, and vehicles in actual use. All existing provisions regarding standards (*e.g.,* warranty, certification, recall) would be applicable to these new requirements as well. The steady-state test was proposed because it represents a significant portion of in-use operation of heavy-duty diesel engines that is not adequately represented by the FTP. The combination of these supplemental requirements is intended to provide assurance that engine emissions achieve the expected level of in-use emissions control over expected operating regimes in-use. We stated in the previous NPRM that we believed that compliance with these requirements would not require manufacturers to add additional emission control technologies, but would require manufacturers to put forth some effort to better optimize their engines with respect to emissions over a broader range of operating conditions. You should read the previous NPRM for more detail. You should also read the comments that we received in response to this proposal. In those comments, some engine manufacturers raised concerns regarding the feasibility of implementing these requirements in the 2004 model year, in the context of the technologies expected to be seen in the 2004 time frame (principally cooled EGR, advanced fuel injection systems, advanced turbo-charging systems).[167] Many of these comments question the feasibility of meeting the proposed NTE emission limits under the high-load regions of the proposed NTE zone, particularly under conditions of high temperature and/or altitude. These comments are highlighted here because the resolution of these issues for the 2004 diesel engine standards, may also be relevant to today's rulemaking.

We plan to apply these requirements with the proposed 2007 standards in the same manner as they would be applied with the 2004 standards, if adopted. There is some concern that certain exhaust emission control devices, though capable of providing large emission reductions and performing robustly over a wide range of expected operating conditions, may have degraded performance in some conditions included in the NTE or supplemental steady-state testing requirements. We are thus asking for comments and supporting data related to this concern. Your comments should address the following questions:

—What is the relative ability of the emission control technologies being considered in today's action to control emissions over the full range of speeds and loads typically encountered in actual use? Are there areas of the map in which the emission controls are significantly less effective?

—What is the relative need for emission reduction for different areas of the speed-load map?

—How do the emission control technologies being considered in today's action perform at different ambient conditions?

—Are the multipliers proposed previously the most appropriate multipliers for ensuring in-use emissions control on exhaust emission control-equipped engines?

—Are there other cost effective approaches to controlling in-use emissions for engines equipped with exhaust emission controls?

—Are the technological issues raised in the 2004 rulemaking equally applicable to diesel engines featuring

[166] Today's notice proposes to apply the heavy-duty diesel NTE and supplemental steady-state test provisions intended to be finalized as part of the 2004 standards rulemaking. The October 29, 1999 proposal for that rule contained the description of these provisions. We expect that a number of modifications will be made to those provisions in the FRM for that rule based on feedback received during the comment period. While the details of the final provisions are not yet available, we will provide the necessary information in the docket for this rule as soon as it becomes available in order to allow for comment.

[167] See, for example, comments from Engine Manufacturers Association, Detroit Diesel Corporation, Navistar International Transportation Corp., Mack Trucks Inc., in EPA Air Docket No. A–98–32.

advanced exhaust emission controls and designed to meet the proposed 2007 standards?

H. Misfueling Concerns

As explained in Section III, the emissions standards contained in this proposal will likely make it necessary for manufacturers to employ exhaust emission control devices that require low-sulfur fuel to ensure proper operation. This proposal therefore restricts the sulfur content of highway diesel fuel sold in the U.S. There are, however, some situations in which vehicles requiring low-sulfur fuel may be accidentally or purposely misfueled with higher-sulfur fuel. Vehicles operated within the continental U.S. may cross into Canada and Mexico, countries which have not confirmed that they plan to adopt the same low sulfur requirements we are proposing here. In addition, high-sulfur nonroad fuel may illegally be used by some operators to fuel highway vehicles. Any of these misfueling events could seriously degrade the emission performance of sulfur-sensitive exhaust emission control devices, or perhaps destroy their functionality altogether.

There are, however, some factors that help to mitigate concerns about misfueling. Most operators are very conscious of the need to ensure proper fueling and maintenance of their vehicles. The fear of large repair and downtime costs may often outweigh the temptation to save money through misfueling.

The likelihood of misfueling in Canada and Mexico is lessened by current cross-border shipment practices and prospects for eventual harmonization of standards. Canada has historically placed a priority on harmonization with U.S. vehicle emission standards. They have also placed a priority on harmonization with U.S. fuels standards, as they import a significant amount of fuel from the U.S. and do not want to become a ''dumping ground'' for fuel that does not comply with U.S. fuel standards. We think it likely therefore that Canada will harmonize with the U.S. revised engine standards and the fuel sulfur levels required to support those standards. This will offer vehicle owners the option of refueling with low-sulfur fuel there. Even if Canada were to lag the U.S. in mandating low-sulfur fuels, these fuels would likely become available along major through routes to serve the needs of U.S. commercial traffic that have the need to purchase it. In addition, there is less potential for U.S. commercial vehicles needing low-sulfur fuel to refuel in Canada because Canadian fuel is currently more costly than U.S. fuel. As a result, most vehicles owners will prefer to purchase fuel in the U.S., prior to entering Canada, whenever possible. This is facilitated by large tractor-trailer trucks that can have long driving ranges—up to 2,000 miles or so—and the fact that most of the Canadian population lives within 100 miles of the United States/Canada border.

In Mexico, the entrance of trucks beyond the border commercial zone has been prohibited since before the conclusion of the North American Free Trade Agreement in 1994. This prohibition applies in the U.S. as well, as entrance of trucks into the U.S. beyond the border commerce zone is also not allowed. Since these prohibitions are contrary to the intent of the Free Trade Agreement, a timetable was established to eliminate them.[168] However, these prohibitions are a point of contention between the U.S. and Mexico and remain in force at this time.

The NAFTA negotiations included creation of a ''corridor'' where commercial truck travel occurs, and where Mexico is obligated to provide ''low-sulfur'' fuel. At the time of the NAFTA negotiations, ''low-sulfur'' fuel was considered 500 ppm, which was the level needed to address the needs of engines meeting the 1994 emission standards. The travel prohibition currently in place may be lifted at some point. At that time, the issue of assuring, for U.S. vehicles, fuel with a sulfur level needed by the technology that results from this regulation may need to be addressed.

Even considering these mitigating factors, we believe it is reasonable to propose two additional measures with very minor costs to manufacturers and consumers. First, we are proposing a requirement that heavy-duty vehicle manufacturers notify each purchaser of a model year 2007 or later diesel-fueled vehicle that the vehicle must be fueled only with the low-sulfur diesel fuel meeting our regulations. We believe this requirement is necessary to alert vehicle owners to the need to seek out low-sulfur fuel when operating in areas such as Canada and Mexico where it may not be widely available. We are also proposing that model year 2007 and later heavy-duty diesel vehicles must be equipped by the manufacturer with labels on the dashboard and near the refueling inlet that say: ''Ultra-Low Sulfur Diesel Fuel Only.'' We request comment on the need for these measures, alternative suggestions for wording, whether or not these requirements should exist for only a limited number of years, and whether any vehicles certified to the new standards without the need for low-sulfur fuel should be exempted. We also request comment on whether additional measures are needed to preclude misfueling, such as requiring that the new technology vehicles be equipped with refueling inlet restrictors that can only accept refueling nozzles from pumps that dispense low-sulfur fuel. We would also need to require that these pumps (or the high-sulfur fuel pumps) be correspondingly equipped with specialized nozzles or other devices to complement the vehicle refueling inlet restrictor.

I. Light-Duty Provisions

We are proposing that the heavy-duty vehicle labeling and purchaser notification requirements discussed in section VII.H be applied to the light-duty diesel vehicles certified to the final Tier 2 standards as well, because these vehicles are expected to require the low-sulfur fuel and so would be equally susceptible to misfueling damage.

J. Correction of NO_X Emissions for Humidity Effects

Engine-out emissions of NO_X are known to be affected significantly by the amount of moisture in the intake air. The water absorbs heat which lowers combustion temperatures, and thus lowers NO_X emissions. Our existing regulations include equations that give correction factors to eliminate this effect. For example, if the equation indicated that NO_X emissions measured on a relatively high humidity day would be about three percent lower than would be expected with standard humidity, they would be multiplied by 1.03 to correct them to standard conditions. However, these equations were developed many years ago, based on data from older technology engines. We are concerned that these equations may not be valid for engines equipped with catalytic emission controls. It is possible that with catalytic systems, the effect may be very different. Perhaps with these newer technologies, the effect will not be significant and correction factors will not be needed. Therefore, we are requesting comment regarding the accuracy of the existing equations for engines equipped with NO_X adsorbers, and the need for such correction factors for the 2007 standards. To the extent possible, your comments should address the broader issue of the need for correction factors for NO_X and other

[168] See NAFTA, Volume II, Annex I, Reservations for Existing Measures and Liberalization Commitments, Pages I–M–69 and 70, and Pages I–U–19 and 20.

pollutants based on changing ambient conditions. This issue was also discussed in the October 29, 1999 proposal (64 FR 58472). You should read that discussion and the comments that we received in response to that proposal.

VIII. Requirements for Refiners, Importers, and Fuel Distributors

A. Compliance and Enforcement

1. Overview

The proposed rule would create a national, industry-wide sulfur cap standard for highway diesel fuel of 15 ppm. This standard could be enforced through sampling and testing at all points in the distribution system, combined with inspection of fuel delivery records and other commercial documents. The compliance requirements of this proposed rule would thus be very similar to the current diesel sulfur rule, except that the sulfur standard would be substantially more stringent.[169] Since the 15 ppm cap would be the maximum acceptable sulfur level at the retail level, pipelines might set more stringent refiner specifications to account for test variability and contamination. See section VIII.A.2 for a discussion of the refinery level standard and enforcement testing.

Under the proposed rule, all parties in the distribution system would continue to be subject to the current diesel fuel requirements and prohibitions concerning aromatics and cetane (40 CFR 80.29(a)). Furthermore, until the proposed implementation dates, all of the requirements and prohibitions of the presently effective diesel fuel control rule will remain in effect with the limited modification concerning sulfur test methods as discussed in section VIII.A.4.

Diesel fuel not covered by today's proposed rule includes that used for off-highway mobile source purposes such as aircraft, off-road machinery and equipment, locomotives, boats and marine vessels, and for stationary source purposes such as utilities (electrical power generation), portable generators, air compressors, steam boilers, etc. Also excluded is highway diesel fuel exported for sale outside the United States and its territories, and that specified for research and development subject to certain restrictions. Today's proposal would allow the use of used motor oil in pre-2007 model year and specially certified 2007 and later model year highway engines subject to certain restrictions (see section VIII.A.3.b).

[169] 40 CFR 80.29–80.30.

It should be noted that, while this preamble uses the common vernacular ''highway diesel fuel,'' the terminology used in the proposed regulations refers to ''motor vehicle diesel fuel'' in order to be consistent with the definitions and authorities under the Clean Air Act (see sections 202(a), 211(c), and 216(2)). The definition of ''motor vehicle diesel fuel'' clarifies that nonroad engines and nonroad vehicles are not motor vehicles or motor vehicle engines. This is intended to clarify the definition. Diesel fuel that is available for use by both motor vehicles and engines and nonroad vehicles and engines would be treated as motor vehicle diesel fuel and still subject to the low sulfur diesel standard. For example, a diesel fuel pump used by nonroad equipment and motor vehicles must carry diesel fuel meeting the low sulfur diesel fuel requirements for motor vehicles.

2. What Are the Requirements for Refiners and Importers?

a. General Requirements

The sulfur sensitivity of emission controls on model year 2007 and later vehicles requires that the sulfur content of diesel fuel at the retail pump must not exceed 15 ppm (see section III). Thus, the proposed rule would require refiners and importers, and all other parties in the distribution system, to comply with the industry-wide sulfur cap standard of 15 ppm for all highway diesel fuel, unless specifically exempted (see sections VIII.A.6 and 7).

Under the proposed approach, there would be no published enforcement test tolerance. If an enforcement test tolerance were allowed, a more stringent refinery level sulfur standard would be required to ensure the proposed 15 ppm retail level cap is attained. We expect that the diesel fuel refining and distribution industry would establish appropriate upstream commercial specifications to ensure the 15 ppm standard is met downstream. These parties are in the best position to determine what the refinery level commercial specifications need to be, and they are in control of the means to achieve those specifications. Further, they may take advantage of improvements over time in testing precision and contamination prevention measures to adjust their operations to minimize costs. However, we recognize that because of concerns about test variability and contamination in the fuel distribution system, pipelines may set sulfur specifications that would be more stringent than the regulatory standard.[170]

As discussed below, we are not proposing that refiners or importers engage in mandatory sampling and testing of every batch of diesel fuel they produce or import under the proposed industry-wide sulfur cap program. However, if some approach is finalized other than what has been proposed, then every-batch testing by refiners and importers, and associated recordkeeping and reporting requirements, may be necessary.

b. Dyes and Markers

Under the federal tax code requirements and the current EPA diesel fuel rule, diesel fuel intended for highway use can generally be distinguished by its color from fuel intended for off-highway use.[171] The current EPA diesel fuel regulations, at 40 CFR 80.29(b), provides that any diesel fuel that does not show visible evidence of dye solvent red 164 (which has a characteristic red color in fuel) is considered to be available for use as diesel highway fuel and is subject to the requirements and prohibitions associated with diesel highway fuel. However, under the tax code, highway diesel fuel sold for certain tax exempt uses may also be dyed red. Therefore, some red-dyed diesel fuel is legal highway fuel under the EPA diesel fuel rule.

Diesel fuel for off-highway use would continue to be dyed red under today's proposal, except in Alaska (see section VI.C). We do not believe that any additional dye requirement is needed to enhance compliance or enforcement effectiveness of the proposed rule.

3. What Requirements Apply Downstream?

a. General Requirements

Due to the adverse effects of diesel fuel containing more than 15 ppm sulfur on model year 2007 and later vehicles, as discussed in section III, diesel fuel at all levels of the distribution system would be required to meet the 15 ppm standard. The proposed rule would stagger the implementation dates for compliance with the standard, based on a facility's position in the distribution system as a refiner, distributor, or retailer. As with other fuels programs, EPA enforcement personnel would sample and test for compliance with

[170] See section IV.D. regarding the anticipated sulfur level at the refinery gate necessary to accommodate variability in production, variability in the proposed sulfur measurement procedure (discussed in detail in section VII.A.), and contamination in the distribution system.

[171] See section 4082 of the Internal Revenue Code.

this downstream standard at all points in the distribution system. Under the proposed presumptive liability scheme, if a violation is found at any point in the distribution system, all parties in the distribution system for the fuel in violation are responsible unless they can establish a defense. See section VIII.A.8 regarding liability, penalty and defense provisions.

Under the proposed diesel sulfur program, it is imperative that distribution systems segregate highway diesel fuel from high sulfur distillate products such as home heating oil and nonroad diesel fuel. The sulfur content of those products is frequently as high as 3,000 ppm. Our concern extends to potential misfueling at retail outlets and wholesale purchaser-consumer facilities, even if segregation of the different grades of diesel fuel has been maintained in the distribution system.

Misfueling model year 2007 and later diesel vehicles with higher sulfur fuel could severely damage their emission controls and cause driveability problems. In order to discourage accidental misfueling of highway vehicles with higher sulfur distillates such as nonroad diesel fuel we are proposing that these fuel pumps be labeled. The proposed rule would require that retailers and wholesale purchaser-consumers selling or dispensing nonroad diesel fuel or other high sulfur distillates in addition to highway diesel fuel must label any dispensers of this higher sulfur fuel. The label would have to indicate that the fuel is high sulfur and state that the fuel is illegal for use in motor vehicles.

All parties in the distribution system would be subject to prohibitions against selling, transporting, storing, or introducing or causing or allowing the introduction of diesel fuel having a sulfur content exceeding 15 ppm into highway diesel vehicles. Certain product transfer document (PTD) information requirements would apply to all parties in the distribution system. See section VIII.A.5.

b. Use of Used Motor Oil in Diesel-Fueled New Technology Vehicles

We are aware of the practice of disposing of used motor oil by blending it with diesel fuel for use as fuel in diesel vehicles. Such practices range from dumping used motor oil directly into the vehicle fuel tank, to dumping it into the fuel storage tanks, to blending small amounts of motor oil from the vehicle crank case into the fuel system as the vehicle is being operated. To the extent such practices could cause vehicles to exceed their emissions standards, the person blending the oil, or causing or permitting such blending, could be considered to be rendering emission controls inoperative in violation of section 203 of the CAA and potentially liable for a civil penalty.[172]

With today's proposal our concerns with this practice are increased considerably. Today's formulations of motor oil contain very high levels of sulfur. Depending on how the oil is blended, it could increase the sulfur content of the fuel burned in the vehicle by as much as 200 ppm. As discussed elsewhere in this notice, we believe this practice would render inoperative not only the emission control technology on the vehicle, but potentially render the vehicle undriveable as well. Therefore, in today's notice we are proposing to prohibit any person from introducing or causing or allowing the introduction of used motor oil, or diesel fuel containing used motor oil, into the fuel delivery systems of vehicles manufactured in model year 2007 and later. The only exception to this would be where the engine is explicitly certified to the emission standard with oil added, the oil is added in a manner consistent with the certification, and the sulfur level of the oil is representative of commercially available oils. Today's proposal would not change existing requirements regarding the use of used motor oil in pre-2007 model year engines. However, the proposal would prevent the addition of used oil to diesel fuel prior to its introduction into the vehicle fuel tank. We request comment on this proposal, and in particular on whether an additional constraint can or should be placed on the sulfur content of motor oil to preclude the possibility that vehicle exhaust emission control technology would not be adversely impacted should used motor oil be added to a vehicle's fuel tank.

c. Use of Kerosene and Other Additives in Diesel Fuel

We are aware that kerosene is commonly added to diesel fuel to reduce fuel viscosity in cold weather. Other additives are added to diesel fuel for various purposes, including viscosity, lubricity, and pour point. We are not proposing to limit this practice. However under today's proposal, additives used in highway diesel fuel would be required to meet the same 15 ppm standard proposed for highway diesel fuel. To help ensure this, we are proposing that kerosene or other additives meeting the 15 ppm standard, and distributed for use in motor vehicles would be required to be accompanied by PTDs accurately stating that the additive meets the 15 ppm standard. As an alternative for such additives sold in cans or other containers, the required sulfur content identification could be posted on the container itself. This identification would be necessary to allow downstream parties to be able to determine if additives such as kerosene meet the required 15 ppm sulfur limit. Any party who blends high sulfur additives into highway diesel fuel, uses such additives as highway diesel fuel, or who causes highway diesel fuel to exceed the standard due to the addition of kerosene or other additives, would be subject to liability for violating the rule. We are requesting comment on this proposal and any alternative that would inform transferees of diesel fuel additives of the appropriateness of their use in highway diesel fuel.

We are not proposing that refiners or importers of kerosene or other additives which could be used in highway diesel fuel, would have an affirmative duty to produce additives that meet the proposed 15 ppm sulfur standard. This is because we believe that refiners will produce low sulfur kerosene, for example, in the same refinery processes that produce low sulfur diesel fuel, and that the market will drive supply of low sulfur kerosene for those areas and seasons where the product is needed for blending with highway diesel fuel. We request comment on whether there should be an affirmative requirement for refiners or terminals to supply low sulfur kerosene or whether all number one kerosene should be required to meet the 15 ppm sulfur standard.

We also request comment on whether additives not meeting the 15 ppm sulfur cap should be allowed to be added to diesel fuel downstream in de minimis amounts, and if so, how such a program could be structured to ensure that the additives would not cause the 15 ppm sulfur cap to be exceeded. In addition we request comment on whether any regulatory constraint at all need be placed on the sulfur level of diesel additives, and whether instead the liability mechanisms contained in this proposal are sufficient to protect against downstream parties adding additives to diesel fuel that would cause the fuel delivered to consumers to exceed the cap.

4. What Are the Proposed Testing and Sampling Methods and Requirements?

a. Testing Requirements and Test Methods

We do not believe an every-batch testing requirement for refiners and

[172] Section 203(a)(3) of the Act, 42 U.S.C. 7522(a)(3).

importers is necessary under the proposed rule. This is primarily because refiners will likely voluntarily test every batch of fuel produced to ensure it meets the 15 ppm sulfur standard, and because pipeline operators will require test results before agreeing to ship low sulfur highway diesel fuel. However, we are proposing to designate a test method that would be used as the benchmark for all compliance testing. We are requesting comment on whether every-batch testing should be required in light of the requirement (discussed in section VIII.A.5) for refiners to issue PTDs stating that the product meets the applicable sulfur standard.

We propose to designate ASTM D 2622–98 with the minor modification discussed below as the benchmark test method for quantifying the sulfur content of diesel fuel for compliance determination. We are also proposing that this test method would be the benchmark method to determine compliance under the current sulfur control regulations. This method is an updated version of the designated method under the current highway diesel fuel rule. This test method is currently in wide use by refiners and laboratories both for gasoline and diesel testing. This method does not currently include test repeatability or reproducibility information for diesel fuel having a sulfur content below 60 ppm.[173] Nevertheless, in EPA's review of the test method, we believe that when applied to low sulfur diesel fuel with the proposed modification, the method has acceptable precision at sulfur levels below 15 ppm.

We have had success in improving the precision of the ASTM D 2622–98 procedure in measuring low levels of diesel fuel sulfur through a simple modification of the calibration method. This modification includes two small changes. The first is the substitution of a measurement blank that more closely resembles the boiling point range and density of diesel fuel. The second is a change to the calibration line to ensure that it goes through zero. This modification is detailed in the proposed regulatory text. Using this modification, we have had success in the correlation of test results with industry laboratories on samples with sulfur content in the range of 1 to 20 ppm. We will continue to investigate the proposed modification to the ASTM D 2622–98 procedure. Based on current information, we believe that lab-to-lab reproducibility can be limited to a maximum of +/−4 ppm at sulfur levels in the 1–20 ppm range. We do not anticipate that this modification will add appreciably to the cost of sulfur testing.

We are requesting comments on performance data for diesel fuel analysis using ASTM D 2622 at sulfur levels below 60 ppm, on additional modifications to the procedure which might be needed to limit variability, and on the cost of such modifications. Specifically, comment is requested on whether only end-window type scanning instruments should be used because additional variability is introduced through the use side-window type instruments.[174] If the use of side-window type scanning instruments must be disallowed, comment is requested on the extent such instruments are used and on the cost of changing them to an end-window configuration.

While we are proposing to designate the modified ASTM D 2622–98 procedure as the designated test method, we do not believe that such designation should preclude regulated parties from using alternative methods that afford them sufficient confidence that they are demonstrably in compliance. Therefore, we are proposing that alternative methods may be used for quality assurance purposes provided that the proper correlation is established between the alternative method and the benchmark method.[175] Since EPA enforcement testing would be conducted using the modified ASTM D 2622 procedure, parties would need to have considerable confidence in any alternative methods they may use. We believe that for quality assurance testing, an approach that could provide more flexibility and potentially save costs for industry would be to allow other appropriate ASTM test methods, so long as they are conducted properly and the results correlate to the designated method. Although these test results could be used by the government to demonstrate noncompliance, this should not be a substantial concern since any test result that demonstrates noncompliance should lead to appropriate action on the part of the regulated party, as would a test result from the use of the designated method. We seek comment on this approach.

EPA's proposed designation of the modified ASTM D 2622–98 procedure is based on a review of currently available methods. Should superior methods be developed in the future, EPA will certainly consider an orderly process of redesignation to take advantage of newer technologies.

One commenter to the ANPRM stated that ASTM D 2622 may not be suitable for determining the sulfur content of biodiesel. We request comment on whether ASTM D 2622–98 is appropriate for determining the sulfur content of biodiesel, or mixtures of biodiesel and conventional diesel fuel, and if not, what test methods are appropriate, and any data supporting these conclusions.

We are also proposing a test method for the determination of sulfur in motor oil, since that may be relevant if any engine manufacturers choose to certify engines with the addition of motor oil to the fuel. The test method we are proposing is ASTM D 4927–96, Standard Test Methods for Elemental Analysis of Lubricant and Additive Components—Barium, Calcium, Phosphorus, Sulfur, and Zinc by Wavelength-Dispersive Fluorescence Spectroscopy. This method uses the same apparatus as D 2622–998, but includes specific methodology to compensate for interferences caused by the additives present in motor oil. We request comment on this test method.

b. Sampling Methods

We are proposing the use of sampling methods that were proposed for use in the Tier 2/gasoline sulfur rule.[176] These proposed sampling methods are ASTM D 4057–95 (manual sampling) and D 4177–95 (automatic sampling from pipelines/in-line blending). We are proposing to require the use of these ASTM methods instead of the methods currently provided in 40 CFR part 80, appendix G, for determining compliance under both the newly proposed 15 ppm sulfur standard, and the 500 ppm standard currently in place. That is because the proposed methods have been updated by ASTM, and the

[173] Repeatability is defined by ASTM as the difference between two test results, obtained by the same operator with the same apparatus under constant operating conditions on identical test material, that would, in the long run, in the normal and correct operation of the test method, be exceeded only in one case in twenty. Reproducibility is defined by ASTM as the difference between two single and independent results obtained by different operators working in different laboratories on identical test materials that would, in the long run, in the normal and correct operation of the test method, be exceeded only in one case in twenty.

[174] Side-window vs end-window refers to the location of the sample cup.

[175] EPA is preparing to propose, in another action, a set of criteria by which alternative methods for measuring fuel parameters may be evaluated and controlled in practice. We are not proposing to prescribe these criteria and statistical quality control methods in this rulemaking, but suggest that their use will enhance the credibility of measurements made with alternative methods and offered in situations where testing is necessary to establish a defense.

[176] 64 FR 26004, at 26098 (May 13, 1999). These methods are also proposed for use under the RFG and CG rules. See 62 FR 37337 (July 11, 1997).

updates have provided clarification and have eliminated certain requirements that are not necessary for sampling petroleum products such as diesel fuel.

5. What Are the Proposed Recordkeeping Requirements?

We are proposing that refiners and importers provide information on commercial PTDs that identify diesel fuel for highway use and that it complies with the 15 ppm sulfur standard (unless exempted). We believe this additional information on commercial PTDs is necessary because of the importance of avoiding commingling of high sulfur distillate products with highway diesel fuel. It is proposed that all parties in the distribution chain, from the refiner or importer to the retailer or wholesale purchaser-consumer would be required to retain copies of these PTDs for a period of 5 years. This is the same period of time required in other fuels rules, and it coincides with the applicable statute of limitations. We believe that for other reasons, most parties in the distribution system would maintain such records for this length of time even without the requirement.

We are proposing that the current diesel rule's PTD requirement regarding the identification of dyed, tax-exempt highway diesel fuel would be retained. This provision is useful for wholesale purchaser-consumers who need to know that the tax exempt highway diesel fuel is appropriate for highway use despite the presence of red dye. We are also proposing that product codes may be used to convey the information required to be included in PTD's, for all parties except for transfers to truck carriers, retailers or wholesale purchaser-consumers. This provision is consistent with other fuel programs. However, we are seeking comment on also allowing product codes to be used for transfers to truck carriers, retailers or wholesale purchaser-consumers.

We are proposing that records of any test results performed by any regulated party for quality assurance purposes or otherwise, must be maintained for 5 years, along with supporting documentation such as date of sampling and testing, batch number, tank number, and volume of product. Also, business records regarding actions taken in response to any violations discovered would be required to be maintained.

As noted above, we are also proposing that commercial PTDs for kerosene or other products sold for blending into highway diesel fuel must indicate that the product meets the 15 ppm federal sulfur standard for use in diesel motor vehicles. We believe that such PTDs are already a part of normal business practices and therefore such a requirement would add little if any burden. We invite comment on this proposal.

Given the importance of avoiding highway diesel fuel sulfur contamination under today's proposed rule, we are also concerned that additional measures may be needed to assure off-highway distillates are not commingled with, or used as, highway diesel fuel. Such high sulfur products could easily raise the sulfur level of low sulfur highway diesel fuel, and damage emission controls on new vehicles and cause driveability problems. Therefore, we request comment on whether shipment of distillate products such as nonroad diesel fuel and home heating oil should be required to be accompanied by PTDs stating that the products do not meet highway diesel standards and are illegal for use in highway vehicles.

6. Are There Any Proposed Exemptions Under This Subpart?

We are proposing to exempt from the sulfur requirements diesel fuel used for research, development, and testing purposes. We recognize that there may be legitimate research programs that require the use of diesel fuel with higher sulfur levels than allowed under today's proposed rule. As a result, today's proposal contains provisions for obtaining an exemption from the prohibitions for persons distributing, transporting, storing, selling, or dispensing diesel fuel that exceeds the standards, where such diesel fuel is necessary to conduct a research, development, or testing program.

Under the proposal, parties would be required to submit to EPA an application for exemption that would describe the purpose and scope of the program and the reasons why the use of the higher-sulfur diesel fuel is necessary. Upon presentation of the required information, the exemption would be granted at the discretion of the Administrator, with the condition that EPA could withdraw the exemption ab initio in the event the Agency determines the exemption is not justified. Fuel subject to this exemption would be exempt from the other provisions of this subpart, provided certain requirements are met. These requirements include such conditions as the segregation of the exempt fuel from non-exempt highway diesel fuel, identification of the exempt fuel on product transfer documents, and the replacement, repair, or removal from service of emission systems damaged by the use of the high sulfur fuel.

We believe that the proposal includes the least onerous requirements for industry that also would ensure that higher-sulfur diesel fuel would be used only for legitimate research purposes. We request comment on these proposed provisions.

We are requesting comment on the need to provide an exemption from the sulfur content and other requirements of this proposal for diesel fuel used in racing vehicles. We see no advantage to racing vehicles for having fuel with higher sulfur levels (or lower cetane or higher aromatic levels) than would be required by today's proposal. Conversely, we are concerned about the potential for misfueling that could result from having a racing fuel with higher sulfur in the marketplace that would be intended for use only in racing or competition versions of highway vehicles. Consequently, we are not proposing that diesel fuel used in racing vehicles be exempted from the diesel fuel requirements proposed today. We request comment on this decision and whether an exemption should be allowed for racing diesel fuel.

7. Would California Be Exempt From the Rule?

Although California is currently considering diesel fuel regulations, we do not propose to exempt California from the federal rule at this time.[177] California has received an exemption from certain compliance related provisions under the Federal reformulated gasoline (RFG) program, on the grounds that California has implemented a program in covered areas that meets or exceeds Federal RFG standards and because the California ARB has sufficient resources and authority to enforce the program to ensure equivalent environmental benefits are realized. These exemptions cover such enforcement provisions as recordkeeping, reporting, and test methods. California gasoline is not exempted from the standards for Federal RFG or conventional gasoline. See 40 CFR 80.81. We have also proposed full exemption for California from the proposed gasoline sulfur standards and other provisions of that rule because California has an effective gasoline sulfur program that is different from the

[177] On November 10, 1998, The California ARB held a workshop to comply with the Governor's Executive Order W–144–97. At that workshop the ARB discussed the possibility of amending Title 13 of the California Code of Regulations, Section 2281, ''Sulfur Content of Diesel Fuel.'' Under that section, California currently enforces a 500 ppm sulfur standard for highway diesel fuel. The ARB is considering a diesel fuel standard that may be as stringent as, or more stringent than, the standard we are proposing today.

proposed federal rule. Although it would be premature to grant similar exemptions to the California low-sulfur diesel program at this time, EPA may revisit the issue of enforcement exemptions when such action is timely, and we invite public comment on this approach. Exemptions for other states and territories are discussed in section VI.C.

8. What Are the Proposed Liability and Penalty Provisions for Noncompliance?

Today's proposed rule contains provisions for liability and penalties that are similar to the liability and penalty provisions of the other EPA fuels regulations. Under the proposed rule, regulated parties would be liable for committing certain prohibited acts, such as selling or distributing diesel fuel that does not meet the sulfur standards, or causing others to commit prohibited acts. In addition, parties would be liable for a failure to meet certain affirmative requirements, or causing others to fail to meet affirmative requirements. All parties in the diesel fuel distribution system, including refiners, importers, distributors, carriers, retailers, and wholesale purchaser-consumers, would be liable for a failure to fulfill the recordkeeping requirements and the PTD requirements.

a. Presumptive Liability Scheme of Current EPA Fuels Programs

All EPA fuels programs include a presumptive liability scheme for violations of prohibited acts. Under this approach, liability is imposed on two types of parties: (1) The party in the fuel distribution system that controls the facility where the violation was found or had occurred; and (2) those parties, typically upstream in the fuel distribution system from the initially listed party, (such as the refiner, reseller, and any distributor of the fuel), whose prohibited activities could have caused the program non-conformity to exist.[178] This presumptive liability scheme has worked well in enabling us to enforce our fuels programs, since it creates comprehensive liability for substantially all the potentially responsible parties. The presumptions of liability may be rebutted by establishing an affirmative defense.

To clarify the inclusive nature of these presumptive liability schemes, today's proposed rule would explicitly include causing another person to commit a prohibited act and causing the presence of non-conforming diesel fuel (or kerosene or other additives for motor vehicle use) to be in the distribution system as prohibitions. This is consistent with the provisions and implementation of other fuels programs.

Today's proposed rule, therefore, provides that most parties involved in the chain of distribution would be subject to a presumption of liability for actions prohibited, including causing non-conforming diesel fuel to be in the distribution system and causing violations by other parties. Like the other fuels regulations, a refiner also would be subject to a presumption of vicarious liability for violations by any downstream facility that displays the refiner's brand name, based on the refiner's ability to exercise control at these facilities. Carriers, however, would be liable only for violations arising from product under their control or custody, and not for causing non-conforming diesel fuel to be in the distribution system, except where specific evidence of causation exists.

b. Affirmative Defenses for Liable Parties

The proposal includes affirmative defenses for each party that is deemed liable for a violation, and all presumptions of liability are refutable. The proposed defenses are similar to the defenses available to parties for violations of the RFG regulations. We believe that these defense elements set forth reasonably attainable criteria to rebut a presumption of liability. The defenses include a demonstration that: (1) The party did not cause the violation; (2) the party has PTDs indicating that the fuel was in compliance at its facility; and (3) except for retailers and wholesale purchaser-consumers, the party conducted a quality assurance program. For parties other than tank truck carriers, the quality assurance program would be required to include periodic sampling and testing of the diesel fuel. For tank truck carriers, the quality assurance program would not need to include periodic sampling and testing, but in lieu of sampling and testing, the carrier would be required to demonstrate evidence of an oversight program for monitoring compliance, such as appropriate guidance to drivers on compliance with applicable requirements and the periodic review of records concerning diesel fuel quality and delivery.

As in the other fuels regulations, branded refiners would be subject to more stringent standards for establishing a defense because of the control such refiners have over branded downstream parties. Under today's rule, in addition to the other presumptive liability defense elements, branded refiners would be required to show that the violation was caused by an action by another person in violation of law, an action by another person in violation of a contractual agreement with the refiner, or the action of a distributor not subject to a contract with the refiner but engaged by the refiner for the transportation of the diesel fuel.

Based on experience with other fuels programs, we believe that a presumptive liability approach would increase the likelihood of identifying persons who cause violations of the sulfur standards. We normally do not have the information necessary to establish the cause of a violation found at a facility downstream of the refiner or importer. We believe that those persons who actually handle the fuel are in the best position to identify the cause of the violation, and that a refutable presumption of liability would provide an incentive for parties to be forthcoming with information regarding the cause of the violation. In addition to identifying the party that caused the violation, providing evidence to rebut a presumption of liability would serve to establish a defense for the parties who are not responsible. Presumptive liability is familiar to both industry and to EPA, and we believe that this approach would make the most efficient use of EPA's enforcement resources. For these reasons, we are proposing a liability scheme for the diesel fuel sulfur program based on a presumption of liability. We request comment on the proposed liability provisions.

c. Penalties for Violations

Section 211(d)(1) of the CAA provides for penalties for violations of the fuels regulations.[179] Today's rule proposes penalty provisions that would apply this CAA penalty provision to the diesel fuel sulfur rule. The proposal would subject any person who violates any requirement or prohibition of the diesel fuel sulfur rule to a civil penalty of up

[178] An additional type of liability, vicarious liability, is also imposed on branded refiners under these fuels programs.

[179] Section 211(d)(1) reads, in pertinent part: ''(d)(1) Civil Penalties.—Any person who violates . . the regulations prescribed under subsection (c) . . of this section . . shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or saving resulting from the violation. . . . Any violation with respect to a regulation prescribed under subsection (c). . . of this section which establishes a regulatory standard based upon a multi-day averaging period shall constitute a separate day of violation for each and every day in the averaging period. . . . '' Pursuant to the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 note), the maximum penalty amount prescribed in section 211(d)(1) of the CAA was increased to $27,500. (See 40 CFR part 19.)

to $27,500 for every day of each such violation and the amount of economic benefit or savings resulting from the violation. A violation of a sulfur cap standard would constitute a separate day of violation for each day the diesel fuel giving rise to the violation remains in the diesel fuel distribution system. The length of time the diesel fuel in question remains in the distribution system would be deemed to be twenty-five days unless there is evidence that the diesel fuel remained in the diesel fuel distribution system for fewer than or more than twenty-five days. The penalty provisions proposed in today's rule are similar to the penalty provisions for violations of the RFG regulations and the Tier 2 gasoline sulfur rule. EPA requests comment on these provisions.

9. How Would Compliance with the Diesel Sulfur Standards Be Determined?

We have often used a variety of evidence to establish non-compliance with the requirements imposed under our current fuels regulations. Test results of the content of diesel fuel or gasoline have been used to establish violations, both in situations where the sample has been taken from the facility at which the violation occurred, and where the sample has been obtained from other parties' facilities when such test results have had probative value of the fuel's characteristics at points upstream or downstream. The Agency has also commonly used documentary evidence to establish non-compliance or a party's liability for non-compliance. Typical documentary evidence has included PTDs identifying the fuel as inappropriate for the facility it is being delivered to, or identifying parties having connection with the non-complying fuel.

We propose that compliance with the sulfur standards would be determined based on the sulfur level of the diesel fuel, as measured using the regulatory testing method. We further propose that any evidence from any source or location could be used to establish the diesel fuel sulfur level, provided that such evidence is relevant to whether the sulfur level would have been in compliance if the regulatory sampling and testing methodology had been correctly performed.

Compliance with the standard would be determined using the specified sampling and test methodologies. While other information could be used, including test results using different test methods, such other information may only be used if it is relevant to determining whether the sulfur level would meet the standard had compliance been properly measured using the specified test method. The proposal would establish the regulatory test method as the benchmark against which other evidence is measured. EPA intends to use the regulatory test method for enforcement testing purposes.

Today's proposal is consistent with the approach adopted in the Tier 2 gasoline sulfur rule (65 FR 6698, February 10, 2000). EPA intends to undertake rulemaking in the near future to revise the current fuels regulations to include the same language for the use of other evidence as is proposed today. We seek comment on this approach.

The proposed rule would also clarify that any probative evidence obtained from any source or location may be used to establish non-compliance with requirements other than the sulfur standard, such as recordkeeping requirements, as well as to establish which parties have facility control or some other basis for liability for sulfur rule noncompliance. Since proof of these elements is not predicated on establishing sulfur levels, whether or not regulatory test methods are used is not significant. EPA is seeking comment on this approach for monitoring and determining compliance with the applicable requirements.

To ensure the effectiveness and the ability to adequately enforce the sulfur standards, it is reasonable for EPA to consider evidence other than actual test results using the regulatory test method, where such evidence can be related to the test results. As described above, test results using the regulatory test method are often not available. In such circumstances, it is reasonable to consider other evidence of compliance, such as test results using other methods or commercial documents, if such evidence can be shown to be relevant to determining whether the diesel fuel would meet the standard if tested using the regulatory methods. The proposal would only permit the use of other evidence that is relevant to such a determination, and is therefore reasonably limited to allow for effective enforcement, without creating uncertainty about compliance.

B. Lubricity

We strongly encourage, but do not believe it necessary to require, fuel producers and distributors to voluntarily monitor and provide diesel fuel with lubricity characteristics at least as good as those of current fuel. We believe this voluntary action is reasonable and has a high likelihood of success, because the issues surrounding the impact of sulfur reduction on lubricity are well established. Refiners and distributors have an incentive to supply fuel products that will not damage or create problems with consumer equipment. For a further discussion of diesel fuel lubricity, and why we believe a voluntary approach will be effective, please refer to the earlier discussion in section IV.D.6. We request comment on this approach, on whether or not a regulatory requirement is needed, and on whether there are concerns unique to the military.

C. Would States Be Preempted from Adopting Their Own Sulfur Control Programs for Highway Diesel Fuel?

When we adopt federal fuel standards, states are preempted from adopting state-level controls with respect to the same fuel characteristics or components. Section 211(c)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce controls or prohibitions respecting any fuel characteristic or component if EPA has prescribed a control or prohibition applicable to such fuel characteristic or component under section 211(c)(1) of the Act. This preemption applies to all states except California, as explained in section 211(c)(4)(B) of the Act. For states other than California, the Act provides two mechanisms for avoiding preemption. First, section 211(c)(4)(A)(ii) creates an exception to preemption for a state prohibition or control that is identical to a prohibition or control adopted by EPA. Second, a state may seek EPA approval of a SIP revision containing a fuel control measure, as described in section 211(c)(4)(C) of the Act. EPA may approve such a SIP revision, and thereby ''waive'' preemption, only if it finds the state control or prohibition ''is necessary to achieve the national primary or secondary ambient air quality standard which the plan implements.''

When we adopted the current diesel fuel sulfur standards pursuant to our authority under section 211(c)(1) of the Act in 1990, States were preempted from also doing so under the provisions of section 211(c)(4)(A). The diesel sulfur standards proposed today merely modify the existing standards and as a result do not initiate any new preemption of State authority. The provisions of this proposal would merely continue the already existing State preemption provisions with respect to highway diesel fuel sulfur.

D. Refinery Air Permitting

Prior to making diesel desulfurization changes, some refineries could be required to obtain a preconstruction

permit, under the New Source Review (NSR) program, from the applicable state/local air pollution control agency.[180] We believe that today's proposal provides sufficient lead time for refiners to obtain any necessary NSR permits well in advance of the proposed compliance date. For the recently promulgated gasoline sulfur control program, refiners had expressed concerns that permit delays might impede their ability to meet compliance dates. EPA committed to undertake several actions to minimize the possibility of any delays for refineries obtaining major NSR permits for gasoline desulfurization projects. These actions include providing federal guidance on emission control technologies and the appropriate use of motor vehicle emission reductions (resulting from the use of low sulfur fuel), where available, as emission offsets, as well as forming EPA permit teams to assist states in quickly resolving issues, where needed. These three items are discussed in more detail in the Tier 2 final rule and interested parties should refer to that discussion for additional details regarding permitting considerations in the gasoline sulfur program (see 65 FR 6773, Feb. 10, 2000).

However, given that the proposed diesel sulfur program would provide several more years of lead time than was provided under the gasoline sulfur program, refiners should have ample time to obtain any necessary preconstruction permits. As we learned in finalizing the gasoline sulfur program, state/local permitting agencies are prepared to process refinery permits within the needed time frames, so long as refiners begin discussing potential permit issues with them early in the process and submit their permit applications in a timely manner. EPA believes that this will be the case for diesel fuel. We request comment on the interaction of this proposed rule and the permitting process and whether the permitting approaches discussed in the Tier 2 final rule should be continued, and if necessary updated, to assist refineries in obtaining any necessary permits for refinery diesel desulfurization changes.

E. Provisions for Qualifying Refiners

As explained in the Regulatory Flexibility Analysis discussion in section XI.B of this document, we have considered the impacts of these proposed regulations on small businesses. As part of this process, we convened a Small Business Advocacy Review Panel (Panel) for this proposed rulemaking, as required under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). The Panel was charged with reporting on the comments of small business representatives regarding the likely implications of possible control programs, and to make findings on a number of issues, including:

- A description and estimate of the number of small entities to which the proposed rule would apply;
- A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule;
- An identification of other relevant federal rules that may duplicate, overlap, or conflict with the proposed rule; and
- A description of any significant alternatives to the proposed rule that accomplish the objectives of the proposal and that may minimize any significant economic impact of the proposed rule on small entities.

The Panel's final report is available in the docket. In summary, the Panel concluded that small refiners would likely be directly affected by the proposed program.

In addition, the Panel concluded that small diesel distributors and retailers also would likely be directly affected by the fuel program's compliance requirements, but that under the approach we are proposing today these requirements would pose minimal burden. Therefore, the Panel did not recommend any regulatory relief for this group of small businesses under the program proposed today.

We understand that the proposed low sulfur standards will require significant economic investment by the refining industry. We also recognize that refineries owned by small businesses could experience more difficulty in complying with the proposed standards on time because, as a group, they have less ability to raise capital necessary for desulfurization investments, face proportionately higher costs due to economies of scale, and may be less successful in competing for limited construction and engineering resources. Some of the small refiners with whom we and the Panel met indicated their belief that, because of the extreme level of economic hardship their businesses would face in meeting the new standards, their businesses might close without additional time to comply or certain flexibility alternatives. The Panel recommended that EPA seek comment on various flexibilities that potentially could alleviate the burden on small refiners.

Upon evaluating the potential impacts of our proposed diesel sulfur requirements on small refiners and careful review of the Panel's recommendations, we are seeking comment on three approaches that could provide flexibility for small refiners. We believe that these approaches could provide meaningful flexibility for small refiners in meeting the proposed standards, although we do have concerns that certain approaches, to varying extents, may compromise the environmental benefits of the program (as discussed below), while still ensuring that the vast majority of the program is implemented as expeditiously as practical in order to achieve the air quality benefits sooner. Therefore, we invite comment on the appropriateness of any or all of these approaches in light of the environmental goals, the relative usefulness in allowing additional time and flexibility for small refiners to comply with the proposed low sulfur targets, and information and ideas on appropriate implementation mechanisms. These approaches are summarized in subsection 1 below.

Elsewhere, in section VI, we seek comment on various alternatives for phasing in the fuel program. Some small refiners have commented that some form of a phase-in approach could potentially mitigate the hardship they would experience under the proposed fuel standards. (See the discussion in section VI for a discussion of the potential impacts of a phase-in approach on entities in the distribution system).

In addition to considering the following flexibility approaches for small refiners, we are interested in exploring appropriate flexibility options for farmer cooperatives. There are currently four refiner co-ops, yet only one meets SBA's definition of a small business. The farmer cooperatives have expressed concern that they have the same difficulty as small refiners in obtaining access to capital for desulfurization investments. Farmers are both the customer and the member owner of their cooperatives. Because cooperatives do not have an investor/stockholder form of ownership, they are

[180] Hydrotreating diesel fuel involves the use of process heaters, which have the potential to emit pollutants associated with combustion, such as NO_X, PM, CO and SO2. In addition, reconfiguring refinery processes to add desulfurization equipment could increase fugitive VOC emissions. The emissions increases associated with diesel desulfurization will vary widely from refinery to refinery, depending on many source-specific factors, such as crude oil supply, refinery configuration, type of desulfurization technology, amount of diesel fuel produced, and type of fuel used to fire the process heaters.

not able to access equity markets that provide capital to larger refiners. The added costs of financing projects through traditional loans is eventually borne by farmers. The refiner co-ops have also expressed concern that the highway diesel sulfur program could result in higher fuel prices for farmers, and could potentially reduce refining capacity and diesel fuel supply in rural America. To help address these concerns, we are requesting comment on the following flexibility approaches for farmer cooperatives as well. We also seek comment on other appropriate flexibility approaches for farmer cooperatives that may have merit.

1. Allow Small Refiners to Continue Selling 500 ppm Highway Diesel

First, we are seeking comment on an option for small refiner flexibility that would allow small refiners to continue selling their current 500 ppm highway diesel, provided there are adequate safeguards to prevent contamination and misfueling. This option would effectively delay the ultra-low sulfur compliance date for small refiners, and allow them to continue selling their current fuel to the highway diesel market. Under this approach, retailers would not have an availability requirement; rather, retailers would be free to choose to sell only 500 ppm fuel (from small refiners), only ultra-low sulfur fuel, or both.

During the Panel process, small refiners expressed varying views on this flexibility approach. At least one small refiner supported this option, while others expressed the concern that they would not be able to find markets for the 500 ppm fuel once large refiners begin producing exclusively ultra-low sulfur highway diesel (*i.e.*, as soon as the rule were implemented). Those small refiners doubtful of continued 500 ppm markets think it is unlikely that retailers would either continue to sell only 500 ppm diesel instead of ultra-low sulfur, or that retailers would make the investments to market both grades. Their key assumption is that there would be no price differential between the ultra-low sulfur fuel and the 500 ppm fuel and, thus, no incentive for marketers to want the ''old'' fuel. Small refiners noted that, although ultra-low sulfur fuel would be more costly to produce than the current grade, vertically integrated refiners with control over the marketing of their refinery products would have incentives to price below cost in order to eliminate the potential for niche markets that would be of value to any small refiners seeking to avail themselves of this flexibility option. Small diesel distributors and retailers commented that marketers also don't anticipate a price differential, but acknowledged that a market for small refiner's 500 ppm likely would last as long as there were a price differential. Nevertheless, most small refiners with whom we and the Panel met strongly supported this option, largely because it potentially could benefit at least a few small refiners. At the same time, they believed it should not be the only flexibility option provided for small refiners. We believe that seeking public comment on this option will give all small refiners an opportunity to continue exploring the extent of potential markets for the 500 ppm fuel, and thus, the potential viability of this flexibility option.

We also request comment on an appropriate duration for this option. We seek comment on the need for, and appropriateness of, an unlimited exemption, as well as whether such an exemption should be limited to a specific timeframe (*e.g.*, two years, ten years, etc.). We note that by limiting this flexibility to two years, for example, during which time the new vehicle fleet would still be relatively small, the potential for misfueling would be minimized. We also question how long this flexibility option may remain viable, since many small refiners commented during the Panel process that they do not expect markets for the 500 ppm fuel to remain after larger refiners begin producing exclusively ultra-low sulfur fuel. Nevertheless, we request comment on the need for, and potential impacts of, a longer exemption. A longer duration for this flexibility option would give participating refiners more time to stagger their diesel desulfurization investments. The number of vehicles potentially affected by misfueling or contamination would still be fairly limited under this approach, since small refiners produce only approximately four percent of all the highway diesel fuel produced in the U.S. Moreover, the potential for misfueling would be further limited because most small refiners distribute highway diesel in a fairly local area. (Some small refiners, however, distribute a portion of their diesel fuel outside their local area via pipeline or barge. See further discussion below about the potential need to prohibit pipeline/barge shipments of 500 ppm highway diesel under this option). An unlimited exemption would allow the market to determine the duration of flexibility provided to small refiners. There would be diminishing returns to small refiners from such an option over time, as a growing portion of the vehicle miles traveled would be from vehicles with emission control devices requiring ultra-low sulfur, and so small refiners would eventually switch over to producing low sulfur highway diesel fuel.

To ensure that this flexibility option would not compromise the expected environmental benefits of today's proposal, there would have to be certain safeguards with refiners as well as downstream parties to prevent contamination of the ultra-low sulfur fuel, and to prevent misfueling of new vehicles. We seek comment on how best to prevent misfueling and contamination of the ultra-low sulfur fuel under this approach for small refiner flexibility. Specifically, we request comment on the following measures to prevent misfueling and contamination:

- Small refiners could make an initial demonstration to EPA of how they would ensure the fuel remains segregated through the distribution system to its end use.
- Small refiners could be prohibited from distributing 500 ppm highway diesel via pipeline or barge. As the fuel is piped or barged to locations further from the refinery, it would likely become more difficult to ensure proper segregation and labeling. We have learned through the Panel process that most small refiners distribute highway diesel in a fairly local area; it appears that only a few small refiners distribute highway diesel via pipeline or barge. All small refiners (even those that distribute highway diesel via pipeline or barge) also distribute fuel to the local area, which should provide adequate potential markets for the 500 ppm fuel. This provision may be less necessary in the context of a broader program, such as the approaches discussed in section VI.A.
- There could be some general requirements on any entities carrying the fuel downstream of the refiner, such as a condition to keep the fuel segregated and maintain records (e.g., product transfer documents).
- Retailers who choose to sell the 500 ppm fuel could be required to label pumps, clearly indicating that the fuel is higher sulfur and should not be used in new (*e.g.*, 2007 model year or later) diesel vehicles.

We also seek comment on how to best prevent small refiners from increasing the refinery's production capacity (selling 500 ppm highway diesel under such a program) without also increasing the refinery's desulfurization capacity. Specifically, we request comment on whether it would be appropriate and necessary to limit the volume of 500

ppm highway fuel produced by a refinery owned by a small refiner to the lesser of: (1) 105 percent of the highway volume it produced on average in 1998 and 1999; or (2) the volume of highway diesel fuel produced from crude oil on average in the calendar year. Such limits to a small refiner's 500 ppm production expansion could also serve to limit the potential for fuel shortages of the ''new'' fuel in local areas where small refiners have or will gain significant market share as a result being allowed to continue producing and selling 500 ppm highway diesel fuel. This issue is discussed further below.

We believe that safeguards such as these would add minimal burden on small refiners or any party choosing to distribute or sell small refiner highway diesel, but would be critical to preventing misfueling and potential damage to new vehicles—and thus critical to preserving the environmental benefits of the program. These types of safeguards are typical of EPA fuel programs where more than one fuel is introduced into commerce.

We also would need to ensure that this type of flexibility would not result in lack of availability of low sulfur highway diesel in markets served primarily by small refiners. We seek comment on whether there is a potential for lack of availability of the low sulfur fuel under this approach and, if so, how to prevent this.

Finally, we seek comment on the appropriate definition of a small refiner under such a program. If such a flexibility option is promulgated under the final rule, EPA would envision considering a refiner as a small refiner if both of the following criteria are met:

- No more than 1500 employees corporate-wide, based on the average number of employees for all pay periods from January 1, 1999 to January 1, 2000.
- A corporate crude capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 1999.

In determining the total number of employees and crude capacity, a refiner would include the employees and crude capacity of any subsidiary companies, any parent company and subsidiaries of the parent company, and any joint venture partners. This definition of small refiner mirrors the one recently promulgated under the Tier 2/gasoline sulfur program, except that the time period used to determine the employee number and crude capacity criteria has been updated to reflect the most recent calendar year. This is consistent with the Small Business Administration's regulations, which specify that, where the number of employees is used as a size standard, the size determination is based on the average number of employees for all pay periods during the preceding 12 months (13 CFR 121.106). However, because the gasoline sulfur standards and the proposed diesel sulfur standards would impact small refiners in relatively the same timeframes, we believe it is reasonable to consider any small refiner approved by EPA as meeting the small refiner definition under the gasoline sulfur program (40 CFR 80.235) as a small refiner under the highway diesel sulfur rule as well. We request comment on this provision.

2. Temporary Waivers Based on Extreme Hardship Circumstances

We are also seeking comment on a case-by-case approach to flexibility that would provide a process for all domestic and foreign refiners, including small refiners, to seek case-by-case approval of applications for temporary waivers to the diesel sulfur standards, based on a demonstration of extreme hardship circumstances. Small refiners have expressed their belief that there may be no ''one size fits all'' approach to flexibility—given the wide variety of refinery circumstances and configurations. Although this option was first raised in the context of small refiner flexibility during the Panel process, we believe that it could be extended to any qualifying refiner meeting the criteria described below. We recognize that there may be case-by-case flexibilities that are feasible, environmentally neutral, and warranted to meet the unique needs of an individual refiner, but that, if applied across the board, might jeopardize the environmental benefits of the program. This provision would further our overall environmental goals of achieving low sulfur highway diesel fuel as soon as possible. By providing short-term relief to those refiners that need additional time because they face hardship circumstances, we can adopt a program that reduces diesel sulfur beginning in 2006 for the majority of the industry that can comply by then. We envision that this option would be modeled after a similar provision in the recently-promulgated gasoline sulfur program. This case-by-case provision could be in addition to or in place of the small refiner option discussed above.

We understand that the ultra-low sulfur standards for highway diesel fuel will require significant economic investments by the refining industry. We recognize that refineries owned by small businesses could experience more difficulty in complying with the standards on time because, as a group, they have less ability to raise capital necessary for desulfurization investments, face proportionately higher costs due to economies of scale, and may be less successful in competing for limited construction and engineering resources. However, because the refining industry encompasses a wide variety of individual circumstances, it is possible that other refiners also may face particular difficulty in complying with the proposed sulfur standards on time. For example, as discussed above the farmer cooperatives have expressed concern that they would face considerable difficulty in obtaining access to capital for desulfurization investments. Because farmer cooperatives do not have an investor/stockholder form of ownership, they are not able to access equity markets that provide capital to larger refiners; thus, the added costs of financing projects through traditional loans is eventually borne by farmers.This option would allow any refiner to request additional flexibility based on a showing of unusual circumstances that result in extreme hardship and significantly affect the refiner's ability to comply by the applicable date, despite its best efforts. However, we would not intend for this waiver provision to encourage refiners to delay planning and investments they would otherwise make in anticipation of receiving relief from the applicable requirements.

An example of case-by-case flexibility under this approach might be to allow a refiner to continue selling 500 ppm highway diesel fuel for an extended time period, so long as that fuel were properly segregated and labeled at pump stands (see the discussion of possible compliance measures in section E.1. above).

To further preserve the environmental benefits of the program, recognizing the constraints it places on any flexibility, we currently believe that it would be necessary to segregate the fuel pool for any highway diesel fuel sold under an approved hardship waiver. Consequently, any additional compliance flexibilities would carry with them certain safeguards for preventing contamination and misfueling. We welcome comment on these compliance measures and any other alternatives. These provisions would be analogous to those discussed above under section E.1. Further, as part of such a flexibility, we would need to ensure that there was not a significant potential for lack of availability of the low sulfur fuel for those refiners that are the primary supplier of highway diesel fuel in a given area (as discussed in section E.1 above). We seek comment on whether there is a significant potential

for lack of availability of the low sulfur fuel under this approach and, if so, how to prevent this situation.

During the Panel process, several small refiners that produce both gasoline and highway diesel expressed concern about the difficulty in obtaining financing for the significant capital costs of desulfurizing both these fuels in relatively the same timeframes. Similar concerns have been expressed by farmer cooperatives and other refiners. Small refiners suggested that they might be able to desulfurize highway diesel fuel under the schedule proposed today, if additional flexibility could be provided in meeting the gasoline sulfur standards, which would allow them to stagger their investments. We estimate that approximately nine small refiners (owning 11 refineries) would be subject to both the gasoline and highway diesel sulfur standards. As another example of case-by-case flexibility under the hardship approach, we request comment on whether and to what extent we should consider additional flexibilities in meeting the gasoline sulfur standards, for those refiners that produce both gasoline and highway diesel fuel, and meet the highway diesel fuel standards on time. For example, we invite comment on whether it would be necessary and appropriate to take into consideration compliance with the diesel sulfur rule as part of a small refiner's application demonstrating significant economic hardship under the gasoline sulfur program's small refiner hardship extension provision (40 CFR 80.260). In evaluating applications for any case-by-case consideration of additional flexibility under the gasoline sulfur program, we would fully consider the environmental consequences of such an approach. For example, we would consider such factors as the relative volumes of gasoline and highway diesel fuel produced by the refiner, where these fuels are sold, and the projected emission impacts of vehicles using the refiner's gasoline and diesel fuels. If we were to consider such a case-by-case approach to compliance under the gasoline and diesel sulfur programs, we believe the gasoline sulfur program requirements may have to be changed to allow for the consideration of appropriate criteria related to compliance with the highway diesel sulfur rule. We seek comment on how such an approach could be accommodated under the gasoline sulfur program and the environmental implications of this approach. We also seek comment on the criteria that should be considered in granting gasoline hardship relief based on early diesel compliance.

Small refiners have recommended that the Agency could provide some flexibility by granting the hardship extension on an automatic, rather than case by case basis, if they agree to meet the highway diesel sulfur standards at the same time as the national program. They commented that this approach would provide more certainty for their planning purposes in determining how to comply with the requirements of both programs. The gasoline sulfur program provides that small refiners can apply for and receive an extension of their interim standards, if we determine that the small refiner has made the best efforts possible to achieve compliance with the national standards by January 1, 2008, but has been unsuccessful for unanticipated reasons beyond its control. We would consider granting the hardship extension for a time period not to extend beyond calendar year 2009, based on several factors, including the small refiner's compliance plan and demonstration of progress toward producing gasoline meeting the national sulfur standards by the end of 2009. (See 40 CFR 80.255 and 80.260). We have concerns about making the small refiner gasoline hardship extension ''automatic'', as this approach could undermine some of the environmental benefits of the Tier 2/gasoline sulfur program, and is not consistent with the purpose of the hardship extension. We would need to consider the environmental impacts of such an extension, by evaluating, for example, the small refiners' relative production of highway diesel fuel as compared to gasoline and the air quality concerns in the locations where both products are sold. We believe it would be more environmentally protective to make this determination on a case-by-case basis. Nevertheless, we seek comment on the approach of granting a small refiner an automatic hardship extension under the gasoline sulfur program if they demonstrate that they will comply on time with the national program for highway diesel fuel. We also seek comment on whether this approach should be applied on a case-by-case, rather than automatic, basis.

As another example of case-by-case flexibility under this approach, we request comment on whether it would be appropriate, as part of a review of a refiner's application for hardship relief under the diesel sulfur program, to consider granting a delay of diesel sulfur standards for those refiners that agree to meet the gasoline sulfur standards under a schedule more accelerated than that required under the gasoline sulfur program. Any consideration of such delays would require full consideration of the environmental implications of such a delay, as well as of other relevant factors.

There are several factors we would consider in evaluating an application for a hardship waiver. These factors could include refinery configuration, severe economic limitations, and other factors that prevent compliance in the lead time provided. Applications for a waiver would need to include information that would allow us to evaluate all appropriate factors. We would consider the total crude capacity of the refinery and its parent corporation, whether the refinery configuration or operation is unique or atypical, how much of a refinery's diesel is produced using an FCC unit, its hydrotreating capacity relative to its total crude capacity, highway diesel production relative to other refinery products, and other relevant factors. A refiner also may face severe economic limitations that result in a demonstrated inability to raise the capital necessary to make desulfurization investments by the compliance date, which could be shown by an unfavorable bond rating, inadequate resources of the refiner and its parent and/or subsidiaries, or other relevant factors. Finally, we would consider where the highway diesel would be sold in evaluating the environmental impacts of granting a waiver. We seek comment on these criteria for evaluating a refiner's hardship application, and on whether there are other criteria that should also be considered.

This hardship provision would be intended to address unusual circumstances, such as unique and atypical refinery operations or a demonstrated inability to raise capital. These kinds of circumstances should be apparent soon after the final rule is promulgated, so refiners seeking additional time under this provision should be able to apply for relief within a relatively short timeframe (e.g., nine months to one year) after promulgation of the final rule. We request comment on an appropriate timeframe for refiners to submit hardship applications to EPA. A refiner seeking a waiver would need to show that unusual circumstances exist that impose extreme hardship and significantly affect its ability to meet the standards on time, and that it has made best efforts to comply with the standards. Applicants for a hardship waiver also would need to submit a plan demonstrating how the standards would be achieved as expeditiously as possible. The plan would need to

include a timetable for obtaining the necessary capital, contracting for engineering and construction resources, and obtaining permits. We request comment on the information that should be contained in a hardship application, as well as the demonstrations that refiners should be required to make in such applications. Once all applications are received, we would consider the appropriate process to follow in reviewing and acting on applications, including whether to conduct a notice and comment decision-making process. We would review and act on applications, and, if a waiver were granted, would specify a time period for the waiver.

During the SBREFA Panel process, small refiners commented that they need certainty as to their regulatory requirements, and any flexibilities, well in advance of compliance dates so that they can seek financing. Therefore, we also seek comment on how such a hardship provision could be administered in a manner that provides the most certainty to small refiners as to any potential hardship relief, well in advance of the compliance deadline. Specifically, we request comment on an appropriate timeframe within which the Agency should respond to hardship applications (for example, one year from the date of receipt).

Because of the significant environmental benefits of lowering sulfur in highway diesel fuel, we would administer any hardship provision in a manner that continues to ensure the environmental benefits of the regulation. To limit the potential environmental impact of this hardship provision, we would reserve the discretion to deny applications where we find that granting a waiver would result in an unacceptable environmental impact. While any hardship determination would be made on a case-by-case basis, we would not anticipate granting waivers that apply to more than a minimal amount of the total national pool of highway diesel fuel, or to more than a minimal percentage of the highway diesel supply in an area with significant air quality problems. The level of this minimal amount of fuel would be considered in light of any additional flexibility options provided for refiners and would be established in a way that maintains the environmental goals of the program.

As a condition of any waiver granted, we would likely impose other reasonable requirements, such as anti-backsliding requirements to ensure no deterioration in the sulfur level of highway diesel fuel produced, or limitations on the volume of highway diesel fuel produced under the waiver (e.g., at or near current production levels). This latter measure would prevent refiners from increasing the refinery's production capacity without also increasing the desulfurization capacity. Specifically, we would limit the volume of highway diesel produced by a refinery covered by a hardship waiver to the lesser of: (1) 105 percent of the highway volume it produced on average in 1998 and 1999; or (2) the volume of highway diesel fuel produced from crude oil on average in the calendar year. We request comment on the need for such a hardship provision and how it should be structured.

3. 50 ppm Sulfur Cap for Small Refiners

In section IV.B, we fully discuss the basis for the 15 ppm sulfur standard proposed, based on the needs of diesel engine technology and on the criteria mandated by the Clean Air Act, and we seek comment on this level. In section III.F, we also discuss the level of sensitivity these new emission control technologies have to sulfur in the fuel, and potential consequences of the vehicles using fuel with a sulfur content higher than that proposed.

During the Panel process, small refiners expressed strong concern about their ability to meet a sulfur standard in the 5 to 40 ppm range discussed. Several small refiners have commented that capital, operating, and maintenance costs of meeting a 50 ppm cap are significantly less than the costs of meeting more stringent standards. Because small refiners produce relatively smaller volumes, their capital (and other fixed) costs per barrel produced are significantly higher than their larger competitors. They also cannot take advantage of the significant economies of scale that exist in the refining industry and may be less successful in competing for limited construction and engineering resources. Small refiners have suggested that a 50 ppm may afford them the flexibility to purchase sufficient blendstocks on the market to blend with their production and still comply with a 50 ppm cap. However, at the proposed 15 ppm standard this flexibility may no longer exist. Nevertheless, they are still interested in the Agency considering a cap for small refiners of 50 ppm. Therefore, we request comment on a 50 ppm cap for small refiners, and on any underlying data and analyses that would be relevant to a decision in the final rule on whether to incorporate a 50 ppm cap for small refiners. For this approach to work, to keep from damaging the vehicle exhaust emission control technologies and also maintain their effectiveness (as discussed in section III.F.), small refiner's fuel would somehow have to be blended downstream of the refinery to 15 ppm (i.e., in the distribution system). However, we question whether small refiners' 50 ppm fuel could simply be ''blended away'' with ultra-low sulfur fuel in the distribution system (i.e., after the fuel leaves the refiner's control). Information submitted by small refiners indicates that most sell highway diesel fuel directly via the refinery rack, for distribution to local truck stops, service stations, and fleet customers. Only a few small refiners distribute highway diesel via pipelines. Therefore, small refiners' highway diesel fuel indeed would go directly into vehicles, and commonly would not be ''blended'' to a significant extent with other refiners' fuel within the distribution system (*i.e.*, downstream of the refinery). Nevertheless, we believe it is appropriate to seek comment on this approach, and welcome any data and analyses that would influence a final decision about this approach.

IX. Standards and Fuel for Nonroad Diesel Engines

Although today's proposal covers only highway diesel engines and highway diesel fuel, our potential plans for nonroad diesel engines—and especially the sulfur content of nonroad diesel fuel—are clearly related. For example, depending on whether and how nonroad diesel fuel is regulated, factors including the costs, leadtime, environmental impacts, and impacts on competitive relationships in the marketplace associated with today's proposed program could be affected. We would need to address these factors in any future regulatory action on nonroad diesel fuel.

Because of these relationships, various stakeholders interested in today's proposal have asked to also know the potential requirements that could apply to nonroad diesel fuel. This section summarizes the background of this issue and our current thinking about future regulation of nonroad diesel engines and fuel.

After establishing an initial set of emission standards for nonroad diesel engines in 1994, EPA proposed in 1997, and finalized in 1998, a comprehensive program of emission standards for most diesel engines designed for nonroad use.[181] This program established NMHC+NO_X and PM standards that are phasing in over the 1999–2006 time frame, with engines of different

[181] See the final rule, 63 FR 56968, October 23, 1998 for more about the history of these regulations.

horsepower ranges coming into the program in different years. At the same time, we set long-term (''Tier 3'') NMHC+NO_X standards—but not PM standards—for medium and high horsepower engines, to begin in 2006. Built into the 1998 final rule was a plan to reassess the Tier 3 NMHC+NO_X standards and to establish PM standards in the 2001 time frame. The 1998 rule also anticipated an EPA reassessment of the Tier 2 NMHC+NO_X standards for the smaller engines (less than 50 horsepower), which are to be phased in beginning in 2004.

EPA did not include nonroad diesel fuel in the diesel fuel sulfur restrictions established in 1993 for highway diesel fuel. We estimate that the average sulfur content for nonroad diesel fuel is currently around 3000 ppm, as compared to the cap for highway diesel fuel of 500 ppm.[182]

We believe that any specific new requirements for nonroad diesel fuel we might propose would need to be carefully considered in the context of a proposal for further nonroad diesel engine emission standards. This is because of the close interrelationship between fuels and engines—the best emission control solutions may not come through either fuel changes or engine improvements alone, but perhaps through an appropriate balance between the two. This is especially significant to the extent that manufacturers would need to address potential challenges related to simultaneously meeting the standards that may be proposed. Thus we need to address issues in both the fuel and engine arenas together.

The many issues connected with any rulemaking for nonroad engines and fuel warrant serious attention, and we believe it would be premature today for us to attempt to propose resolutions to them. We plan to initiate action in the future to formulate thoughtful proposals covering both nonroad diesel fuel and engines.

X. Public Participation

Publication of this document opens a formal comment period on this proposal. You may submit comments during the period indicated under **DATES** above. We encourage everyone who has an interest in the program described in this preamble and the associated rulemaking documents to offer comment on all aspects of the action. Throughout this proposal you will find requests for specific comment on various topics.

We consider and respond in the final rule to every comment we receive before the end of the comment period. We give equal weight to all comments regardless of whether they are submitted on paper, electronically, or in person at a public hearing. The most useful comments are generally those supported by appropriate and detailed rationales, data, and analyses. We also encourage commenters who disagree with the proposed program to suggest and analyze alternate approaches to meeting the air quality goals of this proposed program.

We have previously received many comments from a range of interested parties on our ANPRM and as part of the our outreach to small entities (see section XI.B). These comments are found in the docket, and information gathered from them is reflected in the proposal.

A. Submitting Written and E-mail Comments

If you would like to submit comments in writing, please send them to the contact listed in **FOR FURTHER INFORMATION CONTACT** above on or before the end of the comment period. You can send your comments by e-mail to the following address: diesel@epa.gov. It is usually best to include your comments in the body of the email message rather than as an attachment.

Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments. Such submissions should be clearly labeled as ''Confidential Business Information'' and be sent to the contact person in **FOR FURTHER INFORMATION CONTACT** (not to the public docket). This will help ensure that proprietary information is not placed in the public docket. If a commenter wants EPA to use a submission of confidential information as part of the basis for the final rule, then a nonconfidential version of the document that summarizes the key data or information must be sent to the contact person for inclusion in the public docket.

We will disclose information covered by a claim of confidentiality only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when we receive it, we will make it available to the public without further notice to the commenter.

B. Public Hearings

We will hold public hearings in New York City, NY, Chicago, IL, Atlanta, GA, Los Angeles, CA, and Denver, CO. See **ADDRESSES** near the beginning of this document for the locations of the hearings. If you would like to present testimony at one or more of the public hearings, we ask that you notify the contact person listed above ten days before the date of the hearing at which you plan to testify. We also suggest that you bring about fifty copies of the statement or material to be presented for the EPA panel and audience. In addition, it is helpful if the contact person receives a copy of the testimony or material before the hearing. An overhead projector and a carousel slide projector will be available.

The hearings will be conducted informally, and technical rules of evidence will not apply. We will, however, prepare a written transcript of each hearing. The official record of the hearings will be kept open until the end of the comment period to allow submittal of supplementary information. Each hearing will begin at 10:00 a.m. local time. In general, we expect to organize the hearings in a panel format, with representatives of several different perspectives on each panel. We will reserve the last part of each hearing for any previously unscheduled testimony. There will be a sign-in sheet, and we will hear the testimony of anyone signed in by 6:30 p.m. local time.

XI. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency is required to determine whether this regulatory action would be ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The order defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may:

- 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;
- Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,
- Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

[182] Information from recent national fuel surveys by the National Institute for Petroleum and Energy Research (NIPER) and the Alliance of Automobile Manufacturers.

Pursuant to the terms of Executive Order 12866, EPA has determined that this proposal is a ''significant regulatory action'' because the proposed engine standards, diesel fuel sulfur standards, and other proposed regulatory provisions, if implemented, would have an annual effect on the economy in excess of $100 million. Accordingly, a Draft RIA has been prepared and is available in the docket for this rulemaking. This action was submitted to the OMB for review as required by Executive Order 12866. Written comments from OMB on today's action and responses from EPA to OMB comments are in the public docket for this rulemaking.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, was amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, to ensure that concerns regarding small entities are adequately considered during the development of new regulations that affect them. In response to the provisions of this statute, EPA has identified industries subject to this proposed rule and has provided information to, and received comment from, small entities and representatives of small entities in these industries. To accompany today's proposal, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared by the Agency to evaluate the economic impacts of today's proposal on small entities.[183] The key elements of the IRFA include:

—The number of affected small entities;
—The projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including the classes of small entities that would be affected and the type of professional skills necessary for preparation of the report or record;
—Other federal rules that may duplicate, overlap, or conflict with the proposed rule; and,
—Any significant alternatives to the proposed rule that accomplish the stated objectives of applicable statutes and that minimize significant economic impacts of the proposed rule on small entities.

The Agency convened a Small Business Advocacy Review Panel (the Panel) under section 609(b) of the Regulatory Flexibility Act as added by SBREFA. The purpose of the Panel was to collect the advice and recommendations of representatives of small entities that could be directly affected by today's proposed rule and to report on those comments and the Panel's findings as to issues related to the key elements of the IRFA under section 603 of the Regulatory Flexibility Act. The report of the Panel has been placed in the rulemaking record.[184] The IRFA can be found in the Draft RIA associated with today's proposal.

The contents of both today's proposal and the IRFA reflect the recommendations in the Panel's report. We summarize our outreach to small entities and our responses to the recommendations of the Panel below. The Agency continues to be interested in the potential impacts of the proposed rule on small entities and welcomes additional comments during the rulemaking process on issues related to such impacts.

1. Potentially Affected Small Businesses

Today's proposed program, which would establish new emission standards for heavy-duty engines and new standards for the sulfur content of highway diesel fuel, would directly affect manufacturers of heavy-duty engines and petroleum refiners that produce highway diesel fuel, respectively. In addition, but to a lesser extent, the program would directly affect diesel distributors and marketers.

We have not identified any manufacturers of heavy-duty engines that meet SBA's definition of a small business. However, we have identified several petroleum refiners that produce highway diesel fuel and meet the SBA's definitions for a small business for the industry category. According to the SBA's definition of a small business for a petroleum refining company (Standard Industrial Classification (SIC) 2911), a company must have 1500 or fewer employees to qualify as an SBA small business. Of the approximately 158 refineries in the U.S. today, we estimate that approximately 22 refiners (owning 26 refineries) have 1500 or fewer employees and produce highway diesel fuel. Two of these refineries are currently shutdown, but have indicated that they expect to reopen this year. We estimate that these 22 small refiners comprise 3.7 percent of nationwide crude capacity and produce approximately four percent of highway diesel fuel.

EPA also has identified several thousand businesses in the diesel distribution and marketing industry that meet SBA's definitions of small business. More information about these industries is contained in the IRFA. Under today's proposal, there are some, fairly minimal, regulatory requirements on these parties downstream of the refineries related to segregating the low sulfur highway diesel fuel throughout the distribution system. However, these proposed compliance provisions for downstream parties are fairly consistent with those in place today for other fuel programs, including the current highway diesel fuel program, and are not expected to impose significant new burdens on small entities.

2. Small Business Advocacy Review Panel and the Evaluation of Regulatory Alternatives

The Small Business Advocacy Review Panel was convened by EPA on November 12, 1999. The Panel consisted of representatives of the Small Business Administration (SBA), the Office of Management and Budget (OMB) and EPA. During the development of today's proposal, EPA and the Panel were in contact with representatives from the small businesses that would be subject to the provisions in today's proposal. In addition to verbal comments from industry noted by the Panel at meetings and teleconferences, written comments were received from each of the affected industry segments or their representatives. The Panel report contains a summary of these comments, the Panel's recommendations on options that could mitigate the adverse impacts on small businesses. Today's proposal requests comment on the alternatives and issues suggested by the Panel for implementing the fuel program.

The Panel considered a range of options and regulatory alternatives for providing small businesses with flexibility in complying with new sulfur standards for highway diesel fuel. As part of the process, the Panel requested and received comment on several early ideas for flexibility that were suggested by SERs and Panel members. Taking into consideration the comments received on these ideas, as well as additional business and technical information gathered about potentially affected small entities, we summarize the Panel's recommendations below.

The Panel recommended that EPA seek comment on an option that would provide a process for refiners to seek case-by-case approval of applications for temporary waivers to the diesel sulfur standards, based on a demonstration of extreme hardship circumstances. Small refiners commented to the Panel that there is no ''one size fits all'' approach to flexibility—given the wide variety of refinery circumstances and

[183] The Initial RFA is contained in Chapter VII of the Draft RIA.

[184] Report of the Small Business Advocacy Review Panel on Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine Standards and Diesel Fuel Sulfur Control Requirements, March 24, 2000.

configurations. Thus, the Panel believed that it would be appropriate for EPA to consider a case-by-case approach to flexibility. The Panel further recognized that there may be case-by-case flexibilities that are feasible, environmentally neutral, and warranted to meet the unique needs of an individual refiner, but that, if applied across the board, might jeopardize the environmental benefits of the program. The Panel envisioned that this option would be modeled after a similar provision in the recently-promulgated gasoline sulfur program. This option would allow domestic and foreign refiners, including small refiners, to request additional flexibility based on a showing of unusual circumstances that result in extreme hardship and significantly affect the ability to comply by the applicable date, despite their best efforts.

In addition, the Panel recommended that EPA seek comment on two options for small refiner flexibility. First, the Panel recommended that EPA seek comment on a 50 ppm cap for small refiners, as well as any data or underlying analyses that could support such a decision. Second, the Panel recommended that EPA seek comment on an option that would allow small refiners to continue selling their current 500 ppm highway diesel, provided there are adequate safeguards to prevent contamination and misfueling. The Panel further recommended that EPA request comment on an appropriate duration for this option. This option would effectively delay the low sulfur compliance date for small refiners, and allow them to continue selling their current fuel to the highway diesel market. To ensure the environmental benefits of the rule were achieved while implementing this flexibility option, there would have to be certain safeguards with refiners as well as downstream parties to prevent contamination of the ultra-low sulfur fuel, and to prevent misfueling of new vehicles.

The Panel also discussed the merits of phasing in the fuel program, and alternatives that could potentially limit the burden of such a program on small refiners and distributors.

The Panel's recommendations are discussed in detail in the Panel Report, contained in the docket. In addition, EPA's request for comment on these options is contained in section VIII.E of this preamble.

The Initial Regulatory Flexibility Analysis evaluates the financial impacts of the proposed heavy-duty engine standards and fuel controls on small entities. EPA believes that the regulatory alternatives we seek comment on in this proposal could provide substantial relief to qualifying small businesses from the potential adverse economic impacts of complying with today's proposed rule.

C. Paperwork Reduction Act

The information collection requirements (ICR) for this proposed rule will be submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Agency may not conduct or sponsor an information collection, and a person is not required to respond to a request for information, unless the information collection request 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 information collection requirements associated with today's proposed rule pertain to the proposed requirements for diesel fuel sulfur content. A draft information collection request document entitled, ''Draft Information Collection Request—Recordkeeping Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2006 and Later Years' has been prepared and is available from the Air Docket at the location indicated in **ADDRESSES** section or from the person(s) listed in **FOR FURTHER INFORMATION CONTACT** section. We request comments on the costs associated with the regulatory language as proposed and with regard to other specific approaches outlined in this notice that may affect information collection burdens.

The Paperwork Reduction Act stipulates that ICR documents estimate the burden of activities that would be required of regulated parties within a three year time period. Consequently, the draft ICR document that accompanies today's proposed rule provides estimates for the activities that would be required under the first three years of the proposed program. Many of the reporting and recordkeeping requirements for refiners and importers regarding the sulfur content of diesel fuel on which the proposed rule would rely currently exist under EPA's 500 ppm highway diesel fuel and anti-dumping programs.[185] The ICR for the 500 ppm program covered start up costs associated with reporting diesel fuel sulfur content under the 500 ppm program. Consequently, much of the cost of the information collection requirements under the proposed diesel sulfur control program has already been accounted for under the 500 ppm program.

We request comments on the Agency's need for the information proposed to be collected, the accuracy of our estimates of the associated burdens, and any suggested methods for minimizing the burden, including the use of automated techniques for the collection of information. Comments on the draft ICR should be sent to: the Office of Policy, Regulatory Information Division, U.S. Environmental Protection Agency (Mail Code 2136), 401 M Street, SW, Washington, DC 20460, marked ''Attention: Director of OP;'' and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any such correspondence. OMB is required to make a decision concerning the ICR between 30 and 60 days after publication of a proposed rule. Therefore, comments to OMB on the ICR are most useful if received within 30 days of the publication date of this proposal. Any comments from OMB and from the public on the information collection requirements in today's proposal will be placed in the docket and addressed by EPA in the final rule.

Copies of the ICR documents can be obtained from Sandy Farmer, Office of Policy, Regulatory Information Division, U.S. Environmental Protection Agency (Mail Code 2137), 401 M Street, SW, Washington, DC 20460, or by calling (202) 260–2740. Insert the ICR title and/or OMB control number in any correspondence. Copies may also be downloaded from the Internet at http://www.epa.gov/ncepihom/catalog.html.

D. Intergovernmental Relations

1. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''federal mandates'' that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the

[185] ''Regulations of Fuel and Fuel Additives; Fuel Quality Regulations for Highway Diesel Sold in 1993 and Later Calendar Years; Recordkeeping Requirements,'' OMB Control Number 2060–0308, EPA ICR Number 1718.12 (expires July 31, 2001). Copies of this ICR may be obtained from Sandy Farmer, Office of Policy, Regulatory Information Division, U.S. Environmental Protection Agency (Mail Code 2137), 401 M Street, SW, Washington, DC 20460. Please mark requests, ''Attention: Desk Officer for EPA'' and include the ICR in any correspondence.

private sector, of $100 million or more for any single year. Before promulgating a 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 that is not the least costly, most cost effective, or least burdensome alternative if EPA provides an explanation in the final rule of why such an alternative was adopted.

Before we establish any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government plan pursuant to section 203 of the UMRA. Such a plan must provide for notifying potentially affected small governments, and enabling officials of affected small governments to have meaningful and timely input in the development of our regulatory proposals with significant federal intergovernmental mandates. The plan must also provide for informing, educating, and advising small governments on compliance with the regulatory requirements.

This proposed rule contains no federal mandates for state, local, or tribal governments as defined by the provisions of Title II of the UMRA. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the proposed rule would significantly or uniquely affect small governments.

EPA has determined that this rule contains federal mandates that may result in expenditures of more than $100 million to the private sector in any single year. As discussed at length in section VI of this proposal, EPA considered and evaluated a wide range of regulatory alternatives before arriving at the program proposed today. EPA believes that the proposed program represents the least costly, most cost effective approach to achieve the air quality goals of the proposed rule. Nevertheless, as is clear in section VI and throughout the preamble, we continue to investigate and seek comment on alternatives that may achieve the proposals objectives but at a lower cost. See the ''Administrative Designation and Regulatory Analysis'' (section XI.A) for further information regarding these analyses.

2. 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 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. The proposed engine emissions, diesel fuel, and other related requirements for private businesses in this proposal would have national applicability, and thus would not uniquely affect the communities of Indian Tribal Governments. Further, no circumstances specific to such communities exist that would cause an impact on these communities beyond those discussed in the other sections of this proposal. Thus, EPA's conclusions regarding the impacts from the implementation of today's proposed rule discussed in the other sections of this proposal are equally applicable to the communities of Indian Tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), section 12(d) of Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless it 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) 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 rule references technical standards adopted by the Agency through previous rulemakings. No new technical standards are proposed in this proposal. The standards referenced in today's proposed rule involve the measurement of diesel fuel parameters and engine emissions. The measurement standards for diesel fuel parameters referenced in today's proposal are all voluntary consensus standards. The engine emissions measurement standards referenced in today's proposed rule are government-unique standards that were developed by the Agency through previous rulemakings. These standards have served the Agency's emissions control goals well since their implementation and have been well accepted by industry. EPA is not aware of any voluntary consensus standards for the measurement of engine emissions. Therefore, the Agency proposes to use the existing EPA-developed standards found in 40 CFR part 86 for the measurement of engine emissions.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

F. Executive Order 13045: Children's Health Protection

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under 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, section 5–501 of the Order directs the Agency to evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is subject to the Executive Order because it is an economically significant regulatory

action as defined by Executive Order 12866 and it concerns in part an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children.

This rulemaking will achieve significant reductions of various emissions from heavy-duty engines, primarily NO_X, but also PM. These pollutants raise concerns regarding environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children, such as impacts from ozone, PM and certain toxic air pollutants. See section II and the Draft RIA for a further discussion of these issues.

The effects of ozone and PM on children's health were addressed in detail in EPA's rulemaking to establish the NAAQS for these pollutants, and EPA is not revisiting those issues here. EPA believes, however, that the emission reductions from the strategies proposed in this rulemaking will further reduce air toxics and the related adverse impacts on children's health. EPA will also be addressing the issues raised by air toxics from engines and their fuels in a separate rulemaking that EPA will initiate in the near future under section 202(l) of the Act. That rulemaking will address the emissions of hazardous air pollutants from engines and fuels, and the appropriate level of control of HAPs from these sources.

In this proposal, EPA has evaluated several regulatory strategies for reductions in emissions from heavy-duty engines. (See section III of this proposal as well as the Draft RIA.) For the reasons described there, EPA believes that the strategies proposed are preferable under the CAA to other potentially effective and reasonably feasible alternatives considered by the Agency, for purposes of reducing emissions from these sources as a way of helping areas achieve and maintain the NAAQS for ozone and PM. Moreover, EPA believes that it has selected for proposal the most stringent and effective control reasonably feasible at this time, in light of the technology and cost requirements of the Act.

G. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law, unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

Section 4 of the Executive Order contains additional requirements for rules that preempt State or local law, even if those rules do not have federalism implications (i.e., the rules 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). Those requirements include providing all affected State and local officials notice and an opportunity for appropriate participation in the development of the regulation. If the preemption is not based on express or implied statutory authority, EPA also must consult, to the extent practicable, with appropriate State and local officials regarding the conflict between State law and Federally protected interests within the agency's area of regulatory responsibility.

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Section 211(d)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce controls or prohibitions respecting any fuel characteristic or component if EPA has prescribed a control or prohibition applicable to such fuel characteristic or component under section 211(c)(1) of the Act. This proposed rule merely modifies existing EPA diesel fuel and heavy-duty vehicle standards and therefore will merely continue an existing preemption of State and local law as discussed in section VIII.C. Thus, Executive Order 13132 does not apply to this rule.

Although section 6 of Executive Order 13132 does not apply to this rule, EPA did consult with representatives of various State and local governments in developing this rule. In particular EPA consulted with the State of Alaska in the design of the program as it applies to them, as discussed in section VI. EPA also talked to representatives from the State of California as well as representatives from STAPPA/ALAPCO, which represents state and local air pollution officials.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

XII. Statutory Provisions and Legal Authority

Statutory authority for the engine controls proposed in this notice can be found in sections 202, 203, 206, 207, 208, and 301 of the CAA, as amended, 42 U.S.C. 7521, 7522, 7525, 7541, 7542, and 7601.

Statutory authority for the fuel controls proposed in this document comes from section 211(c) and 211(i) of the CAA, which allows EPA to regulate fuels that either contribute to air pollution which endangers public health or welfare or which impair emission control equipment which is in general use or has been in general use. Additional support for the procedural and enforcement-related aspects of the fuel's controls in today's proposal, including the proposed recordkeeping requirements, comes from sections 114(a) and 301(a) of the CAA.

List of Subjects

40 CFR Part 69

Environmental protection. Air pollution control.

40 CFR Part 80

Environmental protection, Diesel fuel, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 86

Environmental protection, Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: May 17, 2000.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, we propose to amend Parts 69, 80 and 86 of chapter I of Title 40 of the Code of Federal Regulations to read as follows:

PART 69—[AMENDED]

1. The authority citation for part 69 is revised to read as follows:

Authority: 42 U.S.C. 7545(c), (g) and (i), and 7625–1.

Subpart E—Alaska

2. Section 69.51 of subpart E is revised to read as follows:

§ 69.51 Title II exemptions and exclusions.

(a) Diesel fuel that is designated for use only in Alaska and is used only in Alaska, is exempt from the sulfur standard of 40 CFR 80.29(a)(1)(i) and the dye provisions of 40 CFR 80.29(a)(1)(iii) and 40 CFR 80.29(b) until the implementation dates set out in 40 CFR 80.440, provided that:

(1) The fuel is segregated from non-exempt diesel fuel from the point of such designation; and

(2) On each occasion that any person transfers custody or title to the fuel, except when it is dispensed at a retail outlet or wholesale purchaser-facility, the transferor must provide to the transferee a product transfer document stating:

This diesel fuel is for use only in Alaska. It is exempt from the federal low sulfur standards applicable to motor vehicle diesel fuel and red dye requirements applicable to non-motor vehicle diesel fuel only if it is used in Alaska.

(b) Beginning on the implementation dates set out in § 80.440, diesel fuel that is designated for use only in Alaska or is used only in Alaska, is subject to the applicable provisions of 40 CFR part 80, subpart I, except as provided under paragraph (c) of this section. Alaska may submit for EPA approval an alternative plan for implementing the sulfur standard in Alaska by [date one year after the effective date of the final rule]. EPA shall approve or disapprove the plan within one year of receiving Alaska's submission.

(c) If such diesel fuel is designated as fuel that does not comply with the standards and requirements for motor vehicle diesel fuel under 40 CFR part 80, subpart I, it is exempt from the dye presumption of 40 CFR 80.446(b)(2) provided that:

(1) The fuel is segregated from all motor vehicle diesel fuel.

(2) On each occasion that any person transfers custody or title to the fuel, except when it is dispensed at a retail outlet or wholesale purchaser-facility, the transferor must provide to the transferee a product transfer document complying with the requirements of 40 CFR 80.462(a) and (d) and stating:

This diesel fuel is for use only in Alaska and is not for use in motor vehicles. It is exempt from the red dye requirement applicable to non-motor vehicle diesel fuel only if it is used in Alaska.

(3) Any pump dispensing the fuel must comply with the labeling requirements in 40 CFR 80.453.

PART 80—[AMENDED]

3. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

4. Section 80.2 is amended by revising paragraphs (x) and (y) and adding paragraphs (bb) and (nn), to read as follows:

§ 80.2 Definitions.

* * * * *

(x) *Diesel fuel* means any fuel sold in any state and suitable for use in diesel motor vehicles, diesel motor vehicle engines or diesel nonroad engines, and which is commonly or commercially known as diesel fuel.

(y) *Motor vehicle diesel fuel* means any diesel fuel, or any distillate product, that is used, intended for use, or made available for use, as a fuel in diesel motor vehicles or diesel motor vehicle engines. Motor vehicles or motor vehicle engines do not include nonroad vehicles or nonroad engines.

* * * * *

(bb) *Sulfur percentage* is the percentage of sulfur in diesel fuel by weight, as determined using the applicable sampling and testing methodologies set forth in § 80.461.

* * * * *

(nn) *Batch of motor vehicle diesel fuel* means a quantity of diesel fuel which is homogeneous with regard to those properties that are specified for motor vehicle diesel fuel under subpart I of this part.

* * * * *

5. Section 80.29 is amended by revising paragraphs (a)(1) introductory text and (b), to read as follows:

§ 80.29 Controls and prohibitions on diesel fuel quality.

(a) *Prohibited activities.* (1) Beginning October 1, 1993 and continuing until the implementation dates for subpart I of this part as specified in § 80.440, except as provided in 40 CFR 69.51, no person, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers, shall manufacture, introduce into commerce, sell, offer for sale, supply, store, dispense, offer for supply or transport any diesel fuel for use in motor vehicles, unless the diesel fuel:

* * * * *

(b) *Determination of compliance.* (1) Any diesel fuel which does not show visible evidence of being dyed with dye solvent red 164 (which has a characteristic red color in diesel fuel) shall be considered to be available for use in diesel motor vehicles and motor vehicle engines, and shall be subject to the prohibitions of paragraph (a) of this section.

(2) Compliance with the sulfur, cetane, and aromatics standards in paragraph (a) of this section shall be determined based on the level of the applicable component or parameter, using the sampling methodologies specified in § 80.330(b), as applicable, and the appropriate testing methodologies specified in § 80.461(a) or (b) for sulfur, § 80.2(w) for cetane index, and § 80.2(z) for aromatic content. Any evidence or information, including the exclusive use of such evidence or information, may be used to establish the level of the applicable component or parameter in the diesel fuel, if the evidence or information is relevant to whether that level would have been in compliance with the standard if the appropriate sampling and testing methodology had been correctly performed. Such evidence may be obtained from any source or location and may include, but is not limited to, test results using methods other than the compliance methods in this paragraph (b), business records, and commercial documents.

(3) Determination of compliance with the requirements of this section other than the standards described in paragraph (a) of this section, and determination of liability for any violation of this section, may be based on information obtained from any source or location. Such information may include, but is not limited to, business records and commercial documents.

* * * * *

6. Section 80.30 is amended by revising paragraphs (g)(2)(ii) and (g)(4)(i), and adding paragraph (h), to read as follows:

§ 80.30 Liability for violations of diesel fuel controls and prohibitions.

* * * * *

(g) *Defenses.* * * *

* * * * *

(2) * * *

(ii) Test results, performed in accordance with the applicable sampling and testing methodologies set forth in §§ 80.2(w), 80.2(z), 80.2(bb), and 80.461, which evidence that the diesel fuel determined to be in violation was in compliance with the diesel fuel standards of § 80.29(a) when it was delivered to the next party in the distribution system;

* * * * *

(4) * * *

(i) Test results, performed in accordance with the applicable sampling and testing methodologies set forth in §§ 80.2(w), 80.2(z), 80.2(bb), and 80.461, which evidence that the diesel fuel determined to be in violation was in compliance with the diesel fuel standards of § 80.29(a) when it was delivered to the next party in the distribution system;

* * * * *

(h) *Detection of violations.* In paragraphs (a) through (f) of this section, the term ''is detected at'' means that the violation existed at the facility in question, and the existence of the violation at that facility may be established through evidence obtained or created at that facility, at any other location, and by any party.

7. Subpart I is added to read as follows:

Subpart I—Diesel Fuel Sulfur Control

Sec.

General Information

80.440 What are the implementation dates for the diesel fuel sulfur control program?
80.441 What diesel fuel is subject to the provisions of this subpart?
80.442–80.445 [Reserved]

Motor Vehicle Diesel Fuel Standards and Requirements

80.446 What are the standards and dye requirements for motor vehicle diesel fuel?
80.447 What are the standards and identification requirements for additives that are blended into or are offered for sale for use in motor vehicle diesel fuel?
80.448 May used motor oil be dispensed into diesel motor vehicles?
80.449 What diesel fuel designation requirements apply to refiners and importers?
80.450–80.452 [Reserved]
80.453 What labeling requirements apply to retailers and wholesale purchaser-consumers?
80.454–80.460 [Reserved]

Sampling and Testing

80.461 What are the sampling and test methods for sulfur?

Recordkeeping and Reporting Requirements

80.462 What are the product transfer document requirements for motor vehicle diesel fuel?
80.463 What are the product transfer document requirements for additives to be used in motor vehicle diesel fuel?
80.464 What records must be kept?
80.465 [Reserved]

Exemptions

80.466 What are the requirements for obtaining an exemption for motor vehicle diesel fuel used for research, development or testing purposes?
80.467 What are the requirements for an exemption for motor vehicle diesel fuel for use in the Territories?
80.468–80.469 [Reserved]

Violation Provisions

80.470 What acts are prohibited under the diesel fuel sulfur control program?
80.471 What evidence may be used to determine compliance with the prohibitions and requirements of this subpart and liability for violations of this subpart?
80.472 Who is liable for violations of this subpart?
80.473 What defenses apply to persons deemed liable for a violation of a prohibited act?
80.474 What penalties apply under this subpart?

Subpart I—Diesel Fuel Sulfur Control General Information

§ 80.440 What are the implementation dates for the diesel fuel sulfur control program?

(a) [Reserved]

(b) *Standards applicable to refiners and importers.* Beginning April 1, 2006, standards for motor vehicle diesel fuel under § 80.446 apply to motor vehicle diesel fuel produced by any refinery or imported by any importer.

(c) *Standards applicable downstream of the refinery or importer.* Beginning May 1, 2006, standards for motor vehicle diesel fuel under § 80.446 apply to motor vehicle diesel fuel at any facility in the diesel fuel distribution system downstream of the refinery or importer except at retail outlets and wholesale purchaser-consumer facilities.

(d) *Standards applicable to retailers and wholesale purchaser-consumers.* Beginning June 1, 2006, standards for motor vehicle diesel fuel under § 80.446 and § 80.453 apply to motor vehicle diesel fuel at any facility in the diesel fuel distribution system.

(e) [Reserved]

(f) *Other provisions.* All other provisions of this subpart apply April 1, 2006.

§ 80.441 What diesel fuel is subject to the provisions of this subpart?

(a) *Included fuel.* The provisions of this subpart apply to motor vehicle diesel fuel as defined in § 80.2(y), and to diesel fuel additives and motor oil that are used as fuel in diesel motor vehicles or are blended with diesel fuel for use in diesel motor vehicles at any point downstream of the refinery, as provided in §§ 80.447 and 80.448.

(b) *Excluded fuel.* The provisions of this subpart do not apply to motor vehicle diesel fuel that is designated for export outside the United States, and identified for export by a transfer document as required under § 80.462.

§§ 80.442—80.445 [Reserved]

Motor Vehicle Diesel Fuel Standards and Requirements

§ 80.446 What are the standards and dye requirements for motor vehicle diesel fuel?

(a) *Standards.* All motor vehicle diesel fuel is subject to the following per-gallon standards:

(1) *Sulfur content.* 15 parts per million (ppm);

(2) *Cetane index and aromatic content.* (i) A minimum cetane index of 40; or

(ii) A maximum aromatic content cap of 35 volume percent.

(b) *Dye requirements.* (1) All motor vehicle diesel fuel shall be free of visible presence of dye solvent red 164 (which has a characteristic red color in diesel fuel), except for motor vehicle diesel fuel that is used in a manner that is tax exempt under section 4082 of the Internal Revenue Code (26 U.S.C. 4082).

(2) Any diesel fuel that does not show visible presence of dye solvent red 164 shall be considered to be motor vehicle diesel fuel and subject to all the requirements of this subpart for motor vehicle diesel fuel, except for diesel fuel designated for use only in:

(i) Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands as provided under § 80.467;

(ii) The State of Alaska as provided under 40 CFR 69.51; or

(iii) Jet aircraft, research and development testing, or for export.

§ 80.447 What are the standards and identification requirements for additives that are blended into or are offered for sale for use in motor vehicle diesel fuel?

(a) Any additive that is blended into motor vehicle diesel fuel downstream of the refinery or is offered for sale for use in diesel motor vehicles shall have a sulfur content not exceeding 15 ppm.

(b) Transfer of the diesel fuel additive shall be accompanied by a transfer document under § 80.463, except as

provided in paragraph (c) of this section.

(c) For additives sold in containers for use by the ultimate consumer of diesel fuel, each transferor shall include on the additive container, in a legible and conspicuous manner, the following accurate printed statement:

This diesel fuel additive complies with the federal sulfur content requirements for use in diesel motor vehicles.

§ 80.448 May used motor oil be dispensed into diesel motor vehicles?

No person shall introduce used motor oil, or used motor oil blended with diesel fuel, into model year 2007 or later diesel motor vehicles, unless the following requirements have been met:

(a) The engine manufacturer has received a Certificate of Conformity for the vehicle engine under 40 CFR part 86 that is explicitly based on the addition of motor oil having the greatest sulfur content of any motor oil that is commercially available; and

(b) The oil is added in a manner consistent with the conditions of the certificate.

§ 80.449 What diesel fuel designation requirements apply to refiners and importers?

Any refiner or importer shall accurately and clearly designate all fuel it produces or imports for use in motor vehicles as motor vehicle diesel fuel.

§§ 80.450–80.452 [Reserved]

§ 80.453 What labeling requirements apply to retailers and wholesale purchaser-consumers?

Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing, non-road diesel fuel and motor vehicle diesel fuel, must prominently and conspicuously display in the immediate area of each pump stand from such fuel is offered for sale or dispensing, the following legible label, in block letters of no less than 36-point bold type, printed in a color contrasting with the background, and placed in a location that is readily visible to the fuel recipient:

This is high sulfur diesel fuel which is not to be used in any highway motor vehicle. The use of high sulfur diesel fuel in highway motor vehicles may damage emissions controls, harm engine operations, and void your emissions warranty.

§§ 80.454–80.460 [Reserved]

Sampling and Testing

§ 80.461 What are the sampling and test methods for sulfur?

(a) *Diesel fuel.* For purposes of § 80.446, the sulfur content of diesel fuel is the sulfur content as determined by:

(1) *Sampling method.* The applicable sampling methodology provided in § 80.330(b).

(2) *Test method for sulfur.* The American Society for Testing and Materials (ASTM) standard method D 2622–98, entitled ''Standard Test Method for Sulfur in Petroleum Products by Wavelength Dispersive X-ray Fluorescence Spectrometry,'' modified as follows:

(i)(A) The blank stock used as a diluent for all calibration standards and sample dilutions must be prepared by mixing the following compounds at the specified proportions: 15 grams tert-butylbenzene, 15 grams decane, 15 grams dodecane, 15 grams tetradecane, 15 grams hexadecane, 15 grams tetralin, 5 grams octadecane, 5 grams napthalene.

(B) The weight tolerances are +/−5 percent for each compound. The compounds must have a minimum purity of 99 percent.

(ii) Standards must be prepared by gravimetric dilution of the appropriate pure or certified sulfur compounds in the blank stock.

(iii) A standard series of 5 calibration points at standard levels must be run. An additional blank calibration standard must be included using the blank stock prepared pursuant to the requirements of this section.

(iv) A graph of the calibration points must be prepared. This graph must show the calibration data to be linear with minimal deviation from the least squares line. Any deviation from linearity and/or any standard that does not appear to lie on the least squares line must be investigated.

(v) A new regression line must be calculated using the calibration point from the blank and the single standard that falls closest to the least squares line that was derived using all of the calibration points. This is simply a recalculation using the same data, additional standard analyses are not necessary for this recalculation. For this recalculation, it is preferred that the non-zero standard be in the upper portion of the calibration.

(vi) Analyzing the blank as an unknown, the blank must return a zero within +/−1 ppm.

(vii) The following guidelines are useful in limiting test variability: For ongoing verification when samples are in the single digit range, it is good practice to include more duplicates and include both blank samples and control fluid samples. For higher level samples, it is good practice to analyze samples in batches of 12. One duplicate and one control fluid sample should be analyzed with each batch of 12 samples. For lower level work, it is good practice to run samples in batches of 6. One duplicate, one control fluid, and one blank should be analyzed with each batch of 6 samples. As a general comment, care must be taken not to pollute the blank with sulfur from higher samples or standards through the process of preparing standards and analyzing the blanks.

(3) *Quality assurance test method.* Any ASTM sulfur test method may be used for quality assurance testing under § 80.473, if the protocols of the ASTM method are followed and the alternative method is correlated to the method provided in paragraph (b) of this section.

(b) *Motor Oil.* For purposes of § 80.448, the sulfur content of unused motor oil for use in diesel fuel is the sulfur content as determined by the use of American Society for Testing and Materials (ASTM) standard method D 6443–99, entitled ''Standard Test Method for Determination of Calcium, Chlorine, Copper, Magnesium, Phosphorous, Sulfur, and Zinc, in Unused Lubricating Oils and Additives by Wavelength Dispersive X-ray Fluorescence Spectrometry (Mathematical Correction Procedure).''

(c) *Incorporation by reference.* ASTM Standard Method D 6443–99 is incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Society for Testing and Materials, 100 Bar Harbor Dr., West Conshohocken, PA 19428. Copies may be inspected at the Air Docket Section (LE–131), room M–1500, U.S. Environmental Protection Agency, Docket No. A–99–06, 401 M Street, SW, Washington, DC 20460, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

Recordkeeping and Reporting Requirements

§ 80.462 What are the product transfer document requirements for motor vehicle diesel fuel?

On each occasion that any person transfers custody or title to motor vehicle diesel fuel, except when such fuel is dispensed into motor vehicles at a retail outlet or wholesale purchaser-facility, the transferor must provide to the transferee a product transfer document identifying the fuel as motor vehicle diesel fuel, and which:

(a) Identifies the name and address of the transferor and transferee, and the date of transfer;

(b) Except as provided in 40 CFR 69.51, includes an accurate statement, as applicable, that:

(1) ''This fuel complies with the 15 ppm sulfur standard for motor vehicle diesel fuel.'';

(2) ''This is high sulfur motor vehicle diesel fuel for use only in Guam, American Samoa, or the Northern Mariana Islands.'';

(3) ''This diesel fuel is for export use only.''; or

(4) ''This diesel fuel is for research, development, or testing purposes only.''

(c) For motor vehicle diesel fuel that contains visible evidence of the dye solvent red 164, the following accurate statement:

This fuel is motor vehicle diesel fuel for tax-exempt use only, in accordance with Section 4082 of the Internal Revenue Code.

(d) Except for transfers to truck carriers, retailers or wholesale purchaser-consumers, product codes may be used to convey the information required by paragraph (a) of this section if such codes are clearly understood by each transferee.

§ 80.463 What are the product transfer document requirements for additives to be used in motor vehicle diesel fuel?

(a) Except as provided in § 80.447(c), on each occasion that any person transfers custody or title to an additive for use in motor vehicle diesel fuel, to a party in the motor vehicle diesel fuel distribution system downstream of the refiner, the transferor must provide to the transferee a product transfer document which identifies the type of additive, and which:

(1) Identifies the name and address of the transferor and transferee, and the date of transfer; and

(2) Includes the following accurate statement:

This additive complies with the federal 15 ppm sulfur standard for motor vehicle diesel fuel.

(b) Except for transfers of motor vehicle diesel fuel to truck carriers, retailers or wholesale purchaser-consumers, product codes may be used to convey the information required under paragraph (a) of this section, if such codes are clearly understood by each transferee.

§ 80.464 What records must be kept?

(a) *Records that must be kept.* Beginning April 1, 2006, any person who produces, imports, sells, offers for sale, dispenses, distributes, supplies, offers for supply, stores, or transports motor vehicle diesel fuel subject to the provisions of this subpart must keep the following records:

(1) The product transfer documents required under §§ 80.462 and 80.463.

(2) For any sampling and testing for sulfur content, cetane index or aromatics content of motor vehicle diesel fuel or additives, conducted as part of a quality assurance program or otherwise:

(i) The location, date, time and storage tank or truck identification for each sample collected;

(ii) The name and title of the person who collected the sample and the person who performed the testing; and

(iii) The results of the tests for diesel fuel properties as required under this subpart and the volume of product in the storage tank or container from which the sample was taken.

(3) The actions the party has taken, if any, to stop the sale or distribution of any diesel fuel found not to be in compliance with the standards specified in this subpart, and the actions the party has taken, if any, to identify the cause of any noncompliance and prevent future instances of noncompliance.

(4) Business records establishing compliance with the designation and/or segregation requirements pursuant to the requirements of this subpart.

(b) [Reserved]

(c) *Additive distribution system records.* Beginning April 1, 2006, any person who produces, imports, sells, offers for sale, dispenses, distributes, supplies, offers for supply, stores, or transports an additive for use in motor vehicle diesel fuel and who is required to transfer or receive a product transfer document for that additive pursuant to § 80.463, must maintain such documents.

(d) *Length of time records must be kept.* The records required under this section must be maintained for five years from the date they were created.

(e) *Make records available to EPA.* The records required to be maintained under this section must be made available to the Administrator or the Administrator's authorized representative upon request.

§ 80.465 [Reserved]

Exemptions

§ 80.466 What are the requirements for obtaining an exemption for motor vehicle diesel fuel used for research, development or testing purposes?

(a) *Written request for R&D exemption.* Any person may receive an exemption from the provisions of this subpart for motor vehicle diesel fuel used for research, development, or testing (''R&D'') purposes by submitting the information listed in paragraph (c) of this section to:

(1) Director (6406J), Transportation and Regional Programs Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (postal mail); or

(2) Director (6406J), Transportation and Regional Programs Division, U.S. Environmental Protection Agency, 501 3rd Street, NW., Washington, DC 20001 (express mail/courier); and

(3) Director (2242A), Air Enforcement Division, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(b) *Criteria for an R&D exemption.* For an R&D exemption to be granted, the person requesting an exemption must:

(1) Demonstrate a purpose that constitutes an appropriate basis for exemption;

(2) Demonstrate that an exemption is necessary;

(3) Design an R&D program to be reasonable in scope; and

(4) Exercise a degree of control consistent with the purpose of the program and EPA's monitoring requirements.

(c) *Information required to be submitted.* To demonstrate each of the elements in paragraphs (b)(1) through (4) of this section, the person requesting an exemption must include the following information in the written request required under paragraph (a) of this section:

(1) A concise statement of the purpose of the program demonstrating that the program has an appropriate R&D purpose.

(2) An explanation of why the stated purpose of the program cannot be achieved in a practicable manner without performing one or more of the prohibited acts under this subpart.

(3) To demonstrate the reasonableness of the scope of the program:

(i) An estimate of the program's duration in time and, if appropriate, mileage;

(ii) An estimate of the maximum number of vehicles or engines involved in the program;

(iii) The manner in which the information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request; and

(iv) The quantity of diesel fuel which does not comply with the requirements of §§ 80.446 through 80.448.

(4) With regard to control, a demonstration that the program affords EPA a monitoring capability, including:

(i) The site(s) of the program (including facility name, street address, city, county, state, and zip code);

(ii) The manner in which information on vehicles and engines used in the program will be recorded and made available to the Administrator upon request;

(iii) The manner in which information on the diesel fuel used in the program (including quantity, fuel properties, name, address, telephone number and contact person of the supplier, and the date received from the supplier), will be recorded and made available to the Administrator upon request;

(iv) The manner in which the party will ensure that the R&D fuel will be segregated from motor vehicle diesel fuel and fuel pumps will be labeled to ensure proper use of the R&D diesel fuel;

(v) The name, address, telephone number and title of the person(s) in the organization requesting an exemption from whom further information on the application may be obtained; and

(vi) The name, address, telephone number and title of the person(s) in the organization requesting an exemption who is responsible for recording and making available the information specified in this paragraph, and the location where such information will be maintained.

(d) *Additional requirements.* (1) The product transfer documents associated with R&D motor vehicle diesel fuel must comply with requirements of § 80.462(b)(5).

(2) The R&D diesel fuel must be designated by the refiner or supplier, as applicable, as R&D diesel fuel.

(3) The R&D diesel fuel must be kept segregated from non-exempt motor vehicle diesel fuel at all points in the distribution system.

(4) The R&D diesel fuel must not be sold, distributed, offered for sale or distribution, dispensed, supplied, offered for supply, transported to or from, or stored by a diesel fuel retail outlet, or by a wholesale purchaser-consumer facility, unless the wholesale purchaser-consumer facility is associated with the R&D program that uses the diesel fuel.

(5) At the completion of the program, any emission control systems or elements of design which are damaged or rendered inoperative shall be replaced, or the responsible person will be liable for a violation of the Clean Air Act Section 203(a)(3) unless sufficient evidence is supplied that the emission controls or elements of design were not damaged.

(e) [Reserved]

(f) *Mechanism for granting of an exemption.* A request for an R&D exemption will be deemed approved by the earlier of sixty (60) days from the date on which EPA receives the request for exemption, (provided that EPA has not notified the applicant of potential disapproval by that time), or the date on which the applicant receives a written approval letter from EPA.

(1) The volume of diesel fuel subject to the approval shall not exceed the estimated amount in paragraph (c)(3)(iv) of this section, unless EPA grants a greater amount in writing.

(2) Any exemption granted under this section will expire at the completion of the test program or three years from the date of approval, whichever occurs first, and may only be extended upon re-application consistent will all requirements of this section.

(3) The passage of sixty (60) days will not signify the acceptance by EPA of the validity of the information in the request for an exemption. EPA may elect at any time to review the information contained in the request, and where appropriate may notify the responsible person of disapproval of the exemption.

(4) In granting an exemption the Administrator may include terms and conditions, including replacement of emission control devices or elements of design, that the Administrator determines are necessary for monitoring the exemption and for assuring that the purposes of this subpart are met.

(5) Any violation of a term or condition of the exemption, or of any requirement of this section, will cause the exemption to be void *ab initio*.

(6) If any information required under paragraph (c) of this section should change after approval of the exemption, the responsible person must notify EPA in writing immediately. Failure to do so may result in disapproval of the exemption or may make it void *ab initio*, and may make the party liable for a violation of this subpart.

(g) *Effects of exemption.* Motor vehicle diesel fuel that is subject to an R&D exemption under this section is exempt from other provisions of this subpart provided that the fuel is used in a manner that complies with the purpose of the program under paragraph (c) of this section and the requirements of this section.

(h) *Notification of Completion.* The party shall notify EPA in writing within thirty (30) days of completion of the R&D program.

§ 80.467 What are the requirements for an exemption for motor vehicle diesel fuel for use in the Territories?

The sulfur standards and dye requirement of § 80.446(a)(1) and (b) do not apply to diesel fuel that is produced, imported, sold, offered for sale, supplied, offered for supply, stored, dispensed, or transported for use in the Territories of Guam, American Samoa or the Commonwealth of the Northern Mariana Islands provided that such diesel fuel is:

(a) Designated by the refiner or importer as high sulfur diesel fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(b) Used only in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands;

(c) Accompanied by documentation that complies with the product transfer document requirements of § 80.462(b)(3); and

(d) Segregated from non-exempt highway and other diesel fuel at all points in the distribution system from the point the diesel fuel is designated as exempt fuel only for use in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, while the exempt fuel is in the United States but outside these Territories.

§§ 80.468–469 [Reserved]

Violation Provisions

§ 80.470 What acts are prohibited under the diesel fuel sulfur program?

No person shall:

(a) *Standard or dye violation.* Produce, import, sell, offer for sale, dispense, supply, offer for supply, store or transport motor vehicle diesel fuel that does not comply with the applicable standards and dye requirements under § 80.446.

(b) *Additive violation.* Blend or permit the blending into motor vehicle diesel fuel downstream of the refinery, or use, or permit the use, as motor vehicle diesel fuel, of additives which do not comply with the requirements of § 80.447.

(c) *Motor Oil violation.* Introduce into diesel motor vehicles, or permit the introduction into such vehicles of motor oil, or motor oil blended with diesel fuel, which does not comply with the requirements of § 80.448.

(d) *Introduction violation.* Introduce, or permit the introduction of, fuel into diesel motor vehicles which does not comply with the standards of § 80.446.

(e) *Cause another party to violate.* Cause another person to commit an act in violation of paragraphs (a) through (d) of this section.

(f) *Cause violating fuel or additive to be in the distribution system.* Cause diesel fuel to be in the diesel fuel distribution system which does not comply with the applicable standard or dye requirements of § 80.446, or cause any diesel fuel additive to be in the distribution system which does not comply with the sulfur standard of § 80.447.

§ 80.471 What evidence may be used to determine compliance with the prohibitions and requirements of this subpart and liability for violations of this subpart?

(a) *Compliance with sulfur, cetane, and aromatics standards.* Compliance with the standards in §§ 80.446 and 80.448 shall be determined based on the level of the applicable component or parameter, using the sampling methodologies specified in § 80.330(b), as applicable, and the appropriate testing methodologies specified in § 80.461(a) or (b) for sulfur, § 80.2(w) for cetane index, and § 80.2(z) for aromatic content. Any evidence or information, including the exclusive use of such evidence or information, may be used to establish the level of the applicable component or parameter in the diesel fuel, or motor oil to be used in diesel fuel, if the evidence or information is relevant to whether that level would have been in compliance with the standard if the appropriate sampling and testing methodology had been correctly performed. Such evidence may be obtained from any source or location and may include, but is not limited to, test results using methods other than the compliance methods in this paragraph, business records, and commercial documents.

(b) *Compliance with other requirements.* Determination of compliance with the requirements of this subpart other than the standards described in paragraph (a) of this section and in §§ 80.446 and 80.448, and determination of liability for any violation of this subpart, may be based on information obtained from any source or location. Such information may include, but is not limited to, business records and commercial documents.

§ 80.472 Who is liable for violations of this subpart?

(a) *Persons liable for violations of prohibited acts.*—(1) *Standard, dye, additives, motor oil, and introduction violations.* (i) Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who owned, leased, operated, controlled or supervised a facility where a violation of § 80.470(a) through (d) occurred, is deemed liable for the applicable violation.

(ii) Any person who violates § 80.470(a) through (d) is liable for the violation.

(iii) Any person who causes another person to violate § 80.470(a) through (d) is liable for a violation of § 80.470(e).

(iv) Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who produced, imported, sold, offered for sale, dispensed, supplied, offered to supply, stored, transported, or caused the transportation or storage of, diesel fuel that violates § 80.470(a), is deemed in violation of § 80.470(e).

(2) *Cause violating diesel fuel or additive to be in the distribution system.* Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who owned, leased, operated, controlled or supervised a facility from which motor vehicle diesel fuel or additive was released into the distribution system which does not comply with the applicable standards or dye requirement of § 80.446 or § 80.447, is deemed in violation of § 80.470(f).

(3) *Branded refiner/importer liability.* Any refiner or importer whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name appeared at a facility where a violation of § 80.470(a) occurred, is deemed in violation of § 80.470(a).

(4) *Carrier causation.* In order for a carrier to be liable under paragraph (a)(1)(iii) or (iv) of this section, EPA must demonstrate, by reasonably specific showing by direct or circumstantial evidence, that the carrier caused the violation.

(5) *Parent corporation.* Any parent corporation is liable for any violations of this subpart that are committed by any subsidiary.

(6) *Joint venture.* Each partner to a joint venture is jointly and severally liable for any violation of this subpart that occurs at the joint venture facility or is committed by the joint venture operation.

(b) *Persons liable for failure to meet other provisions of this subpart.* Any refiner, importer, distributor, reseller, carrier, retailer, or wholesale purchaser-consumer who:

(1) Fails to meet a provision of this subpart not addressed in paragraph (a) of this section is liable for a violation of that provision; or

(2) Causes another person to fail to meet a provision of this subpart not addressed in paragraph (a) of this section, is liable for causing a violation of that provision.

§ 80.473 What defenses apply to persons deemed liable for a violation of a prohibited act?

(a) *Presumptive liability defenses.* Any person deemed liable for a violation of a prohibition under § 80.472 (a)(1)(i) or (a)(1)(iv), (a)(2) or (a)(3), will not be deemed in violation if the person demonstrates that:

(1) The violation was not caused by the person or the person's employee or agent;

(2) Product transfer documents account for fuel or additive found to be in violation and indicate that the violating product had met the applicable requirements when it was under the party's control; and

(3) The person conducted a quality assurance sampling and testing program, as described in paragraph (d) of this section. A carrier may rely on the quality assurance program carried out by another party, including the party who owns the diesel fuel in question, provided that the quality assurance program is carried out properly. Retailers and wholesale purchaser-consumers are not required to conduct quality assurance programs.

(b) *Branded refiner defenses.* In the case of a violation found at a facility operating under the corporate, trade or brand name of a refiner or importer, or a refiner's or importer's marketing subsidiary, the refiner or importer must show, in addition to the defense elements required under paragraphs (a)(1) and (a)(2) of this section, that the violation was caused by:

(1) An act in violation of law (other than the Clean Air Act or this part 80), or an act of sabotage or vandalism;

(2) The action of any refiner, importer, retailer, distributor, reseller, oxygenate blender, carrier, retailer or wholesale purchaser-consumer in violation of a contractual agreement between the branded refiner or importer and the person designed to prevent such action, and despite periodic sampling and testing by the branded refiner or importer to ensure compliance with such contractual obligation; or

(3) The action of any carrier or other distributor not subject to a contract with the refiner or importer, but engaged for transportation of diesel fuel, despite specifications or inspections of procedures and equipment which are reasonably calculated to prevent such action.

(c) *Causation demonstration.* Under paragraph (a)(1) of this section for any person to show that a violation was not caused by that person, or under paragraph (b) of this section to show that a violation was caused by any of the specified actions, the person must

demonstrate by reasonably specific showing, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person and that the person asserting the defense did not contribute to that other person's causation.

(d) *Quality assurance and testing program.* (1) To demonstrate an acceptable quality assurance program under paragraph (a)(2) of this section, a person must present evidence of the following:

(i) A periodic sampling and testing program to ensure the motor vehicle diesel fuel or additive the person sold, dispensed, supplied, stored, or transported, meets the applicable standards; and

(ii) On each occasion when motor vehicle diesel fuel or additive is found not in compliance with the applicable standard:

(A) The person immediately ceases selling, offering for sale, dispensing, supplying, offering for supply, storing or transporting the non-complying product; and

(B) The person promptly remedies the violation and the factors that caused the violation (for example, by removing the non-complying product from the distribution system until the applicable standard is achieved and taking steps to prevent future violations of a similar nature from occurring).

(2) For any carrier who transports motor vehicle diesel fuel or additive in a tank truck, the quality assurance program required under this paragraph (d) need not include periodic sampling and testing of the motor vehicle diesel fuel or additive in the tank truck, but in lieu of such tank truck sampling and testing, the carrier shall demonstrate evidence of an oversight program for monitoring compliance with the requirements of this subpart relating to the transport or storage of such product by tank truck, such as appropriate guidance to drivers regarding compliance with the applicable sulfur standard and product transfer document requirements, and the periodic review of records received in the ordinary course of business concerning motor vehicle diesel fuel or additive quality and delivery.

§ 80.474 What penalties apply under this subpart?

(a) Any person liable for a violation under § 80.472 is subject to civil penalties as specified in section 205 of the Clean Air Act for every day of each such violation and the amount of economic benefit or savings resulting from each violation.

(b)(1) Any person liable under § 80.472(a)(1) for a violation of an applicable standard or requirement under § 80.446, or of causing another party to violate such standard or requirement, is subject to a separate day of violation for each and every day the non-complying motor vehicle diesel fuel remains any place in the distribution system.

(2) Any person liable under § 80.472(a)(2) for causing motor vehicle diesel fuel to be in the distribution system which does not comply with an applicable standard or requirement of § 80.446, is subject to a separate day of violation for each and every day that the non-complying motor vehicle diesel fuel remains any place in the motor vehicle diesel fuel distribution system.

(3) For purposes of this paragraph (b), the length of time the motor vehicle diesel fuel in question remained in the motor vehicle diesel fuel distribution system is deemed to be twenty-five days, unless a person subject to liability or EPA demonstrates by reasonably specific showings, by direct or circumstantial evidence, that the non-complying motor vehicle diesel fuel remained in the distribution system for fewer than or more than twenty-five days.

(c) Any person liable under § 80.472(a)(1) for blending into motor vehicle diesel fuel an additive violating the sulfur standard under § 80.447(a)(1), or of causing another party to violate that requirement, is subject to a separate day of violation for each and every day the non-complying motor vehicle diesel fuel remains any place in the system.

(d) Any person liable under § 80.472(b) for failure to meet, or causing a failure to meet, a provision of this subpart is liable for a separate day of violation for each and every day such provision remains unfulfilled.

PART 86—[AMENDED]

8. The authority citation for part 86 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

9. Section 86.004–2 of subpart A is amended by adding in alphabetical order a definition of ''U.S.-directed production'' to read as follows:

§ 86.004–2 Definitions.

* * * * *

U.S.-directed production means the engines or vehicles produced by a manufacturer for which the manufacturer has reasonable assurance that sale was or will be made to ultimate purchasers in the United States.

* * * * *

10. Section 86.004–40 of subpart A is amended by revising the introductory text to read as follows:

§ 86.004–40 Heavy-duty engine rebuilding practices.

The provisions of this section are applicable to heavy-duty engines subject to model year 2004 or later standards and are applicable to the process of engine rebuilding (or rebuilding a portion of an engine or engine system). The process of engine rebuilding generally includes disassembly, replacement of multiple parts due to wear, and reassembly, and also may include the removal of the engine from the vehicle and other acts associated with rebuilding an engine. Any deviation from the provisions contained in this section is a prohibited act under section 203(a)(3) of the Clean Air Act (42 U.S.C. 7522(a)(3)).

* * * * *

11. A new § 86.007–10 is added to subpart A to read as follows:

§ 86.007–10 Emission standards for 2007 and later model year Otto-cycle heavy-duty engines and vehicles.

This § 86.007–10 includes text that specifies requirements that differ from § 86.099–10. Where a paragraph in § 86.099–10 is identical and applicable to § 86.007–10, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.099–10.''

(a)(1) Exhaust emissions from new 2007 and later model year Otto-cycle HDEs shall not exceed:

(i)(A) *Oxides of Nitrogen (NO_X).* 0.20 grams per brake horsepower-hour (0.075 grams per megajoule).

(B) A manufacturer may elect to include any or all of its Otto-cycle HDE families in any or all of the NO_X and NO_X plus NMHC emissions ABT programs for HDEs, within the restrictions described in § 86.007–15 or § 86.004–15. If the manufacturer elects to include engine families in any of these programs, the NO_X FEL may not exceed 0.50 grams per brake horsepower-hour (0.19 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, banking, or trading programs.

(ii)(A) *Non-methane Hydrocarbons (NMHC) for engines fueled with either gasoline, natural gas, or liquefied petroleum gas.* 0.14 grams per brake horsepower-hour (0.052 gram per megajoule).

(B) *Non-methane Hydrocarbon Equivalent (NMHCE) for engines fueled with methanol.* 0.14 grams per brake

horsepower-hour (0.052 gram per megajoule).

(iii)(A) *Carbon monoxide.* 14.4 grams per brake horsepower-hour (5.36 grams per megajoule).

(B) *Idle Carbon Monoxide.* For all Otto-cycle HDEs utilizing aftertreatment technology: 0.50 percent of exhaust gas flow at curb idle.

(iv) *Particulate.* 0.01 gram per brake horsepower-hour (0.0037 gram per megajoule).

(v) *Formaldehyde.* 0.016 grams per brake horsepower-hour (0.0060 gram per megajoule)

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(1) of appendix I to this part, and measured and calculated in accordance with the procedures set forth in subpart N or P of this part.

(3) [Reserved]

(4) [Reserved]

(b) Evaporative emissions from heavy-duty vehicles shall not exceed the following standards. The standards apply equally to certification and in-use vehicles. The spitback standard also applies to newly assembled vehicles. For certification vehicles only, manufacturers may conduct testing to quantify a level of nonfuel background emissions for an individual test vehicle. Such a demonstration must include a description of the source(s) of emissions and an estimated decay rate. The demonstrated level of nonfuel background emissions may be subtracted from emission test results from certification vehicles if approved in advance by the Administrator.

(1) Hydrocarbons (for vehicles equipped with gasoline-fueled, natural gas-fueled or liquefied petroleum gas-fueled engines). (i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.4 grams per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 1.75 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

(C) Fuel dispensing spitback test (gasoline-fueled vehicles only): 1.0 gram per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.9 grams per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements (gasoline-fueled vehicles only): 2.3 grams per test.

(B) Running loss test (gasoline-fueled vehicles only): 0.05 grams per mile.

(2) Total Hydrocarbon Equivalent (for vehicles equipped with methanol-fueled engines). (i) For vehicles with a Gross Vehicle Weight Rating of up to 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.4 grams carbon per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.75 grams carbon per test.

(B) Running loss test: 0.05 grams carbon per mile.

(C) Fuel dispensing spitback test: 1.0 gram carbon per test.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 14,000 lbs:

(A)(*1*) For the full three-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 1.9 grams carbon per test.

(*2*) For the supplemental two-diurnal test sequence described in § 86.1230–96, diurnal plus hot soak measurements: 2.3 grams carbon per test.

(B) Running loss test: 0.05 grams carbon per mile.

(3)(i) For vehicles with a Gross Vehicle Weight Rating of up to 26,000 lbs, the standards set forth in paragraphs (b)(1) and (b)(2) of this section refer to a composite sample of evaporative emissions collected under the conditions and measured in accordance with the procedures set forth in subpart M of this part.

(ii) For vehicles with a Gross Vehicle Weight Rating of greater than 26,000 lbs., the standards set forth in paragraphs (b)(1)(ii) and (b)(2)(ii) of this section refer to the manufacturer's engineering design evaluation using good engineering practice (a statement of which is required in § 86.098–23(b)(4)(ii)).

(4) All fuel vapor generated in a gasoline-or methanol-fueled heavy-duty vehicle during in-use operations shall be routed exclusively to the evaporative control system (e.g., either canister or engine purge). The only exception to this requirement shall be for emergencies.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 2007 or later model year Otto-cycle HDE.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in subpart N or P of this part to ascertain that such test engines meet the requirements of this section.

(e)[Reserved]. For guidance see § 86.099–10.

12. A new § 86.007–11 is added to subpart A to read as follows:

§ 86.007–11 Emission standards for 2007 and later model year diesel heavy-duty engines and vehicles.

Section 86.007–11 includes text that specifies requirements that differ from § 86.004–11. Where a paragraph in § 86.004–11 is identical and applicable to § 86.007–11, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.004–11.''

(a)(1) Exhaust emissions from new 2007 and later model year diesel HDEs shall not exceed the following:

(i)(A) *Oxides of Nitrogen (NO_X).* 0.20 grams per brake horsepower-hour (0.075 gram per megajoule).

(B) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the NO_X and NO_X plus NMHC emissions ABT programs for HDEs, within the restrictions described in § 86.007–15 or § 86.004–15. If the manufacturer elects to include engine families in any of these programs, the NO_X FELs may not exceed 0.50 grams per brake horsepower-hour (0.19 grams per megajoule). This ceiling value applies whether credits for the family are derived from averaging, banking, or trading programs.

(ii)(A) *Non-methane Hydrocarbons (NMHC) for engines fueled with either diesel fuel, natural gas, or liquefied petroleum gas.* 0.14 grams per brake horsepower-hour (0.052 gram per megajoule).

(B) *Non-methane Hydrocarbon Equivalent (NMHCE) for engines fueled with methanol.* 0.14 grams per brake horsepower-hour (0.052 gram per megajoule).

(iii) *Carbon monoxide.* (A) 15.5 grams per brake horsepower-hour (5.77 grams per megajoule).

(B) 0.50 percent of exhaust gas flow at curb idle (methanol-, natural gas-, and liquefied petroleum gas-fueled diesel HDEs only).

(iv) *Particulate.* (A) 0.01 gram per brake horsepower-hour (0.0037 gram per megajoule).

(B) A manufacturer may elect to include any or all of its diesel HDE families in any or all of the particulate ABT programs for HDEs, within the

restrictions described in § 86.007–15 or superseding applicable sections. If the manufacturer elects to include engine families in any of these programs, the particulate FEL may not exceed 0.02 gram per brake horsepower-hour (0.0075 gram per megajoule).

(v) *Formaldehyde.* 0.016 grams per brake horsepower-hour (0.0060 gram per megajoule).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over the operating schedule set forth in paragraph (f)(2) of appendix I to this part, and measured and calculated in accordance with the procedures set forth in subpart N or P of this part, except as noted in § 86.007–23(c)(2).

(3)(i) The weighted average exhaust emissions, as determined under § 86.1360–2004(e)(5) pertaining to the supplemental steady-state test cycle, for each regulated pollutant shall not exceed 1.0 times the applicable emission standards or FELs specified in paragraph (a)(1) of this section.

(ii) Exhaust emissions shall not exceed the Maximum Allowable Emission Limits (for the corresponding speed and load), as determined under § 86.1360–2004(f), when the engine is operated in the steady-state control area defined under § 86.1360–2004(d).

(4)(i) The weighted average emissions, as determined under § 86.1370 pertaining to the not-to-exceed test procedures, for each regulated pollutant shall not exceed 1.25 times the applicable emission standards or FELs specified in paragraph (a)(1) of this section, except as noted in paragraph (a)(4)(ii) of this section.

(ii) Exhaust emissions shall not exceed either the Maximum Allowable Emission Limits (for the corresponding speed and load), as determined under § 86.1360(f) or the exhaust emissions specified in paragraph (a)(4)(i) of this section, whichever is numerically lower, when the engine is operated in the steady-state control area defined under § 86.1360(d).

(b)[Reserved]. For guidance see § 86.004–11.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any new 2007 or later model year diesel HDE.

(d) Every manufacturer of new motor vehicle engines subject to the standards prescribed in this section shall, prior to taking any of the actions specified in section 203(a)(1) of the Act, test or cause to be tested motor vehicle engines in accordance with applicable procedures in subpart I or N of this part to ascertain that such test engines meet the requirements of paragraphs (a), (b), (c), and (d) of this section.

(e)[Reserved]. For guidance see § 86.004–11.

(f) Optional phase-in provisions. For model years 2007, 2008, and 2009, manufacturers may certify some of their engine families to the combined NOx plus NMHC standard applicable to model year 2006 engines under § 86.004–11, in lieu of the separate NO_X, NMHC, and formaldehyde standards specified in this section. These engines must comply with all other requirements applicable to model year 2007 engines.

(1) The following sales limits apply:

(i) For model year 2007, the combined number of engines in the engine families certified to the 2006 combined NO_X plus NMHC standard may not exceed 75 percent of the manufacturer's U.S.-directed production of heavy-duty diesel motor vehicle engines for model year 2007.

(ii) For model year 2008, the combined number of engines in the engine families certified to the 2006 combined NO_X plus NMHC standard may not exceed 50 percent of the manufacturer's U.S.-directed production of heavy-duty diesel motor vehicle engines for model year 2008.

(iii) For model year 2009, the combined number of engines in the engine families certified to the 2006 combined NO_X plus NMHC standard may not exceed 25 percent of the manufacturer's U.S.-directed production of heavy-duty diesel motor vehicle engines for model year 2009.

(2) During the phase-in period, manufacturers may not average together (as part of the ABT program) engine families certified to the NO_X plus NMHC standards applicable to model year 2006 and engine families certified to the separate NO_X and NMHC standards specified in this section.

(g)(1) Diesel heavy-duty engines and vehicles for sale in Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be subject to the same standards and requirements as apply to 2006 model year diesel heavy-duty engines and vehicles, but only if the vehicle or engine bears a permanently affixed label stating:

THIS ENGINE (or VEHICLE, as applicable) CONFORMS TO US EPA EMISSION STANDARDS APPLICABLE TO MODEL YEAR 2006. THIS ENGINE (or VEHICLE, as applicable) DOES NOT CONFORM TO US EPA EMISSION REQUIREMENTS IN EFFECT AT TIME OF PRODUCTION AND MAY NOT BE IMPORTED INTO THE UNITED STATES OR ANY TERRITORY OF THE UNITED STATES EXCEPT GUAM, AMERICAN SAMOA, OR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(2) The importation or sale of such a vehicle or engine for use at any location other than Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be considered a violation of section 203(a)(1) of the Clean Air Act. In addition, vehicles or vehicle engines subject to this exemption may not subsequently be imported or sold into any state or territory of the United States other than Guam, American Samoa, or Commonwealth of the Northern Mariana Islands.

13. A new § 86.007–15 is added to Subpart A to read as follows:

§ 86.007–15 NO_X and particulate averaging, trading, and banking for heavy-duty engines.

Section 86.007–15 includes text that specifies requirements that differ from § 86.004–15. Where a paragraph in § 86.004–15 is identical and applicable to § 86.007–15, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.004–15.''

(a) through (k) [Reserved]. For guidance see § 86.004–15.

(l) The following provisions apply for model year 2007 and later engines. These provisions apply instead of the provisions of § 86.004–15 (a) through (k) to the extent that they are in conflict.

(1) Credits are calculated as NO_X credits. Banked NO_X plus NMHC credits and PM credits generated in prior model years (before 2007) may not be used in the 2007 and later NO_X and PM averaging programs, unless:

(i) The engines generating the credits meet all of the applicable standards listed in § 86.007-10 (a)(1) or § 86.007–11 (a)(1); or

(ii) The engines using the credits are certified under the § 86.007–11(f).

(2) The FEL must be expressed to the same number of decimal places as the standard (one-hundredth of a gram per brake horsepower-hour).

(3) Credits are rounded to the nearest one-hundredth of a Megagram.

(4) Credits generated for 2007 and later model year engine families are not discounted, and do not expire.

14. A new § 86.007–23 is added to Subpart A to read as follows:

§ 86.007–23 Required data.

Section 86.007–23 includes text that specifies requirements that differ from § 86.095–23, § 86.098–23, or § 86.001–23. Where a paragraph in § 86.095–23, § 86.098–23, or § 86.001–23 is identical and applicable to § 86.007–23, this may

be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.095–23.'', ''[Reserved]. For guidance see § 86.098–23.'', or ''[Reserved]. For guidance see § 86.001–23.''.

(a) through (b)(1) [Reserved]. For guidance see § 86.098–23.

(b)(2) [Reserved]. For guidance see § 86.001–23.

(b)(3) and (b)(4) [Reserved]. For guidance see § 86.098–23.

(c) *Emission data*—(1) *Certification vehicles.* The manufacturer shall submit emission data (including, methane, methanol, formaldehyde, and hydrocarbon equivalent, as applicable) on such vehicles tested in accordance with applicable test procedures and in such numbers as specified. These data shall include zero-mile data, if generated, and emission data generated for certification as required under § 86.000–26(a)(3). In lieu of providing emission data the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with certain applicable emission standards of this part Standards eligible for such manufacturer requests are those for idle CO emissions, smoke emissions, or particulate emissions from methanol-fueled diesel-cycle certification vehicles, those for particulate emissions from gasoline-fueled or methanol-fueled Otto-cycle certification vehicles, and those for formaldehyde emissions from petroleum-fueled vehicles. Also eligible for such requests are standards for total hydrocarbon emissions from model year 1994 and later certification vehicles. By separate request, including appropriate supporting test data, the manufacturer may request that the Administrator also waive the requirement to measure particulate or formaldehyde emissions when conducting Selective Enforcement Audit testing of Otto-cycle vehicles.

(2) *Certification engines.* The manufacturer shall submit emission data on such engines tested in accordance with applicable emission test procedures of this subpart and in such numbers as specified. These data shall include zero-hour data, if generated, and emission data generated for certification as required under § 86.000–26(c)(4). In lieu of providing emission data on idle CO emissions or particulate emissions from methanol-fueled diesel-cycle certification engines, on particulate emissions from Otto-cycle engines, on CO emissions from petroleum-fueled or methanol-fueled diesel certification engines, or on formaldehyde emissions from petroleum-fueled engines the Administrator may, on request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable emission standards of this part . In lieu of providing emission data on smoke emissions from methanol-fueled or petroleum-fueled diesel certification engines, the Administrator may, on the request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable emissions standards of this part In lieu of providing emissions data on smoke emissions from petroleum-fueled or methanol-fueled diesel engines, or on formaldehyde emissions from petroleum-fueled engines when conducting Selective Enforcement Audit testing under subpart K of this part, the Administrator may, on separate request of the manufacturer, allow the manufacturer to demonstrate (on the basis of previous emission tests, development tests, or other information) that the engine will conform with the applicable smoke emissions standards of this part.

(d) through (e)(1) [Reserved]. For guidance see § 86.098–23.

(e)(2) and (e)(3) [Reserved]. For guidance see § 86.001–23.

(f) through (g) [Reserved]. For guidance see § 86.095–23.

(h) through (k) [Reserved]. For guidance see § 86.098–23.

(l) [Reserved]. For guidance see § 86.095–23.

(m) [Reserved]. For guidance see § 86.098–23.

15. A new § 86.007–25 is added to Subpart A to read as follows:

§ 86.007–25 Maintenance.

Section 86.007–25 includes text that specifies requirements that differ from § 86.094–25, § 86.098–25, or § 86.004–25. Where a paragraph in § 86.094–25, § 86.098–25, or § 86.004–25 is identical and applicable to § 86.007–25, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–25.'', ''[Reserved]. For guidance see § 86.098–25.'', or ''[Reserved]. For guidance see § 86.004–25.''

(a) through (b)(3)(v)(H) [Reserved]. For guidance see § 86.004–25.

(b)(3)(vi)(A) through (b)(3)(vi)(D) [Reserved]. For guidance see § 86.094–25.

(b)(3)(vi)(E) through (b)(3)(vi)(J) [Reserved]. For guidance see § 86.098–25.

(b)(4) introductory text through (b)(4)(iii)(C) [Reserved]. For guidance see § 86.004–25.

(b)(4)(iii)(D) Particulate trap or trap oxidizer systems including related components (adjustment and cleaning only for filter element, replacement of the filter element is not allowed during the useful life).

(b)(4)(iii)(E) [Reserved]. For guidance see § 86.004–25.

(F) Catalytic converter (adjustment and cleaning only for catalyst beds, replacement of the bed is not allowed during the useful life).

(b)(4)(iii)(G) through (b)(6) [Reserved]. For guidance see § 86.004–25.

(b)(7) through (h) [Reserved]. For guidance see § 86.094–25.

16. A new § 86.007–35 is added to Subpart A to read as follows:

§ 86.007–35 Labeling.

Section 86.007–35 includes text that specifies requirements that differ from § 86.095–35. Where a paragraph in § 86.095–35 is identical and applicable to § 86.007–35, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.095–35.''.

(a) Introductory text through (a)(1)(iii)(L) [Reserved]. For guidance see § 86.095–35.

(a)(1)(iii)(M) [Reserved]

(a)(1)(iii)(N)(*1*) For vehicles exempted from compliance with certain revised performance warranty procedures, as specified in § 86.096–21(j), a statement indicating the specific performance warranty test(s) of 40 CFR part 85, subpart W, not to be performed.

(*2*) For vehicles exempted from compliance with all revised performance warranty procedures, as specified in § 86.096–21(k), a statement indicating:

(*i*) That none of the performance warranty tests of 40 CFR part 85, subpart W, is to be performed, and

(*ii*) The name of the Administrator-approved alternative test procedure to be performed.

(2) Light-duty truck and heavy-duty vehicles optionally certified in accordance with the light-duty truck provisions.

(i) A legible, permanent label shall be affixed in a readily visible position in the engine compartment.

(ii) The label shall be affixed by the vehicle manufacturer who has been issued the certificate of conformity for such vehicle, in such a manner that it cannot be removed without destroying or defacing the label. The label shall not

be affixed to any equipment which is easily detached from such vehicle.

(iii) The label shall contain the following information lettered in the English language in block letters and numerals, which shall be of a color that contrasts with the background of the label:

(A) The label heading: Important Vehicle Information;

(B) Full corporate name and trademark of the manufacturer;

(C) Engine displacement (in cubic inches or liters), engine family identification, and evaporative/refueling family;

(a)(2)(iii)(D) through (a)(2)(iii)(E) [Reserved]. For guidance see § 86.095–35.

(a)(2)(iii)(F) [Reserved]

(a)(2)(iii)(G) through (a)(2)(iii)(K) [Reserved]. For guidance see § 86.095–35.

(a)(2)(iii)(L) [Reserved]

(a)(2)(iii)(M) through (a)(2)(iii)(N) [Reserved]. For guidance see § 86.095–35.

(a)(2)(iii)(O)(*1*) For vehicles exempted from compliance with certain revised performance warranty procedures, as specified in § 86.096–21(j), a statement indicating the specific performance warranty test(s) of 40 CFR part 85, subpart W, not to be performed.

(*2*) For vehicles exempted from compliance with all revised performance warranty procedures, as specified in § 86.096–21(k), a statement indicating:

(*i*) That none of the performance warranty tests of 40 CFR part 85, subpart W, is to be performed, and

(*ii*) The name of the Administrator-approved alternative test procedure to be performed.

(a)(3) heading through (b) [Reserved]. For guidance see § 86.095–35.

(c) Model year 2007 and later diesel heavy-duty vehicles, and diesel-fueled Tier 2 vehicles as defined in Subpart S of this Part, must include permanent readily visible labels on the dashboard (or instrument panel) and near the fuel inlet that states ''Ultra Low Sulfur Diesel Fuel Only''.

(d) through (i) [Reserved]. For guidance see § 86.095–35.

17. A new § 86.007–38 is added to Subpart A to read as follows:

§ 86.007–38 Maintenance Instructions.

Section 86.007–38 includes text that specifies requirements that differ from those specified in § 86.094–38 or § 86.004–38. Where a paragraph in § 86.094–38 or § 86.004–38 is identical and applicable to § 86.007–38, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.094–38.'', or ''[Reserved]. For guidance see § 86.004–38.''

(a) through (f) [Reserved]. For guidance see § 86.004–38.

(g) [Reserved]. For guidance see § 86.094–38.

(h) [Reserved]. For guidance see § 86.004–38.

(i) For each new diesel-fueled engine subject to the standards prescribed in § 86.007–11, as applicable, the manufacturer shall furnish or cause to be furnished to the ultimate purchaser a statement that ''This engine must be operated only with ultra low sulfur diesel fuel (i.e., diesel fuel meeting EPA specifications for highway diesel fuel, including a 15 ppm sulfur cap).''

18. A new § 86.113–07 is added to subpart B to read as follows:

§ 86.113–07 Fuel specifications.

Section 86.113–07 includes text that specifies requirements that differ from § 86.113–94 or § 86.113–04. Where a paragraph in § 86.113–94 or § 86.113–04 is identical and applicable to § 86.113–07, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.113–94 or ''[Reserved]. For guidance see § 86.113–04''.

(a) [Reserved]. For guidance see § 86.113–04.

(b)(1) [Reserved]. For guidance see § 86.113–94.

(b)(2) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, must be used in exhaust emissions testing. The grade of petroleum diesel fuel recommended by the engine manufacturer, commercially designated as ''Type 2-D'' grade diesel, must be used:

Item		ASTM test method No.	Type 2–D
(i) Cetane Number		D613	40–50
(ii) Cetane Index		D976	40–50
(iii) Distillation range:			
(A) IBP	°F (°C)	D86	340–400 (171.1–204.4)
(B) 10 pct. point	°F (°C)	D86	400–460 (204.4–237.8)
(C) 50 pct. point	°F (°C)	D86	470–540 (243.3–282.2)
(D) 90 pct. point	°F (°C)	D86	560–630 (293.3–332.2)
(E) EP	°F (°C)	D86	610–690 (321.1–365.6)
(iv) Gravity	°API	D287	32–37
(v) Total sulfur	ppm	D2622	7–15
(vi) Hydrocarbon composition: Aromatics, minimum (Remainder shall be paraffins, naphthenes, and olefins)	pct.	D5186	27

Item		ASTM test method No.	Type 2–D
(vii) Flashpoint, min.	°F (°C)	D93	130 (54.4)
(viii) Viscosity	centistokes	D445	2.0–3.2

(3) Petroleum fuel for diesel vehicles meeting the following specifications, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of petroleum diesel fuel recommended by the engine manufacturer, commercially designated as ''Type 2–D'' grade diesel fuel, shall be used:

Item		ASTM test method No.	Type 2–D
(i) Cetane Number		D613	38–58
(ii) Cetane Index		D976	min. 40
(iii) Distillation range: 90 pct. point	°F	D86	540–630
(iv) Gravity	°API	D287	30–39
(v) Total sulfur	ppm	D2622	7–15
(vi) Flashpoint, min.	°F (°C)	D93	130 (54.4)
(vii) Viscosity	centistokes	D445	1.5–4.5

(b)(4) through (g) [Reserved]. For guidance see § 86.113–94.

19. A new § 86.1313–07 of subpart N is added to read as follows:

§ 86.1313–07 Fuel specifications.

Section 86.1313–07 includes text that specifies requirements that differ from § 86.1313–94. Where a paragraph in § 86.1313–94 is identical and applicable to § 86.1313–07, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.1313–94.''.

(a) through (b)(1) [Reserved]. For guidance see § 86.1313–94.

(b)(2) Petroleum fuel for diesel engines meeting the specifications in Table N07–2, or substantially equivalent specifications approved by the Administrator, shall be used in exhaust emissions testing. The grade of petroleum fuel used shall be commercially designated as ''Type 2–D'' grade diesel fuel except that fuel commercially designated as ''Type 1–D'' grade diesel fuel may be substituted provided that the manufacturer has submitted evidence to the Administrator demonstrating to the Administrator's satisfaction that this fuel will be the predominant in-use fuel. Such evidence could include such things as copies of signed contracts from customers indicating the intent to purchase and use ''Type 1–D'' grade diesel fuel as the primary fuel for use in the engines or other evidence acceptable to the Administrator. Table N07–2 follows:

TABLE N07–2

Item		ASTM test method No.	Type 1–D	Type 2–D
(i) Cetane Number		D613	40–54	40–50
(ii) Cetane Index		D976	40–54	40–50
(iii) Distillation range: (A) IBP	°F (°C)	D86	330–390 (165.6–198.9)	340–400 (171.1–204.4)
(B) 10 pct. point	°F (°C)	D86	370–430 187.8–221.1)	400–460 (204.4–237.8)
(C) 50 pct. point	°F °C)	D86	410–480 (210.0–248.9)	470–540 (243.3–282.2)

TABLE N07–2—Continued

Item		ASTM test method No.	Type 1–D	Type 2–D
(D) 90 pct. point	°F (°C)	D86	460–520 (237.8–271–1)	560–630 (293.3–332.2)
(E) EP	°F (°C)	D86	500–560 (260.0–293.3)	610–690 (321.1–365.6)
(iv) Gravity	°API	D287	40–44	32–37
(v) Total sulfur	ppm	D2622	7–15	7–15
(vi) Hydrocarbon composition: Aromatics, minimum (Remainder shall be paraffins, naphthenes, and olefins).	pct	D5186	8	27
(vii) Flashpoint, min	°F (°C)	93	120 (48.9)	130 (54.4)
(viii) Viscosity	centistokes	D445	1.6–2.0	2.0–3.2

(3) Petroleum diesel fuel for diesel engines meeting the specifications in table N07–3, or substantially equivalent specifications approved by the Administrator, shall be used in service accumulation. The grade of petroleum diesel fuel used shall be commercially designated as ''Type 2–D'' grade diesel fuel except that fuel commercially designated as ''Type 1–D'' grade diesel fuel may be substituted provided that the manufacturer has submitted evidence to the Administrator demonstrating to the Administrator's satisfaction that this fuel will be the predominant in-use fuel. Such evidence could include such things as copies of signed contracts from customers indicating the intent to purchase and use ''Type 1–D'' grade diesel fuel as the primary fuel for use in the engines or other evidence acceptable to the Administrator. Table N07–03 follows:

TABLE N07–3

Item		ASTM test method No.	Type 1–D	Type 2–D
(i) Cetane Number		D613	40–56	38–58
(ii) Cetane Index		D976	min. 40	min. 40
(iii) Distillation range: 90 pct. point	°F (°C)	D86	440–530 226.7–276–7)	540–630 (293.3–332.2)
(iv) Gravity	°API	D287	39–45	30–39
(v) Total sulfur	ppm	D2622	7–15	7–15
(vi) Flashpoint, min.	°F (°C)	D93	130 (54.4)	130 (54.4)
(vii) Viscosity	centistokes	D445	1.2–2.2	1.5–4.5

(b)(4) through (g) [Reserved]. For guidance see § 86.1313–94.

20. A new § 86.1337–07 is added to subpart N to read as follows:

§ 86.1337–07 Engine dynamometer test run.

Section 86.1337–07 includes text that specifies requirements that differ from § 86.1337–96. Where a paragraph in § 86.1337–96 is identical and applicable to § 86.1337–07, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.1337–96.''.

(a) through (c) [Reserved]. For guidance see § 86.1337–96.

(d) For engines equipped with an aftertreatment device that is intermittently regenerated:

(1) Repeat the ''hot start cycle'' until the regeneration event occurs;

(2) Complete the ''hot start cycle'' in which the regeneration event occurs;

(3) Measure emission during each of the ''hot start cycles''; and

(4) Use the measured emission values for the ''hot start cycle'' with the highest emissions as the ''hot start cycle'' emissions for calculations in § 86.1342. (Note: If the highest emission values for each pollutant do not occur in the same ''hot start cycle'', then use the emissions for the cycle in which the emissions come closest to causing an exceedance of an applicable standard.)

21. A new § 86.1808–07 is added to subpart S to read as follows:

§ 86.1808–07 Maintenance instructions.

Section 86.1808–07 includes text that specifies requirements that differ from those specified in § 86.1808–01. Where a paragraph in § 86.1808–01 is identical and applicable to § 86.1808–07, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.1808–01.''.

(a) through (f) [Reserved]. For guidance see § 86.1808–01.

(g) For each new diesel-fueled Tier 2 vehicle, the manufacturer shall furnish or cause to be furnished to the purchaser a statement that ''This vehicle must be operated only with ultra low sulfur diesel fuel (i.e., diesel fuel meeting EPA specifications for highway diesel fuel, including a 15 ppm sulfur cap).''.

22. Section 86.1810–01 is amended by revising the introductory text to read as follows:

§ 86.1810–01 General standards; increase in emissions; unsafe conditions; waivers.

This section applies to model year 2001 and later light-duty vehicles and light-duty trucks fueled by gasoline, diesel, methanol, natural gas and liquefied petroleum gas fuels. This section also applies to complete heavy-duty vehicles certified according to the provisions of this subpart. Multi-fueled vehicles (including dual-fueled and flexible-fueled vehicles) shall comply with all requirements established for each consumed fuel (or blend of fuels in the case of flexible fueled vehicles). The standards of this subpart apply to both certification and in-use vehicles unless otherwise indicated. For Tier 2 and interim non-Tier 2 vehicles, this section also applies to hybrid electric vehicles and zero emission vehicles. Unless otherwise specified, requirements and provisions of this subpart applicable to methanol fueled vehicles are also applicable to Tier 2 and interim non-Tier 2 ethanol fueled vehicles.

* * * * *

23. A new § 86.1816–07 is added to subpart S, to read as follows:

§ 86.1816–07 Emission standards for complete heavy-duty vehicles.

Section 86.1816–07 includes text that specifies requirements that differ from those specified in § 86.1816–04.[1] Where a paragraph in § 86.1816–04 is identical and applicable to § 86.1816–07, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.1816–04.'' This section applies to 2007 and later model year complete heavy-duty vehicles (excluding MDPVs) fueled by gasoline, methanol, natural gas and liquefied petroleum gas fuels except as noted. Multi-fueled vehicles shall comply with all requirements established for each consumed fuel. For methanol fueled vehicles, references in this section to hydrocarbons or total hydrocarbons shall mean total hydrocarbon equivalents and references to non-methane hydrocarbons shall mean non-methane hydrocarbon equivalents.

(a) *Exhaust emission standards.* (1) Exhaust emissions from 2007 and later model year complete heavy-duty vehicles at and above 8,500 pounds Gross Vehicle Weight Rating but equal to or less than 10,000 Gross Vehicle Weight Rating pounds shall not exceed the following standards at full useful life:

(i) [Reserved]

(ii) *Non-methane hydrocarbons.* 0.195 grams per mile; this requirement may be satisfied by measurement of non-methane hydrocarbons or total hydrocarbons, at the manufacturer's option.

(iii) *Carbon monoxide.* 7.3 grams per mile.

(iv) *Oxides of nitrogen.* 0.20 grams per mile.

(v) *Particulate.* 0.02 grams per mile.

(vi) *Formaldehyde.* 0.016 grams per mile.

(2) Exhaust emissions from 2007 and later model year complete heavy-duty vehicles above 10,000 pounds Gross Vehicle Weight Rating but less than 14,000 pounds Gross Vehicle Weight Rating shall not exceed the following standards at full useful life:

(i) [Reserved]

(ii) *Non-methane hydrocarbons.* 0.23 grams per mile; this requirement may be satisfied by measurement of non-methane hydrocarbons or total hydrocarbons, at the manufacturer's option.

(iii) *Carbon monoxide.* 8.1 grams per mile.

(iv) *Oxides of nitrogen.* 0.40 grams per mile.

(v) *Particulate.* 0.02 grams per mile.

(vi) *Formaldehyde.* 0.021 grams per mile.

(b) [Reserved]

(c) [Reserved]

(d) *Evaporative emissions.* Evaporative hydrocarbon emissions from gasoline-fueled, natural gas-fueled, liquefied petroleum gas-fueled, and methanol-fueled complete heavy-duty vehicles shall not exceed the following standards. The standards apply equally to certification and in-use vehicles. The spitback standard also applies to newly assembled vehicles.

(1) For the full three-diurnal test sequence, diurnal plus hot soak measurements: 1.4 grams per test.

(2) Gasoline and methanol fuel only. For the supplemental two-diurnal test sequence, diurnal plus hot soak measurements: 1.75 grams per test.

(3) Gasoline and methanol fuel only. Running loss test: 0.05 grams per mile.

(4) Gasoline and methanol fuel only. Fuel dispensing spitback test: 1.0 grams per test.

(e) through (h) [Reserved]. For guidance see § 86.1816–04.

24. A new § 86.1824–07 is added to subpart S, to read as follows:

§ 86.1824–07 Durability demonstration procedures for evaporative emissions.

Section 86.1824–07 includes text that specifies requirements that differ from those specified in § 86.1801–01. Where a paragraph in § 86.1824–01 is identical and applicable to § 86.1824–07, this may be indicated by specifying the corresponding paragraph and the statement ''[Reserved]. For guidance see § 86.1824–01.''. This section applies to gasoline-, methanol-, natural gas- and liquefied petroleum gas-fueled LDV/Ts, MDPVs, and HDVs.

(a) through (f) [Reserved]. For guidance see § 86.1824–01.

25. Section 86.1829–01 is amended by revising paragraph (b)(1)(iii)(B) and adding paragraph (b)(1)(iii)(F) to read as follows:

[1] Section 86.1816–04 was proposed to be added at 64 FR 58559, October 29, 1999.

§ 86.1829–01 Durability and emission testing requirements; waivers.

* * * * *

(b)* * *(1) * * *

(iii) * * *

(B) In lieu of testing an Otto-cycle light-duty vehicle, light-duty truck, or heavy-duty vehicle for particulate emissions for certification, a manufacturer may provide a statement in its application for certification that such vehicles comply with the applicable standards. Such a statement must be based on previous emission tests, development tests, or other appropriate information.

* * * * *

(F) In lieu of testing a petroleum-fueled heavy-duty vehicle for formaldehyde emissions for certification, a manufacturer may provide a statement in its application for certification that such vehicles comply with the applicable standards. Such a statement must be based on previous emission tests, development tests, or other appropriate information.

* * * * *

[FR Doc. 00–12952 Filed 6–1–00; 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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To allow the Secretary of the Interior and the Secretary of Agriculture to establish a fee system for commercial filming activities on Federal land, and for other purposes. (May 26, 2000; 114 Stat. 314)

H.R. 371/P.L. 106–207

Hmong Veterans' Naturalization Act of 2000 (May 26, 2000; 114 Stat. 316)

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National Historic Preservation Act Amendments of 2000 (May 26, 2000; 114 Stat. 318)

H.R. 1377/P.L. 106–209

To designate the facility of the United States Postal Service located at 9308 South Chicago Avenue, Chicago, Illinois, as the ''John J. Buchanan Post Office Building''. (May 26, 2000; 114 Stat. 320)

H.R. 1832/P.L. 106–210

Muhammad Ali Boxing Reform Act (May 26, 2000; 114 Stat. 321)

H.R. 3629/P.L. 106–211

To amend the Higher Education Act of 1965 to improve the program for American Indian Tribal Colleges and Universities under part A of title III. (May 26, 2000; 114 Stat. 330)

H.R. 3707/P.L. 106–212

American Institute in Taiwan Facilities Enhancement Act (May 26, 2000; 114 Stat. 332)

S. 1836/P.L. 106–213

To extend the deadline for commencement of construction of a hydroelectric project in the State of Alabama. (May 26, 2000; 114 Stat. 334)

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