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(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–374–AD; Amendment 39–11957; AD 2000–22–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires modification of the canted pressure deck drain system in the wheel well of the main landing gear (MLG). This amendment is prompted by reports of ice accumulation on the aileron control cables and on the MLG door and door seal during flight, due to fluid entering the canted pressure deck area, leaking into the MLG wheel well, and freezing. The actions specified by this AD are intended to prevent such ice accumulation, which could render one of the aileron control systems and/or the MLG doors inoperative, resulting in reduced controllability of the airplane.

DATES: Effective December 13, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 13, 2000.

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

FOR FURTHER INFORMATION CONTACT: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2783; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the **Federal Register** on February 4, 2000 (65 FR 5455). That action proposed to require modification of the canted pressure deck drain system in the wheel well of the main landing gear (MLG).

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed AD

One commenter supports the proposed AD.

Request To Accept Alternative Methods of Compliance

One commenter, the airplane manufacturer, requests that the FAA revise the proposed AD to reference certain other service bulletins as acceptable methods of compliance with the proposed AD, in lieu of accomplishment of Boeing Service Bulletin 767–51A0020, Revision 1, dated July 22, 1999. (Paragraph (a) of the proposed AD cites Revision 1 as the appropriate source of service information for the actions specified in that paragraph.) The commenter states that accomplishment of Boeing Service Bulletin 767–53–0059, dated November 12, 1992 (which describes a one-time pressure check of the seals of the canted pressure deck), along with either Boeing Service Bulletin 767–51–0014, dated August 2, 1990 (which describes relocation of the vent holes for the pressure-operated drain lines), or Boeing Service Bulletin 767–51–0019, dated June 27, 1996 (which describes relocation of drain outlets from the MLG wheel wells to the heat shields of the ram air outlets), will prevent ice accumulation on the aileron control cables and the MLG door and seal as effectively as incorporation of Boeing Service Bulletin 767–51A0020.

The FAA partially concurs with the commenter's request. The FAA concurs that accomplishment of Boeing Service Bulletin 767–53–0059 and Boeing Service Bulletin 767–51–0014 or 767–51–0019 would adequately prevent ice accumulation on the aileron control cables. The FAA also finds that accomplishment of Boeing Service Bulletins 767–53–0059 and 767–51–0019 adequately prevents ice accumulation on the main landing gear door and seal. However, the FAA finds that accomplishment of Boeing Service Bulletins 767–53–0059 and 767–51–0014 does not adequately prevent ice accumulation on the MLG door and seal. Therefore, the FAA finds that accomplishment of Boeing Service Bulletins 767–53–0059 and 767–51–0019, but not Boeing Service Bulletin 767–51–0014, is acceptable for compliance with the requirements of paragraph (a) of this AD. A new ''Note 3'' has been added to this AD (and renumbered subsequent notes accordingly) to state the acceptable means of compliance.

The same commenter requests that the FAA revise paragraph (a) of the proposed AD to allow accomplishment of the modification in accordance with the original issue of Boeing Alert Service Bulletin 767–51A0020, dated November 19, 1998, or Revision 1. The commenter notes that airplanes modified per the original issue do not require additional work because Revision 1 only clarifies certain work instructions.

The FAA concurs with the intent of the commenter's request, but notes that ''Note 2'' of the proposed AD already states that modification in accordance with the original issue of the service bulletin prior to the effective date of this AD is acceptable for compliance with paragraph (a) of this AD. Therefore, no change to the final rule is necessary in this regard.

Request To Extend Compliance Time

Three commenters request that the FAA extend the compliance time for the proposed modification beyond 24 months. One commenter requests that the FAA extend the compliance time to 36 months to allow for delivery of

necessary parts. Another commenter requests that the FAA extend the compliance time to 60 months to allow for accomplishment of the modification during a major maintenance visit, such as a ''D''-check. The commenter that requests extension of the compliance time to 60 months justifies its request based on the fact that there have been very few in-service problems related to freezing of the aileron control cables on Model 767 series airplanes, and on design changes that have been made related to potential ice accumulation on the aileron control cables.

The FAA concurs with the first commenter's request to extend the compliance time from 24 months to 36 months. This extension will allow a 12-month lead time for affected operators to obtain the parts necessary for the modification. The FAA finds that such an extension will not adversely affect safety, and this determination is based in part on the justifications cited by the second commenter. However, the FAA finds that extension of the compliance time to 60 months, as requested by the second commenter, would not ensure accomplishment of the modification required by this AD on all affected airplanes in a timely manner. Paragraph (a) of this final rule has been revised accordingly.

Another commenter requests extension of the compliance time to 48 months to allow time for accomplishment of another service bulletin that the commenter notes may be required to be accomplished concurrently with the modification in this AD (see the ''Request to Clarify Requirements'' section of this document, below). The FAA does not concur with this commenter's request to extend the compliance time for this AD to 48 months. As explained below, the service bulletin with which the commenter is concerned is not required by this AD; thus, no extension of the compliance time is necessary in this regard.

Request To Clarify Requirements

Two commenters question whether Boeing Service Bulletin 767–53–0059, dated November 12, 1992, must be incorporated concurrently with the proposed modification. The commenters note that Section 1.B. (''Concurrent Requirements'') of Boeing Service Bulletin 767–51A0020, Revision 1, states that accomplishment of Boeing Service Bulletin 767–53–0059 is required for certain airplanes, but Section 1.D. (''Description''), Note 4, of Boeing Service Bulletin 767–51A0020, Revision 1, states that accomplishment of Boeing Service Bulletin 767–53–0059 is *recommended* for those airplanes. The commenters request that the FAA revise the proposed AD to clarify whether Boeing Service Bulletin 767–53–0059 is required.

The FAA concurs that clarification is indeed necessary. The FAA has determined that accomplishment of Boeing Service Bulletin 767–53–0059 is not required by this AD because the modification in accordance with Boeing Service Bulletin 767–51A0020 corrects the conditions addressed by Boeing Service Bulletin 767–53–0059. Because the proposed rule did not directly reference Boeing Service Bulletin 767–53–0059, the FAA finds that no change to the final rule is necessary in this regard. However, operators should note that, as stated previously, accomplishment of Boeing Service Bulletins 767–53–0059 and 767–51–0019 is acceptable for compliance with this AD, in lieu of accomplishment of Boeing Service Bulletin 767–51A0020.

Conclusion

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

Cost Impact

There are approximately 716 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 278 airplanes of U.S. registry will be affected by this AD, that it will take approximately 15 work hours per airplane to accomplish the required modification, and that the average labor rate is $60 per work hour. Required parts will cost approximately $6,623 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $2,091,394, or $7,523 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–22–11 Boeing: Amendment 39–11957. Docket 99–NM–374–AD.

Applicability: Model 767 series airplanes, line numbers 1 through 723 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an

alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent ice accumulation on the aileron control cables and/or main landing gear (MLG) door and door seal during flight, which could render one of the aileron control systems and/or the MLG doors inoperative, resulting in reduced controllability of the airplane, accomplish the following:

Modification

(a) Within 36 months after the effective date of this AD: Modify the canted pressure deck drain system in the wheel well of the MLG, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–51A0020, Revision 1, dated July 22, 1999.

Note 2: Modification of the canted pressure deck drain system accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 767–51A0020, dated November 19, 1998, is considered acceptable for compliance with the modification specified in this AD.

Note 3: Accomplishment of the actions specified in both Boeing Service Bulletins 767–53–0059, dated November 12, 1992, and 767–51–0019, dated June 27, 1996, is acceptable for compliance with paragraph (a) of this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 767–51A0020, Revision 1, dated July 22, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on December 13, 2000.

Issued in Renton, Washington, on October 27, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–28089 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–04–AD; Amendment 39–11961; AD 2000–22–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 Series Airplanes and C–9 (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes, that currently requires repetitive radiographic and ultrasonic or eddy current inspections, and modification of the upper cap of the front spar of the left and right engine pylons, if necessary. This amendment requires new, improved x-ray and eddy current inspections to detect cracks of the upper cap of the front spar of the left and right engine pylons, and repetitive inspections or corrective actions, if necessary. This amendment also requires modification of the subject area, which constitutes terminating action for the repetitive inspection requirements. This amendment is prompted by additional reports of fatigue cracking in the subject area of these airplanes. The actions specified by this AD are intended to prevent failure of the upper cap of the front spar of the engine pylons due to fatigue cracking, and consequent reduced structural integrity of the airplane.

DATES: Effective December 13, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 13, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Wahib Mina, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5324; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 77–14–19, amendment 39–2971, which is applicable to certain McDonnell Douglas Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes, was published in the **Federal Register** on July 5, 2000 (65 FR 41385). The action proposed to continue to require radiographic and ultrasonic or eddy current inspections. The action also proposed to require new, improved x-ray and eddy current inspections to detect cracks of the upper cap of the front spar of the left and right engine pylons, and repetitive inspections or corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Compliance Time

One commenter has no objection to the proposed AD. However, the commenter requests that the compliance time of 3,600 flight hours specified in paragraph (b) of the proposed AD be extended to at least 3,860 flight hours. The commenter states that such an extension would allow operators to accomplish the required inspections during regularly scheduled maintenance and to avoid special routing of airplanes to a maintenance facility.

The FAA does not concur. In developing an appropriate compliance

time for this action, the FAA considered the safety implications and normal maintenance schedules for timely accomplishment of the inspections. In consideration of these items, as well as the additional reports of fatigue cracking in the subject area of the upper cap of the front spar of the left and right engine pylons, the FAA has determined that prior to the accumulation of 8,000 total flight hours, or within 3,600 flight hours after the effective date of this AD, whichever occurs later, represents an appropriate interval of time allowable wherein the inspections can be accomplished during scheduled maintenance intervals for the majority of affected operators, and an acceptable level of safety can be maintained.

Delete Paragraph (f) of the Proposed AD

One commenter states that paragraph (f) of the proposed AD is misleading, because it discusses the terminating action as it relates to AD 96–10–11, amendment 39–9618 (61 FR 24675, May 16, 1996), but does not address the repetitive inspections. Paragraph (g) of AD 96–10–11 excludes the actions specified in McDonnell Douglas Service Bulletin 54–30, Revision 4, dated March 25, 1991. Another commenter points out that the requirements related to McDonnell Douglas Service Bulletin 54–30, Revision 4, of AD 96–10–11 have been superseded.

From these comments, the FAA infers that the commenters are requesting that paragraph (f) of the proposed AD be deleted. The FAA concurs. The FAA has reviewed the requirements of AD 96–10–11 and determined that McDonnell Douglas Service Bulletin 54–30, Revision 4, dated March 25, 1991, is not required by that AD. Paragraph (a) of AD 77–14–19, which is retained in this AD, references Douglas Service Bulletin 54–30, dated January 19, 1977, as the appropriate source of service information for accomplishment of the inspection requirements. Note 2 of this AD references later revisions of that service bulletin that are considered acceptable for compliance with the inspections required by paragraph (a) of this AD. Accomplishment of the requirements of paragraph (e) of this AD constitutes terminating action for the requirements of this AD. Therefore, the FAA finds that paragraph (f) of the proposed AD is not necessary. The FAA has revised the final rule accordingly.

Conclusion

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

Cost Impact

There are approximately 809 Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 572 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 77–14–19, and retained in this AD, take approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $411,840, or $720 per airplane, per inspection cycle.

The new inspection that is required in this AD action will take approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour.

Based on these figures, the cost impact of this inspection required by this AD on U.S. operators is estimated to be $411,840, or $720 per airplane, per inspection cycle.

The new modification that is required in this AD action will take approximately 110 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $30,496 per airplane. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $21,218,912, or $37,096 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–2971, and by adding a new airworthiness directive (AD), amendment 39–11961, to read as follows:

2000–22–14 McDonnell Douglas: Amendment 39–11961. Docket 2000–NM–04–AD. Supersedes AD 77–14–19, Amendment 39–2971.

Applicability: Model DC–9–10, –20, –30, –40, and –50 series airplanes and C–9 (military) airplanes; as listed in McDonnell Douglas Service Bulletin DC9–54–030, Revision 06, dated November 11, 1999; certificated in any category; except for those airplanes on which Special Change Notification 1269A, dated August 11, 1965, or Service Rework Drawing SR09540004, Change ''E,'' dated September 21, 1992, Change ''F,'' dated April 19, 1995, Change ''G,'' dated May 6, 1997, or Change ''H,'' dated July 12, 1997, has been accomplished.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance

of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (f) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the front spar attachment and upper cap of the engine pylons due to fatigue cracking, and consequent reduced structural integrity of the airplane, accomplish the following:

Repetitive Inspections

(a) Prior to the accumulation of 9,800 total flight hours, or within the next 1,800 flight hours after August 23, 1977 (the effective date of AD 77–14–19, amendment 39–2971), whichever occurs later, unless accomplished previously within the last 1,800 flight hours, accomplish the radiographic and ultrasonic or eddy current inspections in accordance with the instructions in Douglas Service Bulletin 54–30, dated January 19, 1977. Repeat the inspection thereafter at intervals not to exceed 3,600 flight hours. For those operators who have conducted only the radiographic inspections in accordance with Douglas All Operators Letter AOL 9–835, dated October 30, 1974, perform the ultrasonic or eddy current inspections, and thereafter, the radiographic and ultrasonic or eddy current inspection in accordance with the requirements of this AD, as applicable.

Note 2: Inspections accomplished prior to the effective date of this AD in accordance with McDonnell Douglas Service Bulletin 54–30, Revision 1, dated June 29, 1977, Revision 2, dated October 27, 1978, Revision 3, dated April 30, 1986, or Revision 4, dated March 25, 1991; or McDonnell Douglas Service Bulletin DC9–54–030, Revision 05, dated August 26, 1999, or Revision 06, dated November 11, 1999; are considered acceptable for compliance with the inspections required by paragraph (a) of this AD.

Initial Inspections and Follow-On/Corrective Action

(b) For airplanes on which the modification specified in paragraph (e) of this AD has not been accomplished: Prior to the accumulation of 8,000 total flight hours or within 3,600 flight hours after the effective date of this AD, whichever occurs later, perform x-ray and eddy current inspections to detect cracks of the upper cap of the front spar of the left and right engine pylons, in accordance with McDonnell Douglas Service Bulletin DC9–54–030, Revision 06, dated November 11, 1999. Accomplishment of these inspections constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

No Crack Detected: Repetitive Inspections

(c) If no crack is detected during any inspection required by paragraph (a) or (b) of this AD, repeat the inspections thereafter at intervals not to exceed 3,600 flight hours until the modification required by paragraph (e) of this AD is accomplished.

Any Crack Detected: Modification

(d) If any crack is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, accomplish the modification specified in paragraph (e) of this AD.

Terminating Modification

(e) Except as provided by paragraph (d) of this AD, prior to the accumulation of 100,000 total landings, or within 6 months after the effective date of this AD, whichever occurs later, modify the upper cap of the front spar of the left and right engine pylons in accordance with McDonnell Douglas Service Bulletin DC9–54–030, Revision 06, dated November 11, 1999. Accomplishment of this modification constitutes terminating action for the requirements of this AD.

Note 3: Accomplishment of the modification of the upper cap of the front spar of the left and right engine pylons prior to the effective date of this AD in accordance with Douglas Service Bulletin 54–30, Revision 4, dated March 25, 1991, or McDonnell Douglas Service Bulletin DC9–54–030, Revision 5, dated August 26, 1999; is considered acceptable for compliance with the modification specified in paragraph (e) of this AD.

Alternative Methods of Compliance

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

Special Flight Permits

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

Incorporation by Reference

(h) The actions specified in paragraphs (b) and (e) of this AD shall be done in accordance with McDonnell Douglas Service Bulletin DC9–54–030, Revision 06, dated November 11, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(i) This amendment becomes effective on December 13, 2000.

Issued in Renton, Washington, on October 30, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–28234 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–152–AD; Amendment 39–11963; AD 2000–22–16]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace (Jetstream) Model 4101 airplanes, that requires a functional check of the rudder pedals to ensure full and free movement at all rudder pedal positions, and modification of the forward rudder pedal boxes. The actions specified by this AD are intended to prevent restricted movement of the rudder pedals due to structural interference, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective December 13, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 13, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all British Aerospace (Jetstream) Model 4101 airplanes was published in the **Federal Register** on August 29, 2000 (65 FR 52373). That action proposed to require a functional check of the rudder pedals to ensure full and free movement at all rudder pedal positions, and modification of the forward rudder pedal boxes.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 58 British Aerospace (Jetstream) Model 4101 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the functional check, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $3,480, or $60 per airplane.

It will take approximately 6 work hours per airplane to accomplish the modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $20,880, or $360 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator will accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2000–22–16 British Aerospace Regional Aircraft (Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited): Amendment 39–11963. Docket 2000–NM–152–AD.

Applicability: All Model Jetstream 4101 airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent restricted movement of the rudder pedals due to structural interference, which could result in reduced controllability of the airplane, accomplish the following:

Functional Check

(a) Within 60 days after the effective date of this AD, perform a functional check of the left and right rudder pedals to ensure full and free movement at all rudder pedal positions, in accordance with Part 1 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A27–055, dated March 10, 2000. If any restriction in rudder pedal movement is found, prior to further flight, accomplish the modification required by paragraph (b) of this AD.

Modification

(b) Within 8 months after the effective date of this AD, modify the forward pedal boxes (including moving the rudder pedals and measuring clearances between the rod attachment bolt and the flange of the floor channel; correcting any incorrect clearances; and repeating the functional check of the rudder pedals specified in paragraph (a) of this AD) in accordance with Part 2 of the Accomplishment Instructions of Jetstream Alert Service Bulletin J41–A27–055, dated March 10, 2000.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Jetstream Alert Service Bulletin J41–A27–055, dated March 10, 2000. 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 British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 002–03–2000.

Effective Date

(f) This amendment becomes effective on December 13, 2000.

Issued in Renton, Washington, on October 30, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–28232 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 62

RIN 1219–AA53

Health Standards for Occupational Noise Exposure; Correction

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

ACTION: Correcting amendment.

SUMMARY: The Mine Safety and Health Administration published in the **Federal Register** of Monday, September 13, 1999, (64 FR 49548) the final rule relating to the health standards for occupational noise exposure. This document contains a correction to that document.

DATES: Effective on November 8, 2000.

FOR FURTHER INFORMATION CONTACT: Carol J. Jones, Director, Office of Standards, Regulations, and Variances, MSHA, (703) 235–1910 (not a toll-free call).

SUPPLEMENTARY INFORMATION: As published, the final rule contains an error which needs to be corrected.

Accordingly, 30 CFR part 62 is corrected by making the following correcting amendment:

PART 62—OCCUPATIONAL NOISE EXPOSURE

1. The authority citation for part 62 is revised to read as follows:

Authority: 30 U.S.C. 811.

Appendix to Part 62 [Amended]

2. In the Appendix to part 62, in the note to Table 62–1, the formula for T is revised to read as follows:

$T = 8/2^{(L-90)/5}$

Dated: November 1, 2000.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 00–28586 Filed 11–7–00; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–047–FOR]

Maryland Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is approving an amendment to the Maryland regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland proposed the amendment to make its program no less effective than the federal regulations regarding procedures for financing abandoned mine land reclamation projects that involve the incidental extraction of coal. The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: November 8, 2000.

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220. Telephone: (412) 937–2153; E-mail:grieger@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Maryland Program

On February 18, 1982, the Secretary of the Interior approved the Maryland program. You can find background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 18, 1982, **Federal Register** (47 FR 7214). You can find subsequent actions concerning conditions of approval and program amendments at 30 CFR 920.12, 920.15, and 920.16.

II. Submission of the Amendment

By letter dated July 10, 2000 (Administrative Record No. MD–582–00), Maryland submitted the proposed amendment to its regulatory program pursuant to the federal regulations at 30 CFR 732.17(b). Maryland proposed the amendment to make its program no less effective than the federal regulations at 30 CFR 707.5, 707.10, 874.10, and 874.17. These sections of the federal regulations describe procedures for financing abandoned mine land reclamation projects that involve the incidental extraction of coal. Maryland proposed to change the definition of the term, ''Government-Financed Construction'' at Code of Maryland Regulation (COMAR) 26.20.12.02 B(1)(a) by adding the phrase, ''Funding at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Environment Article, Title 15, Subtitle 11 Annotated Code of Maryland and 30 CFR Subchapter R.''

Maryland also added new section .04 to COMAR 26.20.12. This section is titled, ''Government Funded Reclamation Projects.'' The proposed rulemaking was published in the August 14, 2000, **Federal Register** (65 FR 49524). The public comment period closed on September 13, 2000. No one requested an opportunity to speak at a public hearing, so no hearing was held.

III. Director's Findings

Set forth below, pursuant to SMCRA and the federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the amendments to the Maryland regulatory program.

The first change Maryland is making to its program is the modification of the definition of the term, ''Government-Financed Construction'' at COMAR 26.20.12.02 B(1)(a). Maryland added the

phrase, ''Funding at less than 50 percent may qualify if the construction is undertaken as an approved reclamation project under Environment Article, Title 15, Subtitle 11 Annotated Code of Maryland and 30 CFR Subchapter R.'' to the end of the definition. This phrase is substantially the same as a phrase from the term, ''Government-financed construction'' from the federal regulations at 30 CFR 707.5. The Director is approving the change because it makes Maryland's definition of government-financed construction no less effective than the federal regulations with regard to abandoned mine land reclamation projects that are funded at less than 50% of funds appropriated from a government financing agency's budget or obtained from general revenue bonds.

The second change Maryland is making to its program is the addition of section .04 to COMAR 26.20.12. This section is titled, ''Government Funded Reclamation Projects.''

Subsection A provides that when the Bureau is considering an abandoned mine land reclamation project as government-financed construction and the level of funding will be less than 50 percent of the total cost because of planned coal extraction, the Bureau shall determine the likelihood:

(1) That nearby or adjacent mining activities may create new environmental problems or adversely affect existing environmental problems at the site.

The Director finds that this paragraph is substantively the same as the federal regulation at 30 CFR 874.17(a)(2). This paragraph is approved.

(2) That reclamation activities at the site may adversely affect nearby or adjacent mining activities.

The Director finds that this paragraph is substantively the same as the federal regulation at 30 CFR 874.17(a)(3). This paragraph is approved.

(3) Of the coal being mined under a permit issued in accordance with Environment Article, Title 15, Subtitle 5, Annotated Code of Maryland.

The Director finds that this paragraph is substantively the same as the federal regulation at 30 CFR 874.17(a)(1). This paragraph is approved.

Subsection B provides that the determination under paragraph A(3) of this regulation shall take into account available information, such as:

(1) Coal reserves from existing mine maps or other sources;

(2) Existing environmental conditions;

(3) All prior mining activity on or adjacent to the site;

(4) Current and historic coal production in the area; and

(5) Any known or anticipated interest in the mining site.

The Director finds that these paragraphs are substantively the same as the federal regulations at 30 CFR 874.17(a)(1) (i)–(v). These paragraphs are approved.

Subsection C provides that if the Bureau decides to proceed with the reclamation project after making the determinations under section A of these regulations, the Bureau shall:

(1) Determine the limits on any coal refuse, coal waste or other coal products which may be extracted under this regulation; and

(2) Delineate the boundaries of the abandoned mine land reclamation project.

The Director finds that these paragraphs are substantively the same as 30 CFR 874.17(b)(1) and (b)(2). These paragraphs are approved.

Subsection D provides that the Bureau shall include documentation in the abandoned mine land project file for the:

(1) Determinations made under sections A and C of this regulation;

(2) Information taken into account in making the determinations; and

(3) Names of the persons making the determinations.

The Director finds that these paragraphs are substantively the same as the federal regulations at 30 CFR 874.17(c)(1)–(3). These paragraphs are approved.

Subsection E provides that for each abandoned mine land reclamation project to be approved under this regulation, the Bureau shall:

(1) Characterize the site in terms of mine drainage, active slides, and the slide prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrologic balance;

(2) Ensure that the reclamation project is conducted in accordance with the provisions of Environment Article, Title 15, Subtitle 11, Annotated Code of Maryland and 30 CFR Subchapter R;

(3) Develop specific-site reclamation requirements, including performance bonds, when appropriate, in accordance with State procedures; and

(4) Require the contractor conducting the reclamation to provide, prior to the time the reclamation project begins, applicable documents that clearly authorize the extraction of coal and payment of royalties.

The Director finds that these paragraphs are substantively the same as the federal regulations at 30 CFR 874.17(d)(1)–(4). These paragraphs are approved.

Subsection F provides that the Bureau shall require a reclamation contractor who extracts coal beyond the limits of the incidental coal specified in § C(2) of this regulation to obtain a permit for the coal in accordance with Environment Article, Title 15, Subtitle 5, Annotated Code of Maryland. The Director finds that this subsection is substantively the same as the federal regulation at 30 CFR 874.17(e). This subsection is approved.

IV. Summary and Disposition of Comments

Federal Agency Comments

On July 20, 2000, we asked for comments from various federal agencies who may have an interest in the Maryland amendment (Administrative Record Number MD–582–01). On August 2, 2000, (Administrative Record Number MD–582–02), we sent a corrected amendment to the same federal agencies and again asked for their comments. Maryland corrected the original amendment submission by adding the phrase, ''and 30 CFR Subchapter R'' to the end of paragraph E.(2).

We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations. Comments were solicited from the U.S. Department of Agriculture, United States Fish and Wildlife Service's Chesapeake Bay Field Office, Corps of Engineers, U.S. Department of Labor, and Advisory Council on Historic Preservation. No comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i), OSM is required to solicit comments from the EPA, and, pursuant to 30 CFR 732.17(h)(11)(ii), obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). By letter dated July 20, 2000, we requested comments and concurrence from EPA (Administrative Record Number MD 582–01) on the state's proposed amendment of July 10, 2000 (Administrative Record Number MD 582–00). EPA replied to our letter on August 3, 2000 (Administrative Record Number MD 582–03) and indicated that the proposed amendment complies with the Clean Water Act.

Public Comments

No comments were received in response to our request for public comments.

V. Director's Decision

Based on the findings above we are approving the amendments to the Maryland program. This final rule is being made effective immediately to expedite the state program amendment process and to encourage states to bring their programs into conformity with the federal standards without undue delay. Consistency of state and federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart federal regulation.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each such program is drafted and promulgated by a specific state, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The state submittal which is the subject of this rule is based upon counterpart federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart federal regulation.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart federal regulations for which an analysis was prepared and a determination made that the federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 10, 2000.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 920.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 920.25 Approval of Maryland regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
July 10, 2000	November 8, 2000	COMAR 26.20.12.02 B(1)(a) revision to the definition of ''government-financed contruction.'' COMAR 26.20.12.04, Addition of subsection 04, ''Government Funded Reclamation Projects.''

[FR Doc. 00–28618 Filed 11–7–00; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–00–105]

RIN 2115–AE47

Drawbridge Operation Regulations: Atlantic Intracoastal Waterway, Key Largo, Monroe County, FL

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule with request for comments.

SUMMARY: Commander, Seventh Coast Guard District is temporarily changing the regulations of the Jewfish Creek Drawbridge at Key Largo across the Atlantic Intracoastal Waterway, mile 1134.1 in Key Largo, Florida, until January 25, 2001. This temporary rule allows the Jewfish Creek Drawbridge at Key Largo to maintain single leaf operations with one-hour advance notice and a twelve-hour advance notification to the bridge tender to provide a double leaf opening until January 25, 2001. This is necessary to allow for repairs.

DATES: This temporary rule is effective from November 2, 2000 to January 25, 2001. Comments must be received by November 30, 2000.

ADDRESSES: Comments and materials received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07–00–105] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Miami, Florida, between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Branch, at (305) 415–6743.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. It was impracticable to publish an NPRM, because there was insufficient time remaining after we were notified of the dates of the repairs to follow normal rulemaking procedures.

Further, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. A delayed effective date is impracticable as repairs on the bridge are already underway.

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for the rulemaking [CGD07–00–105], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received. We may change this temporary rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the address under **ADDRESSES,** explaining why one would be beneficial. If the Coast Guard determines that a public meeting would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Jewfish Creek Drawbridge at Key Largo, mile 1134.1, across the Atlantic Intracoastal Waterway, has a vertical clearance of 11 feet at mean high water and a horizontal clearance of 80 feet between fenders. The existing operating regulations in 33 CFR 117.261(qq) require the bridge to open on signal; except that from 10:00 a.m. until sunset, Thursday through Sunday and Federal holidays, the draw need open only on the hour and half hour.

The Florida Department of Transportation notified the Coast Guard on October 18, 2000, that repairs to the bridge were in progress and scheduled to be completed by January 25, 2001. The repairs require that the Jewfish Creek Bridge be able to maintain single leaf operations with one-hour advance notice. However a double leaf opening can be provided with a twelve-hour advance notification provided to the bridge tender.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this rule to be minimal because of the limited duration of the rule, as well as the provision for double leaf openings with advance notice.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: owners or operators of vessels intending to transit the Atlantic Intracoastal Waterway at mile 1134. Although this temporary rule will be in effect for two and one-half months, some vessel traffic can still pass through the single leaf, and others can make advance requests for double leaf openings.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

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 unfunded mandate 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 E.O. 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 E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 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.

Environment

The Coast Guard has considered the environmental impact of this action and has determined under figure 2–1, paragraph 32(e) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. From November 2, 2000 to January 25, 2001, § 117.261(qq) is suspended and a new paragraph (uu) is added to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(uu) *Jewfish Creek, mile 1134, Key Largo.* The draw may operate on single leaf with one-hour advance notice from November 2, 2000 until January 25, 2001 unless twelve hours advance notice for a double leaf opening is provided to the bridge tender.

Dated: October 27, 2000.

G.W. Sutton,

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

[FR Doc. 00–28647 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–00–237]

Drawbridge Operation Regulations: Kennebec River, ME

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Carlton Bridge, mile 14.0, across the Kennebec River between Bath and Woolwich, Maine. This deviation from the regulations allows the bridge owner to require at least a one-hour advance notice for bridge openings from 7:30 a.m. to 4:30 p.m., Monday through Friday, October 11, 2000 through November 15, 2000. This action is necessary to facilitate the safety of construction workers performing rehabilitation construction at the bridge.

DATES: This deviation is effective from October 11, 2000, through November 15, 2000.

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

SUPPLEMENTARY INFORMATION: The Carlton Bridge, at mile 14.0, across the Kennebec River has a vertical clearance in the closed position of 10 feet at mean high water and 16 feet at mean low water. The existing drawbridge operating regulations are listed at 33 CFR 117.525.

The bridge owner, Maine Department of Transportation (MDOT), requested a temporary deviation from the drawbridge operating regulations to facilitate the safety of construction workers performing rehabilitation repairs at the bridge. Sufficient time is needed to activate the operating machinery, and clear the bridge of construction workers and construction equipment.

This deviation to the operating regulations allows the owner of the Carlton Bridge to require at least a one-hour advance notice for bridge openings, from 7:30 a.m. to 4:30 p.m., Monday through Friday, October 11, 2000, through November 15, 2000.

The bridge owner did not provide the required thirty-day notice to the Coast Guard for this deviation; however, this deviation was approved because the repairs are necessary in order to keep the bridge operating and prevent an

unscheduled closure due to component failure.

In accordance with 33 CFR 117.35(c), this work will be performed with all due speed in order to return the bridge to normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: October 23, 2000.

Gerald M. Davis,

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

[FR Doc. 00–28646 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 64

[CC Docket No. 94–129; FCC 00–135]

Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: This document announces the effective date of the amendments to certain liability rules in our slamming proceeding. We believe these modifications will strengthen the deterrent effect of our slamming liability rules, while addressing concerns raised with respect to the previous administrative procedures. The First Order on Reconsideration was published in the **Federal Register** on August 3, 2000. Some of the rules contained information collection requirements.

DATES: Sections 1.719(a) through (d), 64.1110(a) and (b), 64.1140(a) and (b), 64.1150(a) through (d), 64.1160(b) through (f), and 64.1170(b) through (f) published at 65 FR 47678 (August 3, 2000), were approved by the Office of Management and Budget (OMB) on October 3, 2000 and will become effective on November 28, 2000.

FOR FURTHER INFORMATION CONTACT: Michele Walters or Dana Walton-Bradford, Accounting Policy Division, Common Carrier Bureau, (202) 418–7400, TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: On May 3, 2000, the Commission released a First Order on Reconsideration (Order), 65 FR 47678 (August 3, 2000), that adopted revised slamming liability rules, granting in part petitions for reconsideration of our *Section 258 Order,* 64 FR 7763 (February 16, 1999). Specifically, the revised rules provide that slamming disputes between consumers and unauthorized carriers may be brought before appropriate state commissions or this Commission, in cases where the state has not opted to administer our rules, rather than before authorized carriers. The Commission also modified the liability rules that apply when a consumer has paid charges to a slamming carrier. In such instances, our new rules require slamming carriers to pay 150% of the collected charges to the authorized carrier, which, in turn, will pay the consumer 50% of his or her original payment. Finally, the Commission sets forth certain notification requirements to facilitate carriers' compliance with the liability rules. The Commission believes these modifications will strengthen the deterrent effect of the slamming liability rules, while addressing concerns raised with respect to the previous administrative procedures. A summary of the Order was published in the **Federal Register**. See 65 FR 47678 (August 3, 2000). Some of the rules contained information collection requirements that required OMB approval. On October 3, 2000, OMB approved the information collections. See OMB No. 3060–0787. The rule amendments adopted by the Commission in the Order will take effect on November 28, 2000. This publication satisfies the statement in the Order that the Commission would publish a document in the **Federal Register** announcing the effective date of the rules.

List of Subjects

47 CFR Part 0

Classified information, Freedom of information, Reporting and recordkeeping.

47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Telecommunications.

47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–28607 Filed 11–7–00; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 217
Wednesday, November 8, 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 927

[Docket No. FV00–927–3]

Winter Pears Grown in Oregon and Washington; Hearing on Proposed Amendment of Marketing Agreement and Order No. 927

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to consider amending Marketing Agreement and Order No. 927, hereinafter referred to as the ''order.'' The order regulates the handling of winter pears grown in Oregon and Washington. The purpose of the hearing is to receive evidence on amendments proposed by the Winter Pear Control Committee (Committee), which is responsible for local administration of the order. The proposals include amending the order to add the word ''maturity'' to the list of attributes that may be regulated; to provide for container regulations and marking requirements; and to allow alternates from the same district and group (growers or handlers) to serve when a member and that member's alternates are unable to attend a committee meeting.

DATES: The hearing date will begin at 9:00 a.m. in Portland, Oregon, on November 29, 2000.

ADDRESSES: The hearing will be held at the Sheraton Portland Airport Hotel, 8235 NE Airport Way, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Melissa Schmaedick, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 205–2830, Fax: (202) 205–6632.

Small businesses may request information on this proceeding by contacting Jay Guerber, 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) 205–6632.

SUPPLEMENTARY INFORMATION: This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposals.

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. 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 the date of the entry of the ruling.

The hearing is called pursuant to the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The Committee proposes three amendments as summarized below.

1. Amend the order to add the word ''maturity'' to the list of attributes that may be regulated in § 927.51.

2. Amend the order to authorize container and marking regulation. This would encompass capacity, weight, dimensions, and packing of the container, or containers, which may be used in packaging or handling of pears. To remain consistent with this amendment, § 927.5, the definition of size, will be revised to remove the specific reference to a western standard pear box with its dimensions.

3. Allow an alternate member from the same district and group (handler or grower) to serve in a member's place and stead in the event that both a member of the Committee and the Committee member's alternates are unable to attend a Committee meeting.

The Committee works with the Department in administering the order. These proposals have not received the approval of the Secretary of Agriculture.

The Committee believes that the proposed changes would improve the administration, operation, and functioning of the order.

Also, the Fruit and Vegetable Programs of the Agricultural Marketing Service (AMS) proposes to allow such conforming changes to the order which may be necessary as a result of the hearing.

The public hearing is held for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to the proposed amendments of the order; (ii) determining whether there is a need for the proposed amendments to the order; and (iii) determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final

decision in this proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel; and the Fruit and Vegetable Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 927

Marketing agreements, Reporting and recordkeeping requirements, Winter pears.

PART 927—WINTER PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 927 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Testimony is invited on the following proposals or appropriate alternatives or modifications to such proposals.

Proposals submitted by the Winter Pear Control Committee:

Proposal No. 1

Amend § 927.51 by adding a new paragraph (a)(3) to read as follows:

§ 927.51 Issuance of regulations; and modification suspension, or termination thereof.

(a) * * *

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in packaging or handling of pears.

* * * * *

Revise § 927.5 to read as follows:

§ 927.5 Size

Size means the number of pears which can be packed in a standard pear box when packed in accordance with the packing requirements of the U.S. Standards for Pears (part 51 of this title), or as such standards hereafter may be modified or as ''size'' may be more specifically defined in a regulation issued under this part.

Proposal No. 2

Revise § 927.28 to read as follows:

§ 927.28 Alternates for members of the Control Committee.

The first alternate for a member shall act in the place and stead of the member for whom he/she is an alternate during such member's absence. In the event of the death, removal, resignation, or disqualification of a member, his or her first alternate shall act as a member until a successor for the member is selected and has qualified. The second alternate for a member shall serve in the place and stead of the member for whom he/she is an alternate whenever both the member and his/her first alternate are unable to serve. In the event that both a member of the Control Committee and that member's alternates are unable to attend a Control Committee meeting, the member or the Control Committee may designate any other alternate member from the same district and group (handler or grower) to serve in that member's place and stead.

Proposal No. 3

Amend § 927.51 by revising paragraph (a)(1) to read as follows:

927.51 Issuance of regulations; and modification suspension, or termination thereof.

(a) * * *

(1) May limit the total quantity of any grade, size, quality, maturity, or combination thereof, of any variety of pears grown in any district and may prescribe different requirements applicable to shipments to different export markets; or

* * * * *

The Fruit and Vegetable Programs, Agricultural Marketing Service, submitted the following proposal:

Proposal No. 4

Make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

Dated: November 2, 2000.

Kenneth C. Clayton,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 00–28659 Filed 11–7–00; 8:45 am]

BILLING CODE 3410–02–U

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102 and 104

[Notice 2000–19]

Rulemaking Petition: Reporting by Political Action Committees Notice of Disposition

AGENCY: Federal Election Commission.

ACTION: Notice of Disposition of Petition for Rulemaking.

SUMMARY: The Commission announces its disposition of a Petition for Rulemaking filed on September 20, 1999 by the Project on Government Oversight (''POGO''). The Petition urged the Commission to revise various rules concerning reports filed by political action committees (''PACs''). The Commission has decided not to initiate a rulemaking in response to the Petition at this time. The Petition is available for inspection in the Commission's Public Records Office, through its FAXLINE service, and on its website, www.FEC.gov.

DATES: November 2, 2000.

FOR FURTHER INFORMATION CONTACT: Ms. Rosemary C. Smith, Assistant General Counsel, or Ms. Mai T. Dinh, Attorney, 999 E Street, NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On September 20, 1999, the Commission received a Petition for Rulemaking from POGO. The Petition urged the Commission to take six actions with regard to reports filed by PACs by revising various sections in 11 CFR parts 100, 102, and 104.

The Commission published a Notice of Availability (''NOA'') on the Petition on October 13, 1999, 64 FR 55440. The NOA stated that several of the recommended actions address Commission internal procedures that are not properly the subject of rulemaking. Therefore, the Commission sought comments only on the four suggested actions that can be addressed through rulemaking.

The Commission received twenty-one timely comments and four late comments in response to the NOA from twenty-four commenters. Detailed comments were submitted by Congresswoman Carolyn B. Maloney; Democracy Advocate, U.S. Public Interest Research Group; Money and Politics Iowa; Institute for Social Justice; University of Maryland Department of Government and Politics; Michigan Citizen Action; Ohio Citizen Action; Common Cause; Center for Responsive Government; University of Akron's Ray C. Bliss Institute of Applied Politics; and Project on Government Oversight. In addition to these comments, the Commission received comments expressing general support for the Petition from two individuals and substantially similar comments from eleven commenters including Colby College, Illinois Legislative Studies Center Sunshine Project, and Government Accountability Project. On November 2, 2000, the Commission voted to decline to open a new rulemaking in response to the Petition at this time for reasons stated below.

A. Issues on Which Comments Were Sought in the NOA

In the NOA, the Commission identified four recommendations in the Petition that were appropriate for rulemaking and sought comments on these recommendations. The issues on which comments are sought include (1) revising 11 CFR 100.6 to require PACs to list, as an affiliated organization on their Statement of Organization, any soft money account to which they forward checks; (2) revising 11 CFR 102.9(a)(3) to require candidates who receive PAC contributions to maintain records that list each PAC's full name and Commission identification number, and revising 11 CFR 100.12 to require them to include this information on their FEC reports; (3) revising 11 CFR 104.8(d)(4) to require PACs to notify the Commission within ten days of receiving a returned contribution; and (4) revising 104.13(a)(2) to require PACs to notify candidates within ten days of any in-kind contribution.

All of the commenters expressed support for the Petition and encouraged the Commission to adopt all six of POGO's recommendations through rulemaking. The commenters who submitted the substantially similar comments stated that the Commission should initiate a new rulemaking project to correct problems with reporting by PACs because ''proper disclosure is at the core of what the Commission should be doing, making these reforms vital to the continued integrity of the FEC.'' Other commenters characterized the recommendations as ''common-sense,'' ''simple bookkeeping procedures,'' ''minor,'' or ''technical'', that would improve the Commission's operations and the reporting and disclosure procedures resulting in more accurate information. Three commenters also supported these recommendations because they would make campaign finance information more understandable to the public. Three commenters made detailed comments on one specific recommendation. Their comments are discussed below.

1. Soft Money Accounts

The Petition suggested that the Commission amend section 100.6 to require ''federal PACs [to] list as an affiliated organization on their statement of organization or amendment thereto, any soft money account(s) to which it forwards checks.'' The Commission has concluded that it would be more appropriate to address this issue, if at all, in the context of the soft money rulemaking project rather than in a separate rulemaking project.

2. Eliminate Irregular PAC Names

The Petition recommended that the FEC require PACs and political committees to use the PACs' full names and PAC FEC identification numbers when making, receiving, or reporting PAC contributions. POGO pointed to the FEC's PACRONYMS publication, a guide to PAC names, as illustrative of the need for use of uniform names. The Petition suggested that amendments to sections 102.9(a)(3), 102.10, and 100.12 would achieve this result. The Commission has amended its forms and electronic filing software to allow all political committees to include the names and FEC identification numbers of political committees on Schedule A on a voluntary basis.

3. Candidates Report Returned Contributions

The Petition urged the Commission to amend section 104.8(d)(4) to require PACs to notify the Commission of a returned contribution within ten days of the PAC's receipt of the returned contribution. Three commenters included comments specific to this recommendation. They expressed concerns about the impact of the lack of such notice on candidates who refuse to accept PAC contributions. The commenters argued that these candidates may be unfairly challenged by the press or the public on their assertions that they do not accept PAC contributions if a PAC reports making a contribution but does not report in a more timely manner that the contribution was returned.

Generally, the Federal Election Campaign Act (''FECA'') requires unauthorized committees to file their reports to the Commission on a monthly basis, or on a quarterly basis during an election year, and on a semi-annual basis during a non-election year. *See* 2 U.S.C. 434(a)(4), 11 CFR 104.5(c). Nothing in the FECA requires unauthorized committees to report returned contributions within ten days of receipt. Therefore, an amendment to the FECA would be necessary before the Commission could amend its rules to require reporting returned contributions within ten days.

4. Notify Candidates of All ''In-Kind'' Contributions

The Petition suggested that the Commission amend section 104.13(a)(2) to require PACs to notify candidates of all ''in-kind'' services provided to the candidate within ten days of providing the services. Nothing in the FECA requires unauthorized committees to notify candidates when they make in-kind contributions. Consequently, a statutory amendment would be needed before the Commission could impose a new ten day reporting requirement on unauthorized committees.

B. Issues Not Appropriate for Rulemaking

The Petition also contains three recommendations that the Commission concluded could not be implemented through rulemaking.[1] See NOA, 64 FR 55440 (October 13, 1999). Further discussion of these recommendations follows below.

1. Compare PAC Disbursements With Candidate Receipts

The Petition recommended that the FEC compare PAC disbursements with candidate receipts and adopt procedural steps to trigger Requests for Additional Information (''RFAI'') if there are discrepancies above a certain dollar amount. While the Commission recognizes the POGO's concerns, this recommendation goes to internal procedures and is not an appropriate subject for rulemaking.

2. Group FEC Data by Two and Six-year Campaign Cycles

The Petition recommended that the FEC's system in the Public Record Office and on the Internet allow users to list contributions by individuals and PACs on an election-cycle basis. The recent amendment to FECA contained in the Treasury and General Government Appropriations Act, 2000, Public Law 106–58, 106th Cong., Section 640, 113 Stat. 430 (1999), mandating election-cycle reporting provided the authorization for the Commission to amend its regulations to implement election-cycle reporting. The Commission has published final rules at 11 CFR part 104, 65 FR 42619 (July 11, 2000), and has revised its forms to implement election-cycle reporting for authorized committees. *See id.* at 42620–42623 (Explanation and Justification of the final rules for Election Cycle Reporting by Authorized Committees). It is also in the process of converting to election-cycle reporting, which should allow retrieval of information on an election-cycle basis.

3. Eliminate Duplicate Entries

POGO stated that its report highlighted the problem of duplicate

[1] The Petition's first recommendation actually contained two separate recommendations—first, to compare PAC disbursements with candidate receipts and second, to require PACs to list soft money accounts as affiliated organizations. The second recommendation was included among the list of recommendations on which the Commission sought comments in the NOA.

entries in the Commission's databases. To address this problem, the Petition suggested that the Commission's systems identify transactions that appear to be duplicates and that the Reports Analysis Division send out request for additional information notices to clarify the duplication. As stated above, the Commission's internal procedures, including RFAI notices, are not an appropriate subject for rulemaking. However, the Commission notes that the upcoming expansion of its electronic filing program may eliminate many duplicate entries.

C. Additional Issues Not Included in the Petition

Two commenters included three additional suggestions in their comments on the Petition. They are: (1) Implement better enforcement tools such as random audits, the publication of a list of committees who file incomplete reports, and a schedule of fees for non-compliance; (2) require electronic filing for all committees; and (3) require Senate candidates to file reports directly with the FEC. One of these commenters also added another recommendation requiring multi-candidate entities to issue separate checks to each separate recipient. Because these suggestions are beyond the scope of the Petition for Rulemaking, the Commission will not initiate a new rulemaking project in response to these additional recommendations. In addition, some of the suggestions, such as random audits, are beyond the Commission's statutory authority.

However, the Commission has implemented or is about to implement new programs and procedures since the publication of the NOA that address several of these issues. The new Administrative Fines program, 65 FR 31787 (May 19, 2000) (to be codified at 11 CFR part 111, subpart B), that went into effect in July, 2000, will assess civil money penalties in accordance with the schedules of penalties on political committees who fail to file their reports in a timely manner. The Commission will also require political committees whose annual contributions or expenditures exceed or are expected to exceed $50,000 to file their reports electronically beginning in January, 2001. 65 FR 38415 (June 21, 2000) (to be codified at 11 CFR 104.18). However, electronic filing cannot be extended to all political committees absent further amendments to the FECA. A legislative change would also be needed for senatorial candidates to file directly with the FEC. However, the Secretary of the Senate has automated the transfer of information from the Senate Public Records' Office to the FEC and the information can be viewed in electronic form on the Commission's website at www.FEC.gov.

While the Commission has decided not to initiate a new rulemaking in response to this petition, changes the Commission is making to its operations, computer systems, forms, and regulations, as described above, will further POGO's goal of enhancing timely and accurate dissemination of campaign finance information to the public. Accordingly, no further action on the Petition for Rulemaking will be taken at this time. *See* 11 CFR 200.4.

Dated: November 2, 2000.

Darryl R. Wold,

Chairman, Federal Election Commission.

[FR Doc. 00–28601 Filed 11–7–00; 8:45 am]

BILLING CODE 6715–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

8(a) Business Development/Small Disadvantaged Business Status Determinations

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: In order to make the award of contracts under the 8(a) Business Development program a more attractive procurement alternative in today's streamlined Federal Government procurement environment, the Small Business Administration (SBA) proposes to amend its current 8(a) regulations to permit SBA to delegate to procuring agencies its authority to accept requirements for the 8(a) program.

DATES: Comments must be submitted on or before January 8, 2001.

ADDRESSES: Written comments should be addressed to Linda Williams, Associate Administrator for Policy, Planning, and Liaison, 409 Third Street, SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Delorice Ford, Associate Administrator for 8(a) Business Development, at (202) 205–6416.

SUPPLEMENTARY INFORMATION: The Federal Streamlining Act of 1994 dramatically changed the way the Federal Government buys its goods and services. In today's changing procurement environment, there are increasingly larger contract opportunities that often are not suitable for small businesses to perform as prime contractors. Agencies are also using streamlined procurement practices such as multiple award contracts, Government-Wide Acquisition Contracts (GWACs), Federal supply schedules, and credit card purchases. At the same time, the 8(a) Business Development (BD) program contract mechanisms have not been modernized to successfully link-up with the acquisition vehicles authorized by procurement reform. The impact is fewer contract opportunities for 8(a) Program Participants.

In order to make the award of contracts under the 8(a) BD program a more attractive procurement alternative and to strengthen the effectiveness of the 8(a) BD program, SBA proposes to make the offer and acceptance of requirements for award through the 8(a) BD program simpler and faster. Specifically, SBA proposes to amend its current 8(a) regulations to permit SBA to delegate to procuring agencies its authority to accept requirements for the 8(a) program. This change would reduce the administrative burden on procuring agencies and allow SBA to refocus its efforts on providing business development, including contract assistance, to Program Participants. SBA believes that this change would make the 8(a) program more attractive by reducing the 8(a) procurement leadtime by up to twelve days.

SBA would continue to determine eligibility for the award of 8(a) contracts, but would do so on an annual rather than on a contract-by-contract basis. SBA would maintain the listing of firms that are eligible for the award of 8(a) contracts in PRO-Net. In addition, SBA would require Program Participants to notify SBA of any changes in ownership, control, social disadvantage or economic disadvantage in order to ensure that PRO-Net is kept current regarding any firm's continued eligibility for 8(a) awards. A procuring agency could accept SBA's PRO-Net designation and accept a specific 8(a) requirement on behalf of a Program Participant so determined to be eligible.

By delegating its authority to accept requirements for award through the 8(a) program to procuring activities, SBA could better meet the business development aspects of the 8(a) BD program and would be in a better position to comply with a recent recommendation in the July 2000 General Accounting Office (GAO) report titled, *SBA Could Better Focus its 8(a) Program to Help Firms Obtain Contracts* (GAO/RCED–00–196). GAO recommended that SBA work with its district offices to place priority on helping inform Program Participants about contracting opportunities,

assisting Participants with contracts at Federal agencies, and becoming more involved with Participants as they seek and negotiate contracts. The proposed change would allow SBA to use the resources currently expended on accepting requirements and determining eligibility on a contract-by-contract basis to provide much needed business development assistance to Participants, including training on the Federal contracting process, to enhance their competitive viability.

Compliance With Executive Orders 13132, 12988 and 12866, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and the Paperwork Reduction Act (44 U.S.C. Chapter 3501 et seq.)

SBA certifies that this rule is not a ''significant'' regulatory action under Executive Order 12866.

SBA has determined that this rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. SS 601–612. The rule would not impose any requirements and would not otherwise affect the kinds of procurement requirements that can be available for award through the 8(a) BD program. It would merely make a procedural change to SBA's current regulations that would authorize SBA to delegate its authority to procuring agencies where appropriate.

For the purpose of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this rule would not impose new reporting or record keeping requirements.

For purposes of Executive Order 13132, SBA certifies that this rule does not have any federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12978, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of this order.

List of Subjects in 13 CFR Part 124

Government procurement; Hawaiian natives; Minority businesses; Reporting and recordkeeping requirements; Technical assistance.

Accordingly, for the reasons set forth above, SBA proposes to amend Title 13, Code of Federal Regulations (CFR), as follows:

PART 124—[AMENDED]

1. The authority citation for 13 CFR part 124 would continue to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(j), 637(a), 637(d) and Pub. L. 99–661, Pub. L. 100–656, sec. 1207, Pub. L. 101–37, Pub. L. 101–574, and 42 U.S.C. 9815.

2. Section 124.502 would be amended by adding new paragraph (d) to read as follows:

§ 124.502 How does an agency offer a procurement to SBA for award through the 8(a) BD program?

* * * * *

(d) Where SBA has delegated its authority to accept requirements for award through the 8(a) BD program to a procuring activity, the procuring activity need not send an offering letter to SBA. In such a case, the procuring activity must ensure that the information set forth in paragraph (c) of this section is contained in its contracting file.

3. Section 124.503(i) would be revised to read as follows:

§ 124.503 How does SBA accept a procurement for award through the 8(a) BD program?

* * * * *

(i) *Delegation of acceptance authority to procuring activities.* (1) SBA may delegate its authority to accept requirements for award through the 8(a) BD program to procuring activities where appropriate.

(2) Where SBA delegates its authority to accept requirements for award through the 8(a) BD program to a procuring activity, the procuring activity may rely on SBA's determination that a particular Program Participant is eligible for award as set forth in Pro-Net.

(3) Where SBA has delegated its 8(a) contract execution authority to a procuring activity but has not delegated its authority to accept requirements for award through the 8(a) BD program to such activity, the procuring activity must still offer and SBA must still accept all requirements intended to be awarded as 8(a) contracts, except as provided in paragraph (a)(4)(i) of this section.

Dated: November 2, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–28584 Filed 11–7–00; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–00–234]

RIN 2115–AE47

Drawbridge Operation Regulations; Fort Point Channel, MA

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to change the drawbridge operating regulations for the Northern Avenue Bridge, mile 0.1, across the Fort Point Channel at Boston, Massachusetts. This proposed rule would revise the drawbridge operating regulations to provide bridge openings during times the bridge previously did not open and also place the bridge on an advance notice basis during times when there have been few requests to open the bridge. This action is expected to better meet the present needs of navigation.

DATES: Comments must reach the Coast Guard on or before January 8, 2001.

ADDRESSES: You may mail comments to Commander (obr), First Coast Guard District, Bridge Branch, at 408 Atlantic Avenue, Boston, MA. 02110–3350, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (617) 223–8364. The First Coast Guard District, Bridge Branch, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except, Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Request for comments

We encourage you to participate in this rulemaking by submitting comments or related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD01–00–234), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches,

suitable for copying. If you would like to know if they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the First Coast Guard District, Bridge Branch, at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Northern Avenue Bridge, mile 0.1, across the Fort Point Channel has a vertical clearance of 7 feet at mean high water and 17 feet at mean low water in the closed position. The existing operating regulations in 33 CFR 117.599 require the bridge to open on signal from 6 a.m. to 8 p.m. From 8 p.m. to 6 a.m., the bridge need not open for the passage of vessels.

The Coast Guard received a request to change the operating regulations from a commercial tour boat operator and the mariners located at a marina upstream from the Northern Avenue Bridge. The mariners requested that the bridge be crewed and available to open for vessel traffic after 8 p.m. during the boating season. The bridge presently does not open from 8 p.m. to 6 a.m., daily.

The Coast Guard published a notice of temporary deviation and request for comments on April 27, 2000, in order to test an expanded operating schedule for the bridge and to provide immediate relief for the mariners during the summer of 2000. The deviation required the bridge to open on signal from 6 a.m. to 8 p.m. and from 8 p.m. to 6 a.m. to open on signal if at least a two-hour advance notice was provided by calling the number posted at the bridge. The Coast Guard received four letters in favor of expanding the operating hours for the bridge.

After the comment period for the deviation concluded on September 30, 2000, the Coast Guard had discussions regarding the expansion of the operating hours for the bridge with officials from the City of Boston, the owner of the bridge. As a result of these discussions, the bridge owner agreed to crew the bridge additional hours as well as provide openings on an advance notice basis during times when the bridge is not crewed. The following scheduled was established:

> From May 1 through October 31, the draw shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. the draw shall open on signal if at least a two-hour advance notice is given by calling the number posted at the bridge.
>
> From November 1 through April 30, the draw shall open on signal from 7 a.m. to 3 p.m. From 3 p.m. to 7 a.m. the draw shall open on signal if at least a twenty-four hours advance notice is given by calling the number posted at the bridge.

The Coast Guard believes this is a reasonable operating schedule because the mariners will now be able to get bridge openings during the times the bridge is crewed or upon the required advance notice, and the bridge owner will not be required to crew the bridge during periods when there have been few requests to open the bridge.

Discussion of Proposal

The existing requirement that the bridge need not open for vessel traffic from 8 p.m. to 6 a.m., without any advance notice requirement, does not meet the reasonable needs of navigation based upon recent requests from mariners to expand the operating hours of the bridge. Mariners should be able to obtain bridge openings anytime one is necessary with the exception of cases where a demonstrated offsetting benefit is derived.

A typical example of an offsetting benefit would be closing a bridge to vessel traffic during the vehicular traffic rush hour time period and allowing vehicular traffic to pass unimpeded in an effort to balance the needs of both modes of transportation. Conversely, bridge owners should not be required to crew bridges during time periods when there have been few or no requests to open a bridge.

The Coast Guard believes that crewing the bridge an additional three hours at night during the boating season and the addition of an advance notice concept for all the periods the bridge is not crewed is reasonable and satisfies both the needs of navigation and the needs of the bridge owner.

The Coast Guard; therefore, proposes to revise the operating regulations listed at 33 CFR 117.599 for the Northern Avenue Bridge across the Fort Point Channel to require the Northern Avenue Bridge, mile 0.1, at Boston, to operate as follows:

(a) From May 1 through October 31, the draw would open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. the draw would open on signal if at least a two-hour advance notice is given by calling the number posted at the bridge.

(b) From November 1 through April 30, the draw would open on signal from 7 a.m. to 3 p.m. From 3 p.m. to 7 a.m. the draw would open on signal if at least a twenty-four hours advance notice is given by calling the number posted at the bridge.

It is expected that this rule will better meet the present needs of navigation.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under 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, Feb. 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT, is unnecessary. This conclusion is based on the fact that the bridge will be crewed at times to meet the needs of navigation and will be on an advance notice basis during the times when there have been few requests to open the bridge.

Small Entities

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

The Coast Guard certifies under section 5 U.S.C. 605(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that the bridge will better meet the present needs of navigation and will not be crewed unnecessarily during times when there have been few requests to open the bridge.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it

qualifies and how and to what degree this rule would economically affect it.

Collection of Information

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

Federalism

We have analyzed this proposed rule under E.O. 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 proposed rule would not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this proposed rule under E.O. 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

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.599 is revised to read as follows:

§ 117.599 Fort Point Channel.

The draw of the Northern Avenue Bridge, mile 0.1, at Boston, shall operate as follows:

(a) From May 1 through October 31, the draw shall open on signal from 7 a.m. to 11 p.m. From 11 p.m. to 7 a.m. the draw shall open on signal if at least a two-hour advance notice is given by calling the number posted at the bridge.

(b) From November 1 through April 30, the draw shall open on signal from 7 a.m. to 3 p.m. From 3 p.m. to 7 a.m. the draw shall open on signal if at least a twenty-four hours advance notice is given by calling the number posted at the bridge.

Dated: October 23, 2000.

Gerald M. Davis,

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

[FR Doc. 00–28648 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

46 CFR Parts 25 and 27

[USCG 2000–6931]

RIN 2115–AF53

Fire-Suppression Systems and Voyage Planning for Towing Vessels

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to improve the safety of towing vessels by requiring the installation of fixed fire-extinguishing systems in their engine rooms, and by requiring their owners or operators, and their masters, to ensure that voyage plans are complete before they commence their trips with any barge in tow. These rules would reduce the number of uncontrolled fires in engine rooms, and other fire-related or operational mishaps on towing vessels. As a result, they would save lives, diminish property damage, and reduce the associated threats to the environment and maritime commerce.

DATES: Comments must reach the Coast Guard on or before March 8, 2001.

ADDRESSES: To make sure your comments and related material do not enter the docket [USCG 2000–6931] more than once, please submit them by only 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 rulemaking. Comments, and documents as indicated in this preamble, 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 at the same address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, call Mr. Randall Eberly, P. E., Project Manager, telephone 202–267–1861. For questions on viewing, or submitting material to, the docket, call Ms. Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [USCG 2000–6931] and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an

unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing, to the Docket Management Facility at the address under **ADDRESSES.** Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change these rules in view of the comments.

Public Meeting

The Coast Guard plans to hold a public meeting during the comment period for this SNPRM, at a place and time announced in a later notice in the **Federal Register**. Persons may ask for more than one meeting by writing to the Docket Management Facility at the address under **ADDRESSES.** The request should include the reasons why more than one meeting would be beneficial. If it determines that added opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold more than one meeting at places and times announced by a later notice in the **Federal Register**.

Background and Purpose

On January 19, 1996, the tugboat SCANDIA, towing the oil barge NORTH CAPE, caught fire five miles off the coast of Rhode Island. The crew could not control the fire, and without power they were unable to prevent the barge carrying 4 million gallons of oil from grounding and spilling about a quarter of its contents into the coastal waters. The spill led Congress to amend 46 U.S.C. 4102, in section 902 of the Coast Guard Authorization Act of 1996 (Pub. L. 104–324) (the Authorization Act), so as to direct that the Secretary of Transportation prescribe rules on fire-suppression systems for vessels towing single-hull non-self-propelled tank vessels.

On October 6, 1997, the Coast Guard published a Notice of Proposed Rulemaking (NPRM), Safety of Towing Vessels [CGD 97–064] (62 FR 52057), that proposed fire-suppression measures for all towing vessels but not the mandatory installation of fixed fire-extinguishing systems. Instead, the NPRM proposed alternatives that comprised fire-detection systems, semi-portable fire extinguishers, training of crewmembers, and fixed or portable fire pumps for the protection of existing towing vessels and for new towing vessels under 24 meters in length, regardless of the cargoes transported. The NPRM proposed these measures after we had reviewed data on casualties that revealed 105 reported fires in the engine rooms of towing vessels between 1992 and 1996. Each of these fires represented a potential obstruction to maritime commerce and each resulted in property damage. Many in fact resulted in total constructive losses of the vessels, and several necessitated the use of outside resources to bring the distressed vessels under control. Also, the Towing Safety Advisory Committee (TSAC) recommended that any proposed rules apply to all towing vessels, regardless of type of cargo, so that operators could maintain flexibility over the cargoes that they may tow.

The TSAC also recommended that the rules apply only to vessels 12 meters in length or longer. However, application only to such vessels did not meet the mandate in the Authorization Act, which did not distinguish among vessels by length. The Act, instead, required the installation of fire-suppression systems on vessels that tow single-hull non-self-propelled tank vessels. Vessels less than 12 meters in length can and often do tow such tank vessels. Moreover, the Coast Guard is concerned that a significant fire could occur on any towing vessel, regardless of length or cargo.

On October 19, 1999, we published an Interim Rule on Fire Protection Measures for Towing Vessels [USCG 1998–4445] (64 FR 56257). For all towing vessels except those specifically exempted, that Rule requires general-alarm systems, internal communication systems, fire-detection systems, and remote fuel-shutoffs; sets standards for fuel systems; and states criteria for monthly drills. It does not address the remainder of the fire-protection measures proposed in the NPRM; it defers those that relate to manual fire-fighting. Those are the subjects of this Supplemental Notice of Proposed Rulemaking (SNPRM). The intent of this SNPRM is to reconsider requirements for manual fire-fighting equipment versus the installation of fixed fire-extinguishing systems for all towing vessels. The Coast Guard does not anticipate that this SNPRM will delete or modify any of the other measures required by the Interim Rule. A separate Final Rule [USCG 1998–4445] published on August 28, 2000 (65 FR 52043), accomplished minor changes to the Interim Rule.

Statutory Mandate

Section 902 of the Authorization Act furnishes the authority for these proposed rules. It directs the Coast Guard, after consultation with the TSAC, and after taking into consideration the characteristics, methods of operation, and nature of service of towing vessels, to consider requiring the installation, maintenance, and use of a fire-suppression system or other measures on towing vessels. These measures are to provide adequate assurance that fires on board towing vessels ''can be suppressed under reasonably foreseeable circumstances''. The Act further directs that, in particular, the Coast Guard develop rules for the installation ''of a fire-suppression system or other measures to provide adequate assurance that a fire on board a towing vessel that is towing a non-self-propelled tank vessel can be suppressed under reasonably foreseeable circumstances''. (46 U.S.C. 4102(f)(1))

Discussion of Requirements

These Rules Would Apply to Most Towing Vessels.

These rules would prescribe that most towing vessels—

- Be fitted with fixed fire-extinguishing systems for the protection of their engine rooms; and
- Not proceed on trips or voyages before plans for those trips or voyages are complete.

Towing vessels that engage only in assistance towing, pollution response, or fleeting duties in limited geographical areas would be exempt from the measures in this SNPRM. Yet all other towing vessels, not just those over a certain length or those that tow non-self-propelled tank vessels, would be subject to those measures. Owners of existing towing vessels would, nevertheless, have five years after the effective date of these rules to install the required fixed fire-extinguishing systems. The voyage-planning requirement would likely go into force on the effective date of these rules.

Requirement for a Fixed Fire-Extinguishing System: What Factors Were Considered in Determining This Approach?

In the NPRM, we proposed several manual fire-fighting measures for existing vessels rather than specify fixed fire-extinguishing systems. Those measures included semi-portable fire extinguishers, fire pumps and hoses, and fire axes. We proposed them because we were concerned that gaseous fixed fire-extinguishing systems may not be effective on existing vessels. Every one of those systems requires an airtight enclosure to build up and maintain the necessary concentration of the extinguishing agent. Many existing towing vessels are constructed with engine rooms that may not be sufficiently airtight to accomplish this.

We were also concerned that, without proper containment, the extinguishing agent could leak into occupied areas and harm the crew. When we published the NPRM, the only approved extinguishing agent available was carbon dioxide, which is not acceptable for use in occupied areas or in areas where its accidental release could threaten adjacent occupied areas. During the comment period for the NPRM, however, several respondents reminded us of existing technical criteria for the design of total-flooding fire-extinguishing systems to protect even enclosed spaces that cannot be made entirely airtight. Partly open spaces can be successfully protected by providing enough added extinguishing agent to compensate for the quantity of gas that escapes from uncloseable openings during the discharge. Other respondents felt that we should require not only fixed fire-extinguishing systems but also the necessary bulkheads and decks, or sealing measures, to properly enclose engine rooms and make the systems effective.

After both a review of the public comments and our further analysis, we have decided to change our approach to fire protection, and propose to require fixed fire-extinguishing systems, instead of manual fire-fighting equipment, for the protection of all engine rooms. We decided this out of concern for the safety of the crews of towing vessels. If we had continued with our original approach, we would have made it necessary for the crews to enter burning engine rooms for manual fire-fighting. Towing vessels normally operate with minimal manning. There might not be enough crewmembers available to effectively and safely fight a fire, and those that tried would be exposed to an environment that is dangerous to their health. We discuss this concern further when we explain why we would apply these rules to all vessels. Also, training in basic and advanced marine fire-fighting is essential for anyone fighting a fire on any vessel. Anyone assigned to such a duty would need to complete periodic refresher-training courses as well.

We propose the use of any one of three types of fixed fire-extinguishing systems. We are specifically inviting the public to comment on this approach. By allowing a choice among the three, we expect, we will enable operators of towing vessels to select a form of protection that will be effective onboard their vessels.

Alternative Agents: Why Are We Proposing new Types of Extinguishing Systems?

Our further review of the proposed rules for fixed fire-extinguishing systems led us to carefully examine the possibility of exposing the crew to harmful extinguishing agents. Since publishing the NPRM, we have issued type approvals to several manufacturers whose systems use FM–200 and Inergen as the extinguishing agents. These agents serve as replacements for Halon 1301, previously in use onboard ships. The use of Halon 1301 presented an acceptable risk to human exposure. Despite this, its use was restricted in 1987 because, being an ozone-depleting substance, it presented an unacceptable risk to the atmosphere. Each of the new agents that we are proposing is both harmless to the atmosphere and safe for human exposure. Engine rooms protected by any of them would pose less risk to the crewmembers in adjacent areas in case of an accidental release. Technical information explaining the design and installation of fixed fire-extinguishing systems that use them appears in Standard 2001 of the National Fire Protection Association (NFPA).

Water-mist fire-extinguishing systems are another alternative that we are considering for engine rooms of towing vessels. These systems represent recent technology that uses very fine droplets of water as the extinguishing agent. Unlike traditional automatic sprinkler systems, these systems spray water as droplets, and leave very little residual water after the fire is extinguished. The fire-extinguishing ability of these systems is comparable or superior to that of traditional sprinkler systems. They are also safe for human exposure. Technical information explaining their design and installation appears in NFPA Standard 750. We are proposing standards for them based on full-scale tests we conducted to develop the criteria for protecting engine rooms. We expect that, by the time these rules become final, water-mist systems approved by the Coast Guard will be commercially available. Our proposed design criteria are based on selected parts of Circular 913 of the Maritime Safety Committee of the International Maritime Organization (IMO MSC/Circ. 913), ''Guidelines for the Approval of Fixed Water-based Local Application Fire-fighting Systems for Machinery Spaces of Category A,'' supplemented by technology developed in our research. Public comment on these criteria is especially welcome. Our current intent is to approve water-mist systems that meet the following criteria:

1. The water-mist system must be a local-application system that covers the entire engine room with a uniform grid of pendant nozzles located about 1 meter below the topmost grating or overhead, as applicable. The distance from the nozzles to the deck plating of the engine room must be within the tested limits for separation between hazard and nozzle.

2. More nozzles must be installed to protect obstructed hazards such as fuel lines and fittings, as specified by the manufacturer.

3. More nozzles must be installed to protect bilges greater than 0.75 meter in depth, as specified by the manufacturer.

4. The system must be an open-head, deluge-type one with a manual release. This release must be located outside a main exit from the engine room, and another must be located at the engineering control booth or station, if there is one.

5. The storage cylinders and controls of the system must be located outside the engine room, or, if inside, at a site shielded from direct exposure to fire from below.

6. The system must be self-contained and must require no external source of power.

7. Operation of the system must cause the ventilation fans and fuel pumps of the engine room to shut down.

8. Release of the system must involve two separate acts: break glass—pull handle; open door—pull handle; or equivalent.

9. The system must successfully pass the fire-test protocols in IMO MSC/Circ. 913, ''Guidelines for the Approval of Fixed Water-based Local Application Fire-fighting Systems for Machinery Spaces of Category A.''

10. Testing of components must accord with the following provisions of Appendix A of IMO MSC/Circ. 728, ''Revised Test Method for Equivalent Water-Based Fire-extinguishing Systems for Machinery Spaces of Category A and Cargo Pumprooms contained in MSC/Circ. 668'':

3.4 Water flow and distribution.
3.6 Strength of body.
3.11 Corrosion.
3.16 Resistance to vibration (Plus functional test in 3.5.2 only).
3.22 Clogging.

11. The storage cylinders of the system must hold enough water to let the system operate at full flow for at least 10 minutes.

12. The system must have a backup 40-mm (1.5-inch) fire-department connection somewhere on the open

deck not likely to be exposed to a fire in the engine room.

13. An independent laboratory must approve the water-mist system.

The rules proposed here would require that a fixed fire-extinguishing system be installed in the engine room. They would not specify the types of systems that are acceptable. Instead, they would rely on the definition for the term ''fixed fire-extinguishing system'' that was previously stated in the Interim Rule on Fire Protection Measures for Towing Vessels [USCG 1998–4445] (64 FR 56257). The definition does not appear in the regulatory text of this SNPRM, because it has already been adopted in final form. It is repeated here, however, for continuity:

Fixed Fire-Extinguishing System means a carbon-dioxide system that satisfies 46 CFR subpart 76.15; a manually-operated clean-agent system that satisfies NFPA 2001 and is approved by the Commandant; or a manually-operated water-mist system that satisfies NFPA 750 and is approved by the Commandant.

Safety of Crewmembers of Towing Vessels: What About the Use of Manual Fire-Fighting on Towing Vessels?

Many of the respondents who submitted comments on the NPRM criticized our proposed requirements for manual fire-fighting equipment. Their primary concern was for the safety of the crewmembers expected to fight the fires. They argued that manual fire-fighting would meet with limited success on engine-room fires, for a number of reasons. To begin with, the crew would need self-contained breathing apparatus and personal protective gear (which the proposed rule would not have required). Beyond this, the crew would need practical training in marine fire-fighting, including the use of semi-portable fire extinguishers and manual hose-streams. Then, effective fire-fighting would entail a minimum of trained fire-fighters on board the vessel whenever it is operating. Our review of typical manning on towing vessels indicates that there are too few people on board the vessels to both fight expected fires and safely operate the vessels. NFPA Standard 1500, ''Fire Department Occupational Safety and Health Program,'' recommends limiting fire-fighting by the number of persons available on the scene. For interior fire-fighting in particular, the standard recommends that at least four fire-fighters be available. Many towing vessels do not carry crews of four or more persons. A fire in the engine room of a towing vessel presents a higher risk than a typical fire in a building because of the presence of combustible liquids within the steel casing of the engine room. Unlike a typical fire in a building, which can be attacked from the street level, a fire in the engine room of a towing vessel must be attacked from above. A fire party trying to enter an engine room from above to extinguish such a fire will encounter extremely high temperatures and vision-obscuring smoke and toxic gases. By contrast, a fixed fire-extinguishing system is installed with its operating controls located outside the engine room. The crew does not need to enter the burning space to activate it.

Ultimately, this SNPRM proposes that all towing vessels—other than those exempted by 46 CFR 27.100(b)—carry fixed fire-extinguishing systems after the effective date of any eventual rules, to protect their engine rooms.

Discussion of Comments and Changes

The Coast Guard received a total of 54 letters to the docket, and remarks at the public meetings in St. Louis, MO, and Newport, RI, which generally reiterate the written comments. Taken together, there are about 208 comments to the public docket of the NPRM on the Safety of Towing Vessels. The 67 comments relating to systems for anchoring and barge retrieval we addressed in an Interim Rule (63 FR 71754 (December 30, 1998)) on Emergency Control Measures for Tank Barges (USCG 1998–4443). Comments relating to fire-protection measures we addressed in another Interim Rule (64 FR 56257 (October 19, 1999)), on Fire-Protection Measures for Towing Vessels (USCG 1998–4445). We received comments related to this SNPRM, though not submitted to this docket, from six respondents who submitted comments relating to the Interim Rule on fire-protection measures. We address their comments here. The remaining comments concerned methods and equipment for suppressing fires: fixed fire-extinguishing systems; fire pumps, hydrants, and hoses; semi-portable fire extinguishers; fire axes; and muster lists. We address them, as well as voyage planning, here as well.

Fixed Fire-Extinguishing Systems

Some public respondents argue that the proposed requirements should apply only to certain towing vessels. They believe that only towing vessels that transport barges laden with oil or similar hazardous substances, or that travel on routes where ecologically sensitive areas are under threat, should have to install fire-extinguishing equipment.

The nature of the cargo being transported on a barge does not affect the likelihood of its towing vessel's suffering an engine-room fire with associated risk to the crew. Also, towing vessels may take turns transporting barges laden with different materials or may travel on different routes. It is neither practical nor feasible to restrict their service in accordance with the commodities transported on their barges or the routes they may travel. It is therefore necessary to protect the engine rooms on all towing vessels against fire.

Another respondent stated that the proposed requirement for a fixed fire-extinguishing system that stops the main engines could cause greater danger than allowing the master to ground the vessel. He notes that, in inland service, a controlled grounding can safely situate the vessel before fire-fighting begins.

We agree that, in certain instances, emergency maneuvering of the vessel may be necessary before fire-fighting begins; but that does not mean these proposed rules should change. There is no way to predict exactly how a fire will develop. The master and crew must respond to it as it does develop. The immediate concern may well be to move the vessel to a different heading or a safe site before trying to extinguish the fire. In other cases the first step may be to try to control or extinguish the fire. If some means of fire suppression is installed on the vessel, the master is free to respond in the sequence he or she decides is best.

Fire Pumps, Hydrants, and Hoses

The NPRM proposed detailed standards for fire pumps, hydrants, and hoses to be installed on board all towing vessels so that their crews could manually extinguish engine-room fires. Many respondents criticized our standards for fire pumps as ''overstated and * * * difficult to comply with.'' Many feared that our stringent standards for rates of both waterflow and pressure would entail the replacement of numerous existing smaller pumps that have proved adequate thus far. Still others recommended against the use of portable pumps because of difficulties stowing, deploying, and operating them. Many correctly pointed out that the proposed fire pump or the generators used to power it would have to be stowed or even installed in the engine room. If a significant fire occurred there, the pump or the generator would be damaged before fire-fighting commenced. Finally, some expressed the opinion that towing vessels with approved fixed fire-extinguishing systems are adequately protected and should not also have to carry fire

pumps. Because we agree with this view, we have dropped all proposed requirements for fixed and portable fire pumps, hydrants, and hoses.

Semi-Portable Fire Extinguishers

The NPRM would have required either a B–III or B–V semi-portable fire extinguisher on every towing vessel, linked to the size of the vessel. Many respondents criticized the use of manual equipment over their concerns for the crewmembers' safety. Others argued that, unless the semi-portable extinguisher were located outside the engine room, a fire would damage it before it could be used. Still others recommended that several small extinguishers could substitute for a single large one. Because we have decided to require fixed fire-extinguishing systems instead of manual fire-fighting equipment, we have dropped all proposed requirements for semi-portable extinguishers. The proposed § 27.325 would have required that every new towing vessel 24 meters or longer in length must have a fixed fire-extinguishing system and an approved B–V semi-portable extinguisher. Because of our misgivings over the use of manual fire-fighting equipment by the crewmembers, we have also dropped the proposal for semi-portable fire extinguishers for this category of new vessels.

Fire Axes

The NPRM would have required that fire axes be available on board all towing vessels. These axes help in manual fire-fighting and overhaul. Yet several respondents questioned the need for them.

We have reconsidered, and have concluded that, because this rule proposes the use of fixed fire-extinguishing systems instead of manual fire-extinguishing measures, fire axes are no longer necessary. These rules would not require them.

Muster Lists

The NPRM called for muster lists that would assign specific duties to each crewmember during a fire. In the Interim Rule, we instead decided to require, and did require, that crewmembers participate in regular drills. This ensures that crewmembers know the locations and operations of all onboard fire-extinguishing equipment and of related shutdowns of fuel and ventilation.

We suspect that the requirement for periodic drills will prove more beneficial than one for mere muster lists would, because crewmembers will learn the locations and operations of the equipment and shutdowns installed aboard their vessels. This SNPRM, therefore, proposes no requirements for muster lists.

Voyage Planning

Six letters included comments from respondents about voyage planning. We will address all of them here.

One respondent recommended that the Coast Guard require that up-to-date copies of tables of tides and currents be available for ready reference during every voyage. These and several others are already mandatory under 33 CFR 164.72(b).

Two respondents doubted whether we could adequately address voyage planning by a Navigation and Vessel Inspection Circular (NVIC). Their skepticism is well-founded. Since a NVIC is unenforceable, it affords none of the needed leverage over the operators who do not observe these basic requirements of good marine practice. Therefore, with this SNPRM, the Coast Guard is proposing an actual requirement. However, we do plan to work with the TSAC in developing a NVIC on voyage planning to provide guidance to assist with thorough implementation of this requirement.

One respondent suggested adding to voyage plans for every towing vessel—

- Updated charts and publications concerning the accuracy, dependability, and functioning of available navigational aids;
- Identification of environmentally sensitive areas planned for by Area Committees formed under 33 U.S.C. 1321(j)(4);
- Bar-crossing procedures that contain criteria for ''go'' or ''no go'' and that address security of the barge and towing vessel; and
- Appropriate checks of navigational equipment before getting under way and entering pilotage waters.

The Coast Guard partly agrees. A requirement for the carriage of updated charts and publications on towing vessels already exists, in 33 CFR 164.72(b), and we are here proposing a requirement for their use. Each owner or operator, and each master, would have to consider charted hazards to navigation and known environmentally sensitive areas (noted on charts or maps) in voyage and trip plans under these rules. Any such requirement by its very nature should be broadly applicable (nationwide) and general. A NVIC developed in cooperation with the TSAC would provide details for trip and voyage plans as guidelines.

Two respondents stated that the proposed voyage-planning requirements would neither promote consistency nor be enforceable.

We disagree. This SNPRM proposes a general rule applicable nationwide. A NVIC would address specific regional circumstances. A rule and a NVIC together, widely disseminated and available for all companies and masters to use and follow, would render voyage-planning standards enforceable and consistent. The Ports and Waterways Safety Act contains the legislative authority to require voyage planning on uninspected towing vessels. That statute allows the Coast Guard to promulgate such a requirement for vessels operating on the navigable waters of the United States. In 1998, Congress amended the definition of ''navigable waters of the United States'' to include the waters of the territorial sea out to 12 nautical miles from the baseline. (33 U.S.C. 1222(5), 43 U.S.C. 1331) We would change the applicability of proposed rule 33 CFR 164.80 to require voyage plans on all uninspected towing vessels operating on the navigable waters of the United States.

Fuel Systems for Portable Pumps on Existing Vessels

During the comment period for the NPRM, we received a comment regarding proposed 46 CFR 27.340(c), Fuel restrictions. This paragraph would have restricted towing vessels, except for outboard engines, to the use of bunker C or diesel fuel. The comment urged us to allow the use of gasoline as fuel for portable fire pumps.

We do not want to encourage the use or storage of gasoline onboard towing vessels, because of its low flashpoint and potential for ignition. Anyway, the rules proposed here no longer contemplate portable fire pumps for the protection of engine rooms. Instead, they contemplate fixed fire-extinguishing systems for that. We have, therefore, not done what the comment urged.

Incorporation by Reference

The material that we would incorporate by reference appears in proposed 46 CFR 27.227. It is already available for inspection at room 1308 of Coast Guard Headquarters, 2100 Second Street SW., Washington, DC, 20593–0001. Copies of it would be available from one of the sources listed in 46 CFR 27.102. Before publishing a binding rule, we would submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This rulemaking is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order.

A draft Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is available in the docket for inspection or copying where indicated under **ADDRESSES.** A summary of the Evaluation follows:

This Evaluation addresses rules mandated by Section 902 of the Authorization Act. This SNPRM would require the installation of fixed fire-extinguishing systems on board towing vessels. Such systems would serve to reduce the number of uncontrolled engine-room fires. This SNPRM would also require voyage plans for all transits of towing vessels with any barges in tow. When fully implemented, the measures outlined in this SNPRM should significantly reduce the likelihood of deaths, injuries, and environmental and property damage resulting from fires on board and other casualties to towing vessels.

The net cost-effectiveness of this SNPRM would be $5,754 per barrel of pollution avoided. The net cost-effectiveness of the fixed fire-extinguishing systems would be $9,889 per barrel of pollution avoided, while the net cost-effectiveness of voyage-planning would be −$70 per barrel of pollution avoided.

Summary of Costs

The present value of the total cost of these rules over the 13-year period of analysis would be $115,915,169 ($109,809,202 for fixed fire-extinguishing systems + $6,105,967 for voyage planning = $115,915,169). The present value of the total benefit (or avoided costs) would be $30,007,645 ($23,467,869 from fixed fire-extinguishing systems and $6,539,776 from voyage planning). Therefore, the net cost would be $85,907,525 in 2000 dollars ($115,915,169 minus $30,007,645 = $85,907,525). In return, the measures contained in this SNPRM would prevent 14,925 barrels of pollution.

Cost for Voyage Planning

This SNPRM would require the master of a non-exempted towing vessel to complete a voyage plan before he or she made a voyage, transit, or trip (lasting at least 12 hours from homeport or point of origin) on navigable waters of the United States. Voyage planning is already mandatory for vessels towing oil-laden tank barges within the First Coast Guard District and, to some extent, for other towing vessels.

The master of the towing vessel validates the voyage plan before the voyage, transit, or trip. He or she ensures that the voyage plan is followed, or, if changes to the plan are considered during the voyage, that the plan is modified or updated before the changes are carried out.

We estimate that it would take the master of the vessel, on average, around 30 minutes (or 0.5 hour) to prepare a voyage plan for each transit. The average daily billing rate for the master is $350, based on a twelve-hour day. This translates to a cost of $14.58 to prepare a voyage plan. [($350/12 hours) × 0.5 hour = $14.58.] An average towing vessel (with barge in tow) completes about 120 non-exempt trips each year. Thus, the 4,467 non-exempt towing vessels complete about 536,040 trips each year (4,467 vessels × 120 trips/vessel = 536,040 trips).[1] The Coast Guard estimates that 90 percent of towing vessels (and consequently, 90 percent of voyages) already are in compliance with the voyage-planning requirement. Therefore, we estimate that 10 percent (or 53,604) of the voyages currently are not, and without the requirement would continue to not be.

The annual cost of voyage planning would be $781,725 ($14.58/voyages × 53,604 voyages = $781,725). Over the 13-year period of analysis, the total cost of voyage planning is $6,105,967 in 2000 dollars.

Cost for Fixed Fire-Extinguishing Systems

The total cost of the requirement for a fixed fire-extinguishing system is the sum of the cost to purchase and install the system, the cost to annually maintain and test the system, and any revenue that may be lost while a vessel is out of service to have the system installed. The present value of the total cost of the requirement of the fixed fire-extinguishing system would be $109,809,202 ($93,686,251 for purchase and installation + $11,119,576 for annual maintenance and testing + $5,503,375 for lost revenue = $109,809,202).

[1]Currently, vessels that tow oil-laden tank barges in the First District must complete voyage plans. Although we could subtract the 250 towing vessels that operate in the First District from the total population, we do not, because we assume that those 250 may tow freight barges as well.

Cost To Purchase and Install

Using our database, the Marine Safety Management System (MSMS), we estimate that there are 6,421 documented towing vessels; from there, we further estimate that 4,467 of those are not exempt from this rulemaking. From sources in industry, we estimate that 77 percent (or 3,440) of the 4,467 non-exempt vessels do not have fixed fire-extinguishing systems (FFES). Consequently, we estimate that during the 5-year phase-in period 3,440 towing vessels would have to purchase and install FFESs.

The cost to purchase and install a FFES varies with the length of the vessel. We estimate that the average cost to each of the 2,339 small vessels (less than 24 meters in length) would be $25,000. The average cost to each of the 1,101 large vessels (greater than or equal to 24 meters in length) would be $55,000. We recognize that the cost to retrofit some of the large vessels may be over $100,000; however, the average would be $55,000. The combined cost to the 3,440 vessels would be $119,009,814 [(2,339 × $25,000) + (1,101 × $55,000) = $60,536,784 + $58,473,030 = $119,009,814].

The 3,440 vessels would have five years each to purchase and install a FFES; and the average annual cost for a vessel from 2002 through 2006 to purchase and install one would be $23,801,963 ($119,009,814/5 = $23,801,963).

Each year, we expect, 18 new vessels would purchase and install FFESs. We also expect that 68 percent (or 12) of the new vessels would be small and that 32 percent (or 6) would be large, for a total cost of $622,800 [(12 × $25,000) + (6 × $55,000) = $622,800]. However, we also expect that the population of vessels would remain constant. Consequently, each year during the 5-year phase-in period, we expect that 670 existing vessels and 18 new vessels would purchase and install them (670 + 18 = 688). Over the 13-year period of analysis, therefore, the present value of the total cost for towing vessels to purchase and install them would be $93,686,251 (in 2000 dollars).

Cost To Maintain and Test

A FFES needs maintenance and testing in accordance with the manufacturer's design manual. This maintenance and testing would involve an overall check of the system, functional testing of the system's operating controls and alarms, and a check of the cylinders that supply the fire-extinguishing agent, to verify that

the weight and pressure of the stored agent fall within prescribed limits.

The Coast Guard estimates that the average cost for maintenance and testing of a FFES would be $600 per year. Over the 13-year period of analysis, therefore, the present value of the total cost to maintain and test these systems annually would be $ 11,119,576 in 2000 dollars.

Cost of Revenue Lost

Although there would be a 5-year phase-in period, which should give each owner the flexibility to schedule the installation of a FFES, some owners may lose revenue. However, the ability to avoid losing revenue on the flexibility may depend upon the number of towing vessels owned as well. While a vessel is out of service to have an FFES installed, an owner of more than one towing vessel may be able to put another vessel into service. Thus, the revenue lost by one vessel could become the revenue gained by another vessel, and the owner might not lose revenue.

Thus, we estimated that the expected revenue lost by each vessel depends upon the size of the vessel and the number of vessels owned. See the following Table (we assume that new vessels would not lose revenue, because each would have a FFES installed before going into service):

Number of non-exempted towing vessels owned	Expected revenue lost by each small vessel	Expected revenue lost by each large vessel
1	4,000	9,000
2	3,200	7,200
3	1,600	3,600
4	800	1,800
5 or more	0	0

We estimate that, during each year of the 5-year phase-in period, 670 existing vessels would each purchase and install a FFES. From a sample of 3,328 non-exempt towing vessels, we found the following distribution:

Number of non-exempted towing vessels owned	Expected revenue lost by each small vessel	Expected revenue lost by each large vessel
1	60.5	21.6
2	14.6	10.4
3	8.7	9.3
4	3.9	5.5
5 or more	12.3	53.2
Total	100.0	100.0

From our MSMS database, we expect that 68 percent of these vessels are small and 32 percent are large. Furthermore, we expect that 21.6 percent belong to fleets of one, 10.4 percent to fleets of two, 9.3 percent to fleets of three, 5.5 percent to fleets of four, and 53.2 percent to fleets of five or more. From all this, we estimate that 670 vessels altogether would lose revenue of $1,305,696 each year during the 5-year phase-in period. Over the period of analysis, the present value of the total revenue lost would be $5,503,375.

Summary of Benefits

Benefits for Voyage-Planning

A team of analysts identified cases between January 1, 1992, and December 31, 1996, that involved the grounding, sinking, capsizing, allision, or loss of control of towing vessels. The team determined that 40 of those cases could have had their losses reduced with voyage planning.[2] These 40 provided the pool from which the team estimated the expected benefits. On average, voyage planning would have reduced the probability of a casualty by 15 percent. We used that percentage to estimate the losses avoided by the voyage planning.

Over the 13-year period of analysis (2002–2014), we estimate that the present value of damages, deaths, and injuries avoided would be $6,539,776 in 2000 dollars ($5,263,336 for damages avoided + $1,265,364 for deaths or missing persons avoided + $11,076 for injuries avoided = $6,539,776).

Given that the present value of the total cost of voyage planning would be $6,105,967, the total cost of pollution avoided by voyage planning would be $986 per barrel ($986/barrel = $6,105,967/6,194 barrels = $986 per barrel). With the present value of the net cost of voyage planning being −$433,809, the net cost of pollution avoided would be −$70 per barrel [−$70/barrel = ($6,105,967–$6,539,776)/6,194 barrels]. See Table 1.

TABLE 1.—COST-EFFECTIVENESS OF VOYAGE PLANNING

Present Value of Cost of Voyage Planning	$6,105,967
Barrels of Pollution Avoided by Voyage Planning	6,194
Cost Per Barrel of Pollution Avoided	$986
Present Value of Avoided Costs of Voyage Planning	$6,539,776
Net Cost of Voyage Planning	−$433,809[3]
Net Cost per Barrel of Pollution Avoided	−$70[4]

Benefits for Fixed Fire-Extinguishing Systems

Before estimating the damages avoided by fixed fire-extinguishing systems, we subtracted voyage-planning benefits for any case of a casualty that involved an engine-room fire and that would have realized benefits from voyage planning in order to avoid double-counting of benefits. To estimate the average annual damages avoided by fixed fire-extinguishing systems for those cases where voyage planning would confer a first-tier benefit, we multiplied the average annual damages of $3,550,058 by 0.85, then by 0.42, and obtained a figure of $1,267,371 per year.[5] In those cases where fire suppression would confer the first-tier benefit, average annual damages avoided by fixed fire-extinguishing systems would be $2,464,958 ($5,868,947/year × 0.42 = $2,464,958/year). The combined average annual damage avoided by the systems would be $3,732,329 ($1,267,371 in cases when voyage planning would come first + $2,464,958 in those when the systems themselves would come first = $3,732,329).

We assume that 20 percent of the vessels would purchase and install fixed fire-extinguishing systems each year over the five-year phase-in period, so the annual benefit in damages avoided would increase from $746,466 the first year to $3,732,328 in the fifth and later years. Over the 13-year period of analysis, the present value of the total benefit from damage avoided to vessels and property would be $23,045,648 in 2000 dollars.

From 1992 through 1996 there were 7 minor injuries and 5 serious ones.[6] The amount society would be willing to pay

[2] The small number of cases during the five-year period supports the Coast Guard's estimate that 90 percent of the vessels currently prepare and follow voyage plans.

[3] Because net cost is negative, the voyage-planning requirement has a positive net benefit.

[4] As the present value total benefit of voyage planning is greater than the present value total cost of voyage planning, the net cost is negative, at −$433,809. In turn, the net cost per barrel of pollution avoided is negative. When net cost per barrel of pollution avoided is −$70, that means each barrel of pollution avoided is associated with a net benefit of $70.

[5] Recall that voyage planning reduces potential benefits by 15 percent; thus, only 85 percent remains. On average, a fixed fire-extinguishing system should reduce damages by 42 percent when effective.

[6] The 12 injuries came from 6 cases.

to avoid these injuries is $814,050 ($37,800 to avoid the 7 minor injuries + $776,250 to avoid the 5 serious injuries = $814,050). As these injuries occurred over a five-year period, their average annual value was $162,810 ($814,050/5 = $162,810).

We would expect fixed fire-extinguishing systems to reduce these injuries by 42 percent. So, they reduce injuries by $68,380 per year ($162,810 × 0.42 = $68,380).[7] Over the 13-year period of analysis, the present value of the total benefit from injuries avoided would be $422,221 in 2000 dollars.

The MSMS database contains a table that shows the gallons of oil and other hazardous materials spilled ''out of water'' and ''in waterways''. Of the 105 cases used to determine the benefits of fixed fire-extinguishing systems, 5 involved pollution. A total of 19,791 barrels were spilled during the five-year period from 1992 through 1996.

We estimate that fixed fire-extinguishing systems would reduce these spills by 42 percent. Before we calculated benefits from the systems, we deducted the benefits from voyage planning (when appropriate, to avoid double counting). Over the 13-year period of analysis, the systems should reduce pollution by 8,731 barrels.

Total Benefit and Cost-Effectiveness of Fixed Fire-Extinguishing Systems

Over the 13-year period of analysis, the present value of the avoided costs of fixed fire-extinguishing systems would be $23,467,869 in 2000 dollars ($23,045,648 for damages avoided + $422,221 for avoided injuries = $23,467,869).

The present value of the total cost of fixed fire-extinguishing systems would be $109,809,202. Because, we estimate, the requirement would reduce pollution by 8,731 barrels, the cost per barrel of pollution avoided would be $12,577 ($12,577/barrel = $109,809,202/8,731 barrels). The net cost of the requirement would be $86,341,334 ($109,809,202 − $23,467,869 = $86,341,334). Thus, the net cost-effectiveness would be $9,889 per barrel ($9,889/barrel = $86,341,334/8,731 barrels). See Table 2.

TABLE 2.—COST-EFFECTIVENESS OF FIXED FIRE-EXTINGUISHING SYSTEMS

Cost of Fixed Fire-Extinguishing Systems (PV)	$109,809,202
Barrels of Pollution Avoided	8,731
Cost per Barrel of Pollution Avoided	12,577
Cost Avoided of Systems (PV)	23,467,869
Net Cost of Systems	86,341,334
Net Cost per Barrel of Pollution Avoided	9,889

[7] Voyage planning would not confer a first-tier benefit in these cases. Consequently, we do not subtract voyage-planning benefits before estimating fire-suppression benefits.

Total Avoided Cost of Rule

The present value of the total avoided cost of this rulemaking, we estimate, would be $30,007,645 in 2000 dollars ($6,539,776 from voyage planning + $23,467,869 from fixed fire-extinguishing systems = $30,007,645).

Cost-Effectiveness of Rule

Over the 13-year period of analysis, we estimate, the present value of the total cost of these rules would be $115,915,169 ($109,809,202 for fixed fire-extinguishing systems + $6,105,967 for voyage planning = $115,915,169). These rules would reduce pollution by 14,925 barrels (8,731 barrels avoided by the systems + 6,194 barrels avoided by voyage planning = 14,925 barrels). Consequently, the cost per barrel of pollution avoided by these rules (or the cost-effectiveness of these rules) would be $7,766 ($7,766 = $115,915,169/14,925 barrels).

Over the 13-year period of analysis, the present value of the total avoided cost of these rules would be $30,007,645 ($23,467,869 for the fixed fire-extinguishing systems + $6,539,776 for voyage planning = $30,007,645). The net cost of these rules would be $85,907,525 ($115,915,169—$30,007,645 = $85,907,525). The net cost per barrel is $5,756 = $85,907,525/14,925 barrels. See Table 3.

TABLE 3.—COST-EFFECTIVENESS OF RULE

Cost of Rule (PV)	$115,915,169
Barrels of Pollution Avoided by Rule	14,925
Cost per Barrel of Pollution Avoided	7,766
Avoided Cost of Rule (PV)	30,007,645
Net Cost of Rule	85,907,525
Net Cost per Barrel of Pollution Avoided	5,756

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601–612], the Coast Guard considers the economic impact on small entities of each proposed rule for which a general notice of proposed rulemaking is required. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

From our analysis (copy available in the docket), we concluded that the requirement of fixed fire-extinguishing systems might have a significant economic impact on a substantial number of small entities. Consequently, by establishing a five-year phase-in period for the systems, we would provide flexibility and accommodation for small entities affected. This would give small entities the time needed to explore markets, plan, and schedule installations during normal downtimes.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], the Coast Guard wants to assist small entities in understanding this SNPRM so they can better evaluate its effects on them and participate in the rulemaking. If these proposed rules would affect your small business or organization, and if you have questions about their provisions or your options for compliance, please call Mr. Randall Eberly (for questions on fire-extinguishing systems), telephone 202–267–1861, or Mr. Robert Spears (for questions on voyage planning), telephone 202–267–1099.

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

Collection of Information

These proposed rules would not provide for a collection of information under the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520].

Federalism

These proposed rules would revise the rules at 33 CFR part 164 that address voyage planning for towing vessels. They would also revise those at 46 CFR parts 25 and 27 that address fixed fire-extinguishing systems, their equipment, and its operation and maintenance on towing vessels. We have analyzed these

rules under Executive Order 13132, Federalism.

It is well settled that States are precluded from regulation in categories that are reserved for regulation by the Coast Guard. It is also well settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703(a), 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels) are within the field foreclosed from State regulation. (See the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke,* 120 S. Ct. 1135, 2000 U.S. LEXIS 1895 (March 6, 2000).) These rules fall into those covered categories, thereby precluding States from regulation. Because States may not promulgate rules within these categories, preemption is not an issue under E.O. 13132.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 [2 U.S.C. 1531–1538] requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year.

While several State and local governments operate some towing vessels, entities in the private sector own and operate most of the affected ones. This SNPRM would not directly affect tribal governments. The total burden of Federal mandates that these rules would impose would be about $115,915,169 (present value of the total cost over the 13-year period of analysis). Therefore, these rules would not impose an unfunded mandate. Although they would not result in an annual expenditure of $100,000,000, we do discuss their effects elsewhere in the preamble.

Taking of Private Property

These proposed rules would not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Reform of Civil Justice

These proposed rules meet 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.

Protection of Children

We have analyzed these proposed rules under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. These rules are not economically significant and do 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 these proposed rules and concluded that under Figure 2–1, paragraphs (34)(c) and (d) of Commandant Instruction M16475.1C, these rules are categorically excluded from further environmental documentation. A Determination of Categorical Exclusion is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part, 164

Equipment, Incorporation by reference, Marine safety, Navigation safety, Vessels.

46 CFR Part 25

Fire-extinguishing equipment, Incorporation by reference, Life preservers, Marine safety, Vessels.

46 CFR Part 27

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 164, and 46 CFR parts 25 and 27, as follows:

PART 164—NAVIGATION SAFETY REGULATIONS

1. Revise the citation of authority for part 164 to read as follows:

Authority: 33 U.S.C. 1222(5), 1223, 1231; 46 U.S.C. 2103, 3703; 49 CFR 1.46. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

2. Amend § 164.78 by revising paragraphs (a)(6) and (7) and adding paragraph (a)(8) to read as follows:

§ 164.78 Navigation under way; Towing vessels.

(a) * * *

(6) Knows the speed and direction of the current, set, and drift, and knows the tidal state for the area to be transited;

(7) Proceeds at a speed prudent for the weather, visibility, density of traffic, draft of tow, possibility of wake damage, speed of the current, and local speed-limits; and

(8) Monitors the trip or voyage plan required by § 164.80.

* * * * *

3. Amend § 164.80 by adding paragraph (c) to read as follows:

§ 164.80 Tests, inspections, and voyage planning.

* * * * *

(c) The owner or operator, and the master, of each towing vessel employed to tow a barge or barges must ensure the development of a voyage plan for each intended trip or voyage with the barge or barges, on the navigable waters of the United States, as defined in 33 U.S.C. 1222(5). The voyage plan must take into account all pertinent information, and be complete before the vessel embarks on a trip or voyage of more than 12 hours. The master must check the planned route for proximity to hazards and known environmentally sensitive areas (noted on charts or maps) before the trip or voyage starts. During a trip or voyage, if anyone in authority decides to deviate substantially from that route, then the master or mate must ensure the development of a plan for the new route before the vessel does deviate from the plan for the current route. Each plan must consider—

(1) Applicable information from up-to-date nautical charts and publications including Coast Pilot, Coast Guard Light List, and Coast Guard Local Notice to Mariners for each port of departure and for each port of call (destination);

(2) Current and forecasted weather, including visibility, wind, and sea state from each port of departure to each port of call;

(3) Data on tides and tidal currents for each port of departure and destination, as well as for ports of call, and on river stages, with forecasts, if applicable;

(4) Forward and after drafts of the barge or barges and under-keel and vertical clearances (air-gaps) for all bridges, ports, and mooring or berthing areas;

(5) Appropriate pre-departure checks;

(6) Calculated speeds and estimated times of arrival at proposed waypoints;

(7) Communication contacts at Vessel Traffic Services (if applicable), bridges, and facilities, and port-specific requirements for VHF radio;

(8) Any standing orders (for instance, closest points of approach, special conditions, and critical maneuvers); and

(9) Whether the vessel has sufficient power to control the tow under all foreseeable circumstances.

PART 25—REQUIREMENTS

4. The citation of authority for part 25 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4302; 49 CFR 1.46.

5. Revise § 25.30–15 to read as follows:

§ 25.30–15 Fixed fire-extinguishing systems.

(a) When a fixed fire-extinguishing system is installed, it must be of a type approved or accepted by the Commandant (G–MSE) or the Commanding Officer, U.S. Coast Guard Marine Safety Center.

(b) If the system is of a carbon-dioxide type, then it must be designed and installed in agreement with the applicable provisions of subpart 76.15 of part 76 of subchapter H (Passenger Vessels) of this chapter.

PART 27—TOWING VESSELS

6. Revise the citation of authority for part 27 to read as follows:

Authority: 46 U.S.C. 3306, 4102 (as amended by Pub. L. 104–324, 110 Stat. 3947); 49 CFR 1.46.

§ 27.220 [Removed]

7. Remove the heading of § 27.220.

§ 27.221 [Removed]

8. Remove the heading of § 27.221.

§ 27.225 [Removed]

9. Remove the heading of § 27.225.

10. Add § 27.227 to read as follows:

§ 27.227 What type of fire-extinguishing equipment is required on an existing towing vessel?

(a) Each existing towing vessel must comply with subpart 25.30 of this part.

(b) By [Insert date 5 years after the effective date of the final rule] you must have a fixed fire-extinguishing system in the engine room of your vessel. You must keep the system tested and maintained in accordance with the manufacturer's approved design manual. An existing fire-extinguishing system satisfies this requirement if—

(1) It uses carbon dioxide as an extinguishing agent and has been inspected and certified as meeting subpart 76.15 of part 76 of this subchapter or NFPA 12, ''Carbon Dioxide Extinguishing Systems,'' by a Registered Professional Engineer or by a classification society recognized under 46 CFR part 8, subpart B; or

(2) It uses Halon 1301 as an extinguishing agent and has been inspected and certified as meeting either guidance of the Coast Guard for such systems onboard inspected vessels or NFPA 12A, ''Halon 1301 Fire Extinguishing Systems,'' by a Registered Professional Engineer or by a classification society recognized under 46 CFR part 8, subpart B.

§ 27.235 [Removed]

11. Remove the heading of § 27.235.

§ 27.240 [Removed]

12. Remove the heading of § 27.240.

§ 27.320 [Removed]

13. Remove the heading of § 27.320.

§ 27.321 [Removed]

14. Remove the heading of § 27.321.

§ 27.325 [Removed]

15. Remove the heading of § 27.325.

§ 27.326 [Removed]

16. Remove the heading of § 27.326.

17. Add § 27.327 to read as follows:

§ 27.327 What type of fire-extinguishing equipment is required on a new towing vessel?

(a) Each new towing vessels must comply with subpart 25.30 of part 25 of this subchapter.

(b) You must have a fixed fire-extinguishing system in the engine room of your vessel. You must keep the system tested and maintained in accordance with the manufacturer's approved design manual.

§ 27.345 [Removed]

18. Remove the heading of § 27.345.

§ 27.350 [Removed]

19. Remove the heading of § 27.350.

Dated: October 13, 2000.

R.C. North,

Rear Admiral, Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–28585 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–15–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2364; MM Docket No. 00–204; RM–9983]

Radio Broadcasting Services; Blairsville, Georgia

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by M. Terry Carter and Douglas Sutton, Jr, /dba/ Tugart Communications requesting the allotment of Channel 234A to Blairsville, Georgia as the community's first local aural transmission service. Channel 236A can be allotted to Blairsville in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.9 kilometers (6.2 miles) north of city reference coordinates. The coordinates for Channel 236A at Blairsville are 34–57–51 North Latitude and 83–37–49 West Longitude.

DATES: Comments must be filed on or before December 11, 2000, and reply comments on or before December 26, 2000.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows, John F. Garzilgia, Esq, Pepper & Corazzini, LLP, 1776 K Street, NW., Suite 200, Washington, DC 20006–2334 (Counsel for Tugart Communications, petitioner)

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–000; adopted October 11, 2000 and released October 20, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Blairsville, Channel 234A.

Federal Communications Commission,

John A. Karousos,

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

[FR Doc. 00–28688 Filed 11–7–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 00–167; FCC 00–344]

Children's Television; Obligations of Digital Television Broadcasters

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on a range of issues related to application of our existing children's programming rules to digital broadcasting. This document focuses primarily on two areas: the obligation of commercial television broadcast licensees to provide educational and informational programming for children and the requirement that television broadcast licensees limit the amount of advertising in children's programs.

In addition, this document seeks comment on how to address the issue of the airing in programs viewed by children promotions that may be inappropriate for children to watch. Although this document seeks comment largely on challenges unique to the digital area, it also discusses several issues that apply equally to analog and digital broadcasting.

DATES: Comments are due on or before December 18, 2000; reply comments are due on or before January 17, 2001. Written comments by the public on the proposed information collections are due December 18, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before January 8, 2001.

ADDRESSES: Address all comments concerning this proposed rule to the Commission's Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Kim Matthews, Policy and Rules Division, Mass Media Bureau, (202) 418–2130. For additional information concerning the information collection(s) contained in this document, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the *Notice of Proposed Rulemaking* (''*NPRM*''), MM 00–167; FCC 00–344 adopted September 14, 2000; released October 5, 2000. The full text of the Commission's *NPRM* is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room TW–A306), 445 12 St. SW., Washington, DC. The complete text of this *NPRM* may also be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 1231 20th St., NW., Washington, DC 20036.

Paperwork Reduction Act

This *NPRM* contains a proposed new or modified information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection(s) contained in this *NPRM*, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this *NPRM*; OMB comments are due 60 days from date of publication of this *NPRM* in the **Federal Register**.

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–XXXX.

Title: NPRM—Children's Television Obligations of Digital Television Broadcasters.

Form No: FCC Form 398.

Type of Review: Revision of Existing Collection.

Respondents: Business or other for-profit.

Number of Respondents for FCC 398: 1,250.

Number of Respondents for Section 73.673: 1,225.

Estimated Time Per Response for FCC 398: 6 hours.

Estimated Time Per Response for Section 73.673: 1 minute per program and 6 minutes per program to publishers of program guides.

Total Annual Burden: 68,219 hours.

Total Annual Costs: $489,600.

The estimated time, burden and costs are based upon the existing burdens for the FCC 398 (3060–0754) and Section 73.673 (3060–0750). This burden in those collections could increase depending on what requirements are ultimately adopted.

Needs and Uses: This *NPRM* invites comments on how the existing children's educational television programming obligations and limitations should be interpreted and adapted to apply to digital broadcasters in light of the new capabilities made possible by that technology. This *NPRM* also seeks comments on what steps the FCC might take to increase public awareness of the availability of core programming and how to locate it. The current obligations consist of the FCC 398 which is required to be filed by commercial television broadcast stations each quarter.

This form is used to provide information on the efforts of commercial television stations to provide children's educational and informational programs aired to meet its obligation under the Children's Television Act of 1990 (CTA). The FCC 398 assists in efforts by the public and the Commission to monitor station compliance with the CTA.

In addition, Section 73.673 requires commercial TV broadcasters to identify programs specifically designed to educate and inform children at the beginning of the program and to provide information identifying such programs and the age groups for which they are intended to publishers of program guides. Depending on what requirements are ultimately adopted, there may be an increase in the burden for these collections.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. We issue this *NPRM* to seek comment on a range of issues related to the obligation of digital television (''DTV'') broadcasters to serve children. We focus in this proceeding primarily on two areas: the obligation of television broadcast licensees to provide educational and informational programming for children and the requirement that television broadcast licensees limit the amount of advertising in children's programs. Although we seek comment largely on challenges unique to the digital area, we also explore several issues that children's advocates have raised about children's educational and informational programming more generally.

II. Background

2. American children spend a considerable amount of time watching television. Recent data show that children in this country spend, on average, almost three hours a day watching television. In view of the significant role that television plays in the lives of children, this medium has great potential to contribute to children's development. As Congress has stated, ''[i]t is difficult to think of an interest more substantial than the promotion of the welfare of children who watch so much television and rely upon it for so much of the information they receive.''

3. For over 30 years, the Commission has recognized that, as part of their obligation as trustees of the public's airwaves, broadcasters must provide programming that serves the special needs of children. The Commission's efforts to promote programming for children began in 1960 with the statement that children were one of the several groups whose programming needs television licensees must meet to fulfill their community public interest responsibilities. In 1974, the Commission instituted a wide ranging inquiry into children's programming and advertising practices, which led to publication of the *Children's Television Report and Policy Statement* (''*1974 Policy Statement*'').

The Commission concluded that broadcasters have ''a special obligation'' to serve children and stated its expectation that licensees would increase the number of programs aimed at children in specific age groups. The Commission also concluded that children are more ''trusting and vulnerable to commercial 'pitches' than adults'' and that children ''cannot distinguish conceptually between programming and advertising.'' The Commission stated its expectation that the industry would eliminate ''host selling'' and product ''tie-ins,'' use separation between programs and commercials during children's programming, and honor the industry's voluntary advertising guidelines for children's programs.

4. Later in the 1970s, the Commission undertook further study of the availability of educational programming for children. Finding that the industry had failed to respond to its earlier call for improvements, the Commission considered formal regulation. In 1984, however, the Commission decided not to establish quantitative program requirements for broadcasters, relying instead on market forces to ensure a sufficient supply of educational programming for children.

Following this decision, the amount of children's educational programming aired by commercial television stations decreased markedly. Also in 1984, the Commission repealed the commercial guidelines for children's programming, leading to an increase in the amount of commercial matter broadcast during children's programming.

5. In 1990, Congress enacted the Children's Television Act of 1990 (''CTA''). The CTA imposes two principal requirements. First, commercial television broadcast licensees and cable operators must limit the amount of commercial matter that may be aired during children's programs to not more than 10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

Second, the CTA requires that, in its review of television broadcast renewal applications, the Commission must consider whether commercial television licensees have complied with the commercialization limits, and whether all television broadcast licensees have served ''the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.'' In enacting the CTA, Congress found that, while television can benefit society by helping to educate and inform children, there are significant market disincentives for commercial broadcasters to air children's educational and informational programming. The objective of Congress in enacting the CTA was to increase the amount of educational and informational programming on television.

6. The Commission first promulgated rules implementing the CTA in 1991. The Commission determined that the statutory children's programming commercial limits would apply to programs originally produced and broadcast for an audience of children 12 years old and under. Commercial matter was defined as ''air time sold for purposes of selling a product.'' In other words, the advertiser must give some valuable consideration either directly or indirectly to the broadcaster as an inducement for airing the material.

The Commission also reaffirmed and clarified its long-standing policy that a program associated with a product, in which commercials for that product are aired, would cause the entire program to be counted as commercial time (a ''program-length commercial''). Television licensees are required to certify their compliance with the commercial limits as part of their license renewal application, and must maintain records sufficient to permit substantiation of the certification.

7. In August 1996, the Commission adopted its current educational programming rules enforcing the CTA. (*See* Policies and Rules Concerning Children's Television Programming, 61 FR 43981, August 27, 1996). The Commission's rules include several measures to improve public access to information about the availability of programming ''specifically designed'' to serve children's educational and informational needs (otherwise known as ''core'' programming).

These measures include a requirement that licensees identify core programming at the time it is aired and in information provided to publishers of television programming guides. Licensees are required to designate a children's liaison at the station responsible for collecting comments on the station's compliance with the CTA. Licensees must also prepare and place in their public inspection files a quarterly Children's Television Programming Report identifying their core programming and other efforts to comply with their educational programming obligations.

8. In addition, our rules establish a definition of ''core'' programming. ''Core'' programming is defined as regularly scheduled, weekly programming of at least 30 minutes, aired between 7:00 a.m. and 10:00 p.m., that has serving the educational and informational needs of children ages 16 and under as a significant purpose. The program must be identified as core programming when it is aired and in information provided to program guide publishers.

9. Finally, to provide certainty to broadcasters about how to comply with the CTA and to facilitate fair and efficient processing of the CTA portion of broadcasters' renewal applications, the Commission also adopted a processing guideline. Under this guideline, a broadcaster can receive staff-level approval of the CTA portion of its renewal application by airing at least three hours per week of programming that meets the definition of ''core'' educational programming.

Alternatively, a broadcaster can receive staff-level renewal by showing that it has aired a package of different types of educational and informational programming that, while containing somewhat less than three hours per week of core programming, demonstrates a level of commitment to educating and informing children that is at least equivalent to airing three hours per week of core programming. Licensees not meeting these criteria will have their license renewal applications referred to the Commission.

10. We seek comment today on how these existing children's television obligations, developed with analog technology in mind, should be adapted to apply to digital television broadcasting. Digital television is a new technology for transmitting and receiving broadcast television signals that delivers better pictures and sound, uses the broadcast spectrum more efficiently, and offers a range of possible applications. DTV broadcasters will have the technical capability and regulatory flexibility to: Air high definition TV (HDTV); ''multicast,'' that is, to send as many as 4–6 digital ''standard-definition television'' (SDTV) signals; or provide ''ancillary or supplementary services,'' including video and data services that are potentially revenue-producing, such as subscription television, computer software distribution, data transmissions, teletext, interactive services, and ''time-shifted'' video programming. Broadcasters could choose to shift back and forth among these different DTV modes—HDTV, SDTV, and new video/information services—during a single programming day. To facilitate the transition from analog to digital television, Congress directed the Commission to grant a second channel for each full-service television licensee in the country to be used for digital broadcasting during the period of conversion to an all-digital broadcast service.

11. In December 1999, we released a *Notice of Inquiry* (''*NOI*''), 65 FR 4211, January 26, 2000, to commence collecting views on how the public interest obligations of television broadcasters should change in the digital era. As we observed in the *NOI*, both Congress and the Commission have recognized that digital television broadcasters have an obligation to serve the public interest. Congress stated in section 336 of the Communications Act that ''[n]othing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity.''

In implementing section 336, the Commission required that broadcasters air a ''free digital video programming service the resolution of which is comparable to or better than that of today's service, and aired during the same time period that their analog channel is broadcasting.'' The Commission also reaffirmed that ''digital broadcasters remain public trustees with a responsibility to serve the public interest,'' and stated that ''existing public interest requirements continue to apply to all broadcast licensees.''

12. We recognize that the CTA is written broadly to apply to television broadcast licensees and that there is nothing in the CTA itself, nor the legislative history, to suggest that the statutory requirement, or the regulations promulgated thereunder, should be limited to analog broadcasters. Indeed, the objectives of the CTA—*e.g.,* to increase the amount of educational and information broadcast television programming available to children and to protect children from overcommercialization of programming—would apply equally to the digital broadcasting context.

Given this, and in light of explicit congressional intent expressed in section 336 to continue to require digital broadcasters to serve the public interest, we conclude that digital broadcasters are subject to all of the CTA's commercial limits and educational and informational programming requirements. Digital broadcasters must also continue to comply with our policies regarding program-commercial separation, host selling, and program-length commercials. The purpose of this proceeding is to determine how these requirements should be interpreted and adapted with respect to digital broadcasting in light of the new capabilities made possible by that technology.

13. We request comment herein on a variety of issues related to application of our existing children's programming rules to digital broadcasting. We also invite comment on a number of specific proposals offered by commenters responding to the *NOI,* and on some of the views expressed by the President's Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters (''Advisory Committee'').

As we indicated in the *NOI,* the Advisory Committee, representing a broad cross-section of interests from industry, academia, and public interest organizations, submitted a report in 1998 containing recommendations on the public interest obligations digital television broadcasters should assume. Although the Advisory Committee focused on many issues beyond the scope of this proceeding, we will discuss some of the recommendations of the committee and of individual participants that relate to children's television.

III. Issues and Request for Comment

A. Educational and Informational Programming

14. *Background.* One of the questions we posed in the *NOI* is how public interest obligations generally, including the obligation to provide children's educational and informational programming, apply to a DTV broadcaster that chooses to multicast. We also asked how we should take into account the fact that DTV broadcasters have the flexibility to vary the amount and quality of broadcast programming they offer throughout the day. For example, a broadcaster could air 4 SDTV channels from 8 a.m. to 3 p.m., switch to two higher definition channels from 3 p.m. to 8 p.m., and finish with one HDTV channel for prime-time and late-night programming.

Different broadcasters are likely to provide a different overall combination of broadcast hours and quality. We also note that DTV broadcasters may choose to devote a portion of their spectrum to either non-video services, such as datacasting, or to subscription broadcast services available only to viewers who pay a fee, consistent with the requirement that they provide at least one free, over-the-air video program service to viewers.

15. *Discussion.* Our current three-hour children's core educational programming processing guideline applies to DTV broadcasters. We invite comment, however, on how the guideline should be applied in light of the myriad of possible ways that broadcasters may choose to use their DTV spectrum.

Should the processing guideline apply to only one digital broadcasting program stream, to more than one program stream, or to all program streams the broadcaster chooses to

provide? Should the guideline apply only to free broadcast services, or also to services offered for a fee? In this regard, we note that the CTA requires that television broadcast licensees serve the educational and informational needs of children ''through the licensee's *overall* programming, including programming specifically designed to serve such needs.'' How should we interpret this phrase in terms of digital broadcasters' requirement to provide educational programming?

16. We also ask how the existing three-hour guideline would be best applied in the digital context. Commenters responding to questions posed in the *NOI* offer a number of suggestions as to how the processing guideline could be adapted to apply in a multicast environment. We welcome comment on these specific proposals, outlined, as well as other suggestions for ways our guideline should be interpreted and adapted with respect to digital broadcasting. We also seek comment on when any new requirements that relate to digital broadcasting should become effective.

17. *Proportional Hours.* One approach, suggested by Children Now and People for Better TV, is that each digital television broadcaster be required to provide an amount of weekly core programming that is proportional to the three hour per week quantitative guideline. Specifically, these commenters propose that DTV broadcasters be required to devote three percent of their programmable broadcast hours per week to core educational programming.

This three percent figure is derived by dividing the current 3 hour guideline by 105, or the total number of hours/week available for core programming during the 7 a.m. to 10 p.m. broadcast window (15 hours/day times 7 days/week equals 105 hours/week). Under this approach, to derive their quantitative core programming obligation, broadcasters would calculate their total digital broadcast hours per week, multiply that total by 3 percent, and round up to the closest five-tenths as half-hour segments are the smallest unit for programming under the definition of core programming. Broadcasters would be required to report this calculation in their quarterly Children's Television Programming Reports, which would determine the broadcaster's core programming obligation for the following quarter.

18. In light of the range of possible technical qualities available with DTV technology, from SDTV to HDTV with different datacasting and interactive capabilities included, we also invite comment on whether we should require broadcasters to provide core educational programming in a certain technical format. One approach would be to require broadcasters to use for core programming a technical format that is consistent with the overall quality of the broadcaster's other programming. Our concern in this regard is to ensure that broadcasters not segregate core programming consistently to the lowest possible audio/visual quality offered by the broadcaster.

19. The Children Now proportional hours proposal raises a number of questions. If we were to impose a 3 percent core programming obligation, what kind of programming should be included for purposes of calculating the overall number of hours of core programming a DTV broadcaster would be required to provide? Should the percent requirement apply only to free video programming (*e.g.,* 3 percent of all free video programming must be core), or should the percent also apply to datacasting (*e.g.,* 3 percent of all free video programming and datacasting must be core)? Should subscription programming be included in the calculation? Should the 3 percent figure apply to a DTV broadcasters' total amount of programming, or to each programming stream?

In addition, how should we address how core programming should be distributed on the broadcaster's channels? Should we require broadcasters to air their core programming on their ''primary'' channel, or allow them the flexibility to decide how that programming should be distributed over their various program streams? We invite comment on the proportional hours proposal and on these related issues.

20. *Pay or Play.* Children Now also suggests that, as a corollary to their proportional hours proposal, the Commission could adopt a ''Pay or Play'' model to allow digital broadcasters maximum flexibility in meeting their core programming obligation. Under this approach, once the core programming obligation is quantified, broadcasters would have the choice of meeting these obligations either through their own programming or by paying other networks or channels to air these hours for them, or a combination of both. Children Now points out that this model could promote partnerships among commercial broadcasters or among commercial and non-commercial broadcasters in a given market, and could provide much needed support to public broadcasters who have a strong commitment to core programming.

Children Now also notes, however, that, under such a model, children's programming could be limited to public broadcasting or to less popular commercial stations, resulting in less exposure to such programming for children. Another concern is that commercial broadcasters may not pay public broadcasters or less successful commercial broadcasters enough to fund high quality children's programming which could, in the end, result in an overall reduction in the quality of core programs. We note that the Commission's rules currently allow broadcasters, under certain conditions, to meet their CTA obligation by sponsoring core programs aired on another station in the same market. We invite comment on the ''Pay or Play'' approach and the advantages and disadvantages of adopting such a model for educational programming.

21. *Menu Approach.* The Center for Media Education, filing jointly with nine other individuals and public interest organizations (collectively referred to herein as ''CME *et al.*''), urges the Commission to adopt children's guidelines that impose additional obligations on broadcasters, but provide them with flexibility in meeting these obligations. CME *et al.* argues that the current amount of three hours-per-week of core programming is insufficient in light of the added capacity multicasting offers.

Specifically, CME *et al.* proposes that digital broadcasters have the option of satisfying their children's programming obligation by providing, at their option, some combination of the following: (1) Additional ''core'' educational and informational programming; (2) broadband or datacasting services to local schools, libraries, or community centers that serve children; or (3) support for the production of children's educational programming by local public stations or other noncommercial program producers, such as the National Endowment for Children's Programming. CME *et al.* points out that public television stations could use additional funding to create new children's educational programs that take advantage of DTV's enhanced capabilities. CME *et al.* would not require that DTV broadcasters air core programs on each of their program streams, but instead would permit the creation of specialized channels where core programming could be more easily located by children and parents.

22. We invite comment on the CME *et al.* proposal and, more generally, on the concept of offering broadcasters a choice of ways they can meet their obligation under the CTA. If we were to adopt a

menu approach, are there other types of obligations, apart from those suggested by CME *et al.,* that we should allow broadcasters to choose from? One option would be to allow broadcasters to undertake additional outreach efforts to make parents and others aware of the availability of core programs and how to identify and locate them. If we were to include this as an option in a menu approach, what kind of outreach efforts should we require?

23. *Daily Core Programming Obligation.* The Advisory Committee Report describes another approach regarding the obligation of digital broadcasters to air children's programming that would require digital broadcasters to air no less than 1 hour of children's educational programming each day on the broadcaster's main channel. We invite comment generally on this proposal.

24. *Other Digital Improvements.* Finally, we ask commenters to address whether the advanced capabilities of digital broadcasting can be used in other ways to help implement the CTA. One approach would be to require broadcasters to use datacasting to make available during a core program information explaining why the program is considered to qualify as ''core.''

Another option would be to require broadcasters to provide additional content ratings information on core programs from independent sources, such as public interest groups that rate educational children's programming. Such information could be provided through a direct link to the internet where the content ratings information could be accessed. We seek comment on these proposals, as well as other suggestions for how digital capacity could be used to help improve our existing children's programming requirements.

B. Preemption

25. *Background.* Related to the issue of how the children's educational and informational programming obligation will apply in the digital age is the issue of how we will treat preemptions of core programs by DTV broadcasters. To qualify as ''core programming'' for purposes of the three-hour-per-week processing guideline, the Commission requires that a children's program be ''regularly scheduled,'' that is, a core children's program must ''be scheduled to air at least once a week'' and ''must air on a regular basis.''

In adopting its current educational programming rules, the Commission stated that television series typically air in the same time slot for 13 consecutive weeks, although some episodes may be preempted for programs such as breaking news or live sports events. The Commission noted that programming that is aired on a regular basis is more easily anticipated and located by viewers, and can build loyalty that will improve its chance for commercial success. The Commission stated that it would leave to the staff to determine, with guidance from the full Commission as necessary, what constitutes regularly scheduled programming and what level of preemption is allowable.

26. Since the adoption of the Children's Programming *Report and Order* (''*R&O*''), 61 FR 43981, August 27, 1996, the ABC, CBS, and NBC networks have requested flexibility to reschedule episodes of core programs that are preempted by live network sports events without adversely affecting the program's status as ''regularly scheduled.'' Separate requests have been made in connection with each of the 1997–98, 1998–99, and 1999–2000 television seasons. For two of these seasons, the Mass Media Bureau has allowed the networks limited flexibility in preempting core children's programming.

Specifically, within certain limitations, the Bureau advised that preempted core programs could count toward a station's core programming obligation if the program were rescheduled. The Bureau also indicated that it would revisit this limited flexibility regarding preempted core programming based on the level of preempted programs, the rescheduling and broadcast of the preempted programs, the impact of promotions and other steps taken by the stations to make children's educational programming a success.

27. The Commission requires licensees, in their quarterly Children's Television Programming Reports, to identify for each core program the number of times the program was preempted and rescheduled. In another *R&O* adopted today, the Commission revised its quarterly Children's Television Programming Report to make the preemption information in that report clearer and to collect information on the reason for each preemption as well as the licensee's efforts to promote the rescheduled program. The purpose of these changes is to collect more complete data regarding the level of preemption of core programs and station practices in rescheduling these programs. This data will in turn allow the FCC and others to better monitor the impact of preemptions on the availability of core programs.

28. *Discussion.* As noted, the Commission required that programming must be ''regularly scheduled'' to qualify under the three-hour guideline. This requirement was based on the fact that programming that is aired on a regular basis is more easily anticipated and located by viewers, and therefore more likely to be seen by its intended audience. Although acknowledging that preemption might occur, the Commission expected that preemption of core programming would be rare. The Mass Media Bureau staff has recently reviewed a random sample of the Children's Television Programming Reports, and determined that the average preemption rate by stations affiliated with the largest networks during the past two years is nearly 10%, and has been as high as 25% during a quarter when a network had a large number of sports programming commitments.

Given this level of preemption, we believe we should consider whether we should adopt another approach to preemptions in the digital context to ensure that our preemption policy does not thwart the goals of the CTA. DTV broadcasters will have the option of airing multiple streams of programming simultaneously, thus increasing their flexibility to either avoid preempting core programs or to reschedule such programs to a regular ''second home.'' Given this capability, are there ways in which the Commission could revise its preemption policies to simplify or eliminate the need for networks to seek approval of their planned preemption and rescheduling practices for each television season, and to streamline licensees' recordkeeping and reporting requirements?

One approach would be to fashion a rule that would provide clear guidance to digital broadcasters on the meaning of the requirement that a ''core'' program be ''regularly scheduled.'' Such a rule could cover the number of times a core program could be preempted and still count toward the three-hour-per-week processing guideline, and/or the efforts that must be made to reschedule and promote preempted programs in order for these programs to contribute toward the core programming guideline. If we were to adopt such a rule, should we continue to exempt from the requirement that core programs be rescheduled core programs preempted for breaking news?

We request comment generally on all of these issues, and on how we could refine and clarify our definition of ''regularly scheduled'' to address the issue of preempted core programs in the digital age. We also ask commenters to

address specifically the kind of rescheduling practices and promotion of rescheduled programs that we could require from digital broadcasters consistent with our goal of ensuring that viewers can anticipate and locate the rescheduled program.

For example, should a station be allowed to shift a preempted core program to another digital program stream? If so, should we require that the substitute program stream be of the same technical quality as the stream on which the program is regularly scheduled? Should we permit a preempted program to be shifted from a free to a pay program stream?

C. Commercial Limits

29. *Background.* Another issue posed by the transition from analog to digital broadcasting is how the Commission's children's programming advertising limits and policies will apply to DTV broadcasters. By converging internet capabilities with broadcasting, digital television permits a new level of interactivity between broadcasters, advertisers, and viewers. This capability offers great potential for enhancing the educational value of children's programs by, for example, permitting children to click on icons that appear on the screen during the program which take them to websites with more in-depth information about the topics covered in the program.

However, the interactive capabilities of DTV also allow for the direct sale of goods and services over the television. This capability presents marketers with new opportunities to reach children, which raises concerns in light of the difficulty young children have in distinguishing commercials from programming and the particular vulnerability of children to advertising.

30. *Discussion: Application of Existing Commercial Limits Rules and Policies to DTV.* We seek comment both on how the limits on the amount of commercial matter in children's programming should apply in this digital environment and how we should interpret with respect to DTV broadcasters the policies set forth in the *1974 Policy Statement* on children's programming. One question that arises is whether children's advertising limits and policies should apply only to free over-the-air channels, or to all digital channels both free and pay? We raised this issue in our *NOI*, where we asked whether a licensee's public interest obligations apply to its ancillary and supplementary services, and asked commenters to address the relevance of section 336 in this regard.

31. CME *et al.* expresses the view that the existing advertising restrictions, including the separations, host-selling, and program-length commercial policies, should apply to all digital programs directed to children ages 12 and under, regardless of the program stream on which they are offered. Thus, CME *et al.* argues that these policies should apply when children are watching video programs, regardless of whether the channel is free or pay. We request comment on this view.

32. In addition, CME *et al.* proposes that the Commission prohibit all direct links to commercial websites during children's programming. We invite comment on this proposal. Should the Commission prohibit the use of digital television interactivity capability in children's programs to sell products? Is such a prohibition appropriate in light of the unique ability of children to be influenced by commercial matter and their difficulty distinguishing commercials from other programming? If commercial links are freely available in programs not subject to our commercial limits (*e.g.,* programs directed at adults and children over the age of 12), would prohibiting them or restricting them in programming directed to children ages 12 and under make this programming less desirable and thus less likely to be selected by children?

Should we make a distinction between websites that carry only commercial products, and websites that also offer educational information related to the program? If we permit certain kinds of direct commercial links during children's programs, should such links be permitted to appear during the program itself, or be limited to appearing during commercials adequately separated from program material as required by our separations policy? In addition, if we were to allow the use of direct commercial links, should we limit the duration of time they appear on the screen? How should the appearance of a commercial link be counted in calculating the number of commercial minutes for purposes of our commercial limits?

Finally, if we allow certain kinds of direct commercial links, should we prohibit links to websites that sell products associated with the program in which the links appear under our program-length commercial policy, or links to websites where the program host is used to sell products? We invite commenters to address all of these issues, as well as any other issues related to the use of direct website links during children's programming.

33. *Definition of Commercial Matter.* We also invite commenters to address a broader question related to our restriction on the duration of advertising during children's programming. This is an issue that arises with respect to both analog and digital broadcasting. Under our current policy, the limitation of 10.5 minutes per hour on weekends and 12 minutes per hour on weekdays applies to ''commercial matter.'' ''Commercial matter'' is defined to exclude certain types of program interruptions from counting toward the commercial limits, including promotions of upcoming programs that do not contain sponsor-related mentions, public service messages promoting not-for-profit activities, and air-time sold for purposes of presenting educational and informational material.

We have observed that there is a significant amount of time devoted to these types of announcements in children's programming. As a result, the amount of time devoted to actual program material is often far less than the limitation on the duration of commercial matter alone might suggest. For example, in an hour-long weekend program, only 10.5 minutes may be devoted to commercial matter, leaving 49.5 minutes for actual program material. In fact, however, many programs contain far less than this amount of actual program time as a result of numerous other interruptions that do not count toward the commercial limit restriction.

34. We invite comment on whether the Commission should revise its definition of ''commercial matter'' to include some or all of these types of program interruptions that do not currently contribute toward the commercial limits. We note that some of the types of program interruptions currently excluded from the commercial limits may contain information valuable to children, such as promotion of upcoming educational programs or certain types of public service messages. Should we require that the time devoted to these announcements nonetheless count toward the commercial limits to maximize the amount of time devoted to program material and reduce the time taken by interruptions? This might prove especially beneficial for educational and informational programs, where it would increase the amount of time available for delivering educational messages. The issue of the total time taken by program interruptions in children's programs arises in both the analog and digital world. If we were to revise our definition, is there any reason to apply

the new definition only to digital broadcasting?

Finally, we ask commenters to address whether our ability to revise this definition is restricted by the CTA and its legislative history. The CTA itself does not define the phrases ''commercial matter'' or ''advertising.'' Both the House and Senate Reports state that ''[t]he Committee intends that the definition of 'commercial matter' . . . be consistent with the definition used by the Commission in its Former FCC Form 303.'' We seek comment on whether we must apply the definition of ''commercial matter'' in the way defined on former FCC Form 303 for purposes of administering the CTA.

D. Promotions

35. *Background.* Another issue we raised in the *NOI* relates to the airing, in programs viewed by children, of promotions for other upcoming programs that may be unsuitable for children to watch because either the promotions themselves or the programs they refer to contain sexual or violent content or inappropriate language. This is another issue that arises with respect to both analog and digital broadcasting. The Commission staff has received many informal complaints from members of the public and children's advocates about inappropriate promotions in programs viewed by children.

We asked in the *NOI* whether the ratings of programs promoted by broadcasters should be consistent with the ratings of the program during which the promotions run. We note that the broadcast, cable, and motion picture industries have voluntarily agreed to rate video programming that contains sexual, violent, or other indecent material and to broadcast signals containing these ratings so that these programs can be screened by ''V-Chip'' technology available in television sets. The ratings identify the age group for which a particular program is appropriate and when the program contains violence, sexual content, or suggestive or coarse language.

36. *Discussion.* We again invite commenters to address this issue. Are there steps the FCC can take to ensure that programs designed for children or families do not contain promotions for broadcast, cable or theater movies or other age-inappropriate product promotions that are unsuitable for children to watch?

One option would be to require that promotions themselves be rated and encoded so they can be screened by V-Chip technology. Yet another option would be to require that promotions be rated and that programs with a significant child audience contain only promotions consistent with the rating of the program in which they appear. We invite comment on these and other approaches that might be used to address this issue.

37. We recognize that the current ratings system was adopted by the broadcast, cable, and motion picture industries voluntarily, and was found acceptable by the Commission. Would it be preferable to urge the industry itself to make a voluntarily commitment to take steps to protect against the airing of inappropriate promotions in children's programs?

As we noted, the issue of inappropriate promotions in children's programming arises with respect to both analog and digital programming. If we were to take steps to address this issue, should these steps be limited to digital broadcasting or should they apply to analog broadcasting as well? Does DTV technology offer any additional capability that could be used to address this issue in digital broadcasting?

E. Other Steps To Improve Educational Programming

38. We seek further information on children's television viewing habits, and in particular empirical evidence concerning the extent to which they watch designated educational and informational programming. We note that the Annenberg Public Policy Center has annually evaluated the educational and informational programming provided by networks and certain individual stations. We seek further information including the audience share of such programs and, in particular, the audience share of educational and informational programming contrasted with that of other programming for children.

We additionally seek information on stations' and networks' efforts to promote educational and informational programming to children and parents. Are stations promoting this programming? How and where? Is the programming being promoted during network prime time programming? During children's programming? Is the promotion effective?

Studies of the effectiveness of the three-hour-per-week processing guideline show that parents continue to be unaware of the availability of educational programming and continue to fail to identify core programs. We invite commenters to address what steps the FCC might take to increase public awareness of the availability of core programming and how to locate it. Should the FCC require that broadcasters promote core programs? If so, what kind of requirement should we impose? Should we require promotion during prime time or other specific day parts? Should we require stations to air PSAs about the value of educational programming and the meaning of the E/I icon? Are there other steps we could take apart from establishing a rule for promotions and PSAs?

Should the FCC itself undertake promotional efforts to highlight and publicize core educational programming? Apart from the issue of public awareness, are there other steps the FCC could take to improve the quality of educational programming? We invite comment on all of these questions and welcome other suggestions for ways to improve both the quality and public awareness of educational and informational children's programming.

IV. Conclusion

39. We institute this proceeding to examine how our existing children's educational programming rules and our preemption policies should be adapted to apply to digital broadcasters. Our goal is to ensure that, as we transition from analog to digital television, children and parents continue to have access, as Congress intended, to an ample supply of educational and informational programming specifically designed for children. We also seek comment on how the current limitations on advertising in children's programming should be applied to DTV broadcasters in light of the new capabilities offered by digital technology. Our objective in this effort is to ensure that children continue to be protected from overcommercialization on television.

Finally, we raise a number of issues related to the definition of ''commercial matter'' for purposes of the commercial limits for children's programs, promotions of programs for more mature audiences aired during children's programs, and other steps the Commission could take to help improve the availability of educational and informational programming. These latter issues arise in both the analog and digital worlds. We seek comment on all of the issues we have raised herein, and welcome other ideas commenters may have to achieve our objectives.

V. Administrative Matters

40. *Comments and Reply Comments.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before December 18, 2000 and reply comments on or before January 17, 2001. Comments may be

filed using the Commission's Electronic Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

41. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, postal service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form, <your e-mail address.>'' A sample form and directions will be sent in reply.

42. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW.; TW–A325, Washington, DC 20554.

43. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Wanda Hardy, 445 Twelfth Street, SW.; 2–C221, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number (MM Docket No. 00–167), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette.

The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 445 Twelfth Street, SW.; CY–B402, Washington, DC 20554.

44. *Ex Parte Rules.* This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's Rules. *See* generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

45. *Initial Regulatory Flexibility Analysis.* With respect to this *NPRM*, an Initial Regulatory Flexibility Analysis (''IRFA'') is contained in Appendix B. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. 603, the Commission has prepared an IRFA of the possible economic impact on small entities of the proposals contained in this *NPRM.* Written public comments are requested on the IRFA. Comments on the IRFA must be filed in accordance with the same filing deadlines as comments on the *NPRM*, and should have a distinct heading designating them as responses to the IRFA.

46. *Initial Paperwork Reduction Act Analysis.* This *NPRM* may contain either proposed or modified information collections. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collections contained in this *NPRM,* as required by the Paperwork Reduction Act of 1996. Public and agency Comments are due at the same time as other comments on the *NPRM.*

Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) ways to enhance the quality, utility, and clarity of the information collected; and (c) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, 445 Twelfth Street, SW., Room C–1804, Washington, DC 20554, or via the Internet to *jboley@fcc.gov*; and to Edward Springer, OMB Desk Officer, 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *edward.springer@omb.eop.gov.*

VI. Ordering Clauses

47. This *NPRM* is issued pursuant to the authority contained in Sections 4(i), 303, 307, and 336(d) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 307, and 336(d), and in the Children's Television Act of 1990.

48. The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this *NPRM,* including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

VII. Initial Regulatory Flexibility Act Analysis

49. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (''RFA''), the Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA'') of the expected impact on small entities of the proposals contained in this *NPRM.* Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the *NPRM,* but they must have a separate and distinct heading, designating the comments as responses to the IRFA. The Commission shall send a copy of this *NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with the RFA, 5 U.S.C. 603(a).

A. Need for and Objectives of the Proposed Rules

Our goal in commencing this proceeding is to seek comment on how the existing children's educational television programming obligations and limitations on advertising in children's programs should be interpreted and adapted to apply to digital television broadcasting in light of the new capabilities made possible by that technology. In seeking comment on what steps the FCC might take to address the issue of the airing of promotions inappropriate for children in programs viewed by children, our goal is to protect children from programming with inappropriate sexual or violent content or suggestive or coarse language. We also invite comment on a number of specific proposals offered by commenters responding to the *NOI* in MM Docket No. 99–360.

50. We invite comment on how the children's core educational programming processing guideline should be applied to DTV broadcasters that choose to multicast. For example,

we ask whether the guideline should apply to only one digital broadcasting program stream, to more than one program stream, or to all program streams the broadcaster chooses to provide.

We also ask whether the guideline should apply only to free broadcast services or also to pay services, and whether a three-hour guideline is sufficient in light of the additional program capacity made available by digital technology. We also seek comment on whether the Commission's policies regarding preemption of core programs should be revised in view of the greater programming capacity available to DTV broadcasters.

51. With respect to the children's programming advertising limits and policies, we ask whether these rules and policies should apply to both free and pay program streams. We also seek comment on how these rules and policies should be interpreted in light of the interactive capabilities made possible by digital technology. For example, we ask whether we should permit the use of direct commercial website links in children's programs and, if so, whether we should limit the duration of time they appear on the screen. We also ask how such links should be treated under our program-length commercial and host-selling policies.

52. We also invite comment on a broader question related to the advertising limits that arises with respect to both analog and digital broadcasting. Specifically, we ask whether the Commission should revise its definition of ''commercial matter'' to include types of program interruptions that do not currently contribute toward the commercial limits, such as certain program promotions.

53. In addition, we invite comment on how to address the issue of the airing in programs viewed by children of promotions for other upcoming programs that may be unsuitable for children to watch because either the promotions themselves or the programs they refer to contain sexual or violent content. This is an issue that arises with respect to both analog and digital broadcasting.

54. Finally, we invite commenters to address what steps the FCC might take to increase public awareness of the availability of core programming and how to locate it. We also ask whether there are other steps the FCC could take, apart from the issue of public awareness, to improve the quality of educational programming by, for example, seeking legislation to establish a mechanism to fund the production of high-quality educational and informational programming.

B. Legal Basis

Authority for the actions proposed in the *NPRM* may be found in Sections 4(i) and 303, 307, and 336(d) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303, 307, and 336(d), and in the Children's Television Act of 1990.

C. Recording, Recordkeeping, and Other Compliance Requirements

The *NPRM* invites comment on how the existing children's educational television programming requirements and children's commercial limits should apply to digital broadcasters. The *NPRM* also invites comment on whether the Commission should revise its definition of ''commercial matter'' to include types of program interruptions in children programs that do not currently contribute toward the commercial limits. We also ask what steps the FCC might take to address the issue of the airing in programs viewed by children of promotions for other upcoming programs that may be unsuitable for children to watch because either the promotions themselves or the programs they refer to contain sexual or violent content or suggestive or coarse language.

D. Federal Rules That Overlap, Duplicate, or Conflict With the Proposed Rules

The rules under consideration in this proceeding do not overlap, duplicate, or conflict with any other rules.

F. Description and Estimate of the Number of Small Entities to Which the Rules Would 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. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632.

A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.

55. Small TV Broadcast Stations. The SBA defines small television broadcasting stations as television broadcasting stations with $10.5 million or less in annual receipts.

56. The children's educational and informational programming requirements apply to commercial and noncommercial television stations. There are approximately 1,243 existing commercial television stations and 373 existing noncommercial television stations of all sizes that may be affected by the proposals contained in this *NPRM* related to our educational and informational programming requirements. The children's commercial limits apply to commercial television broadcasters and cable operators. Thus, in addition, there are approximately 10,500 cable systems of all sizes that could be affected by the proposals in the *NPRM* related to the children's commercial limits.

G. Any Significant Alternatives Minimizing the Impact on Small Entities and Consistent With the Stated Objectives

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. 5 U.S.C. 603(c).

57. This *NPRM* invites comment generally on a number of issues related to application of the existing children's television programming requirements to digital broadcasters, and asks commenters to address various proposals advanced by commenters responding to the *NOI* in this proceeding. We seek comment on whether there is any significant impact on small entities that might result from any of these proposals. Any significant alternatives presented in the comments will be considered.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–28610 Filed 11–7–00; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 99128355–0305–03; I.D. 101200F]

RIN 0648–AM50

Fisheries of the Northeastern United States; Proposed 2001 Fishing Quotas for Atlantic Surf Clams, Ocean Quahogs, and Maine Mahogany Ocean Quahogs

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

ACTION: Proposed 2001 fishing quotas for Atlantic surf clams, ocean quahogs, and Maine mahogany ocean quahogs; request for comments.

SUMMARY: NMFS issues proposed quotas for the Atlantic surf clam, ocean quahog, and Maine mahogany ocean quahog fisheries for 2001. Regulations governing these fisheries require NMFS to propose for public comment specifications for the 2001 fishing year. The intent of this action is to propose allowable harvest levels of Atlantic surf clams and ocean quahogs from the exclusive economic zone and an allowable harvest level of Maine mahogany ocean quahogs from the waters north of 43°50′N. lat. in 2001.

DATES: Comments must be received no later than 5 p.m., eastern standard time, on December 8, 2000.

ADDRESSES: Copies of supporting documents, including the Environmental Assessment, Regulatory Impact Review, Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), and the Essential Fish Habitat Assessment, are available from Patricia A. Kurkul, Regional Administrator, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930–2298. The EA/RIR/IRFA is accessible via the Internet at http://www.nero.gov/ro/doc/nr.htm.

Written comments on the proposed specifications should be sent to the Regional Administrator. Mark on the outside of the envelope, ''Comments—2001 Clam and Quahog Specifications.'' Comments may also be sent via facsimile (fax) to (978)281–9371. Comments will not be accepted if submitted via e-mail or the Internet.

Send comments on any ambiguity or unnecessary complexity arising from the language used in this proposed rule to Patricia A. Kurkul, Regional Administrator.

FOR FURTHER INFORMATION CONTACT: Jennifer L. Anderson, Fishery Management Specialist, 978–281–9226.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan (FMP) for the Atlantic Surf Clam and Ocean Quahog Fisheries directs NMFS, in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range that represents the optimum yield (OY) for each fishery. It is the policy of the Council that the levels selected allow fishing to continue at that level for at least 10 years for surf clams and for 30 years for ocean quahogs. While staying within this constraint, the Council policy is to also consider the economic benefits of the quotas. Regulations implementing Amendment 10 to the FMP (63 FR 27481, May 19, 1998) added Maine mahogany ocean quahogs to the management unit and provide that a small artisanal fishery for ocean quahogs in the waters north of 43°50' N. lat. will have an annual quota with an initial amount of 100,000 Maine bushels (bu) (35,240 hectoliters (hL)) within a range of 17,000 to 100,000 Maine bu (5,991 hL to 35,240 hL). As specified in Amendment 10, the Maine mahogany ocean quahog quota is in addition to the quota specified for the ocean quahog fishery.

The fishing quotas must be in compliance with overfishing definitions for each species. The overfishing definition for ocean quahogs is based on a control rule, which requires a biomass target of ½ virgin biomass or 2 billion lb (907,200 mt) of meats (200 million bu); a fishing mortality rate (F) target of F0.1 = 0.02; a biomass threshold of ½ biomass target, or 1 billion lb (453,600 mt) of meats (100 million bu); and a fishing mortality threshold of F25% = 0.042. The current biomass is estimated to be around 3.3 billion lb (1.6 million mt) of meats (330 million bu), or about 80 percent of the virgin biomass, and current F is estimated to be 0.02. NMFS approved the overfishing definition for ocean quahogs contained in Amendment 12 to the FMP, but disapproved the proposed overfishing definition for surf clams because it was based only on surf clams from the Northern New Jersey area and did not take into account the entire range of the resource. The December 1999 Stock Assessment Review Committee (SARC) proposed an overfishing definition for surf clams, which the Council reviewed and approved at its March 2000 meeting. The Council-approved definition has a biomass target of ½ of current biomass as a proxy for FMSY (1.4 billion lb, or 640 thousand mt, or 82.4 million bu); a biomass threshold of ½ of the proxy for BMSY (700 thousand lb or 320 thousand mt); a fishing mortality threshold of FMSY, where the current best proxy for FMSY is the natural mortality rate (M) (0.15), and requires that the F target will always be set less than the F threshold and that it will be the F associated with the Council-selected quota (approximately 0.03 for 2001). This new overfishing definition for surf clams will be submitted to the Secretary for approval in Amendment 13, which the Council anticipates will be completed in early 2001.

In proposing these quotas, the Council considered the available stock assessments, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council staff. The proposed quotas for the 2001 Atlantic surf clam, ocean quahog, and Maine mahogany ocean quahog fisheries are shown in the following table. The status quo levels for 2000 for both the regular ocean quahog and the Maine mahogany ocean quahog will be maintained, but the surf clam quota will be increased by 11 percent, from 2.565 million bu to 2.85 million bu (1.366 million hL to 1.518 million hL).

PROPOSED 2001 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	2001 final quotas (bu)	2001 final quotas (hL)
[1]Surf clam	2,850,000	1,518,000
[1]Ocean quahog	4,500,000	2,396,000
[2]Maine mahogany quahog	100,000	35,240

[1]1 bushel = 1.88 cubic ft. = 53.24 liters
[2] 1 bushel = 1.2445 cubic ft. = 35.24 liters

Surf Clams

The Council recommended a 2001 quota of 2.850 million bu (1.518 million

hL) for surf clams, an 11-percent increase over the 2000 quota and the first change since 1995. This level of quota is reflective of the quota levels that existed during the first 5 years of the Individual Transferable Quota (ITQ) system (1990 to 1994). The most recent biological assessments (from the 1997 and 1999 surveys) indicate the resource is healthy, composed of many age classes, and can safely sustain increased harvests. However, the assessments noted that the majority of the surf clam catch is derived from one area (Northern New Jersey) and cautioned that careful consideration should be given to implementing a stock-wide quota increase in order to avoid localized depletion of the surf clam stock. In addressing this concern, the Council has recommended only a slight increase of the surf clam quota. Due to recent evidence of sufficient recruitment, it is felt that this level of quota will not harm the long-term sustainability of the resource. In 1999, the F associated with a quota of 2.565 million bu (1.366 million hL) was approximately 0.02; this slight quota increase may increase the F to at most 0.03.

The proposed quota takes into account analysis of surf clam abundance that was part of the 30th Northeast Regional Stock Assessment Workshop (SAW 30). SAW 30 utilized data from the 1999 surf clam survey, which included work to estimate dredge efficiency. Results from the 1999 survey and assessment corroborate those of the 1997 survey and assessment and provided the Council the opportunity to safely increase the quota.

The Council continues to assume that none of the surf clams on Georges Bank (approximately one quarter of the total resource) will be available in the near future for harvesting because of paralytic shellfish poisoning. This area has been closed to the harvest of clams and other shellfish since 1989, and the Council and NMFS have no reason to believe that it will reopen in the near future.

Ocean Quahogs

The Council recommended a 2001 quota of 4.5 million bu (2.396 million hL) for ocean quahogs. This quota would be identical to that adopted for the past 2 years, but an increase of 13 percent from the 1998 quota level. The FMP specifies that the quota level must comply with the ocean quahog overfishing definition.

The 1999 quota yielded an F of approximately 0.02, compared with the F threshold of 0.04 contained in the overfishing definition. The specific F associated with the 2001 quota is expected to be close to the F in 1999 because a similar proportion of the biomass remains unexploited.

The Atlantic surf clam and ocean quahog quotas are specified in standard bushels of 53.24 liters per bushel, while the Maine mahogany ocean quahog quota is specified in ''Main'' bushels of 35.24 liters per bushel. Because Maine mahogany ocean quahogs are the same species as ocean quahogs, both fisheries are combined and share the same ocean quahog overfishing definition. When the two quota amounts are added, the total allowable harvest is still lower than the level that would result in overfishing for the entire stock, as previously defined in the ocean quahog overfishing definition.

The Council proposed a 2001 ocean quahog quota based on the analysis of abundance for that species found in the draft report of the 31st Northeast Regional Stock Assessment Workshop (SAW 31), concluded in August 2000. Similar to surf clams, SAW 31 and the assessment from the 1997 survey (SAW 27) included work to estimate dredge efficiency and showed a significant increase in the estimate of ocean quahog biomass. Although 36 percent of the resource is located on Georges Bank, SAW 31 did not question whether Georges Bank would ever be reopened. The resource is of sufficient size overall that the proportion of ocean quahogs that exists on Georges Bank is not necessary to meet the Council's 30-year supply policy. It is estimated that, even when excluding the ocean quahog resource portion on Georges Bank, around 80 percent of the virgin biomass remains after 2 decades of harvesting these long-lived creatures.

Although SAW 31 showed that the ocean quahog quota could have been increased beyond the 2000 quota level, the Council did not recommend any change for 2001 because of four major factors: (1) The 1999 quota was not constraining to the industry; (2) nearly all industry members supported the 4.5-million bu (2.396- million hL) harvest level; (3) repeated concern was expressed by the industry over the continued lack of apparent ocean quahog recruitment south of Georges Bank; and (4) unless prices or technology changes significantly in the near future, it is unlikely that the ocean quahog fishery extractions in the past are sustainable because those extractions have been dependent on rich virgin beds.

The Council recommended that the Maine mahogany ocean quahog quota remain unchanged from the 2000 quota level at 100,000 Maine bu (35,240 hL) for 2001. There has been no attempt yet to develop and conduct a scientific survey of the extent of the Maine resource. From the information currently available, maintaining the quota at its current maximum level for another year will not seriously constrain the fishery or endanger the resource. To increase the quota beyond the current maximum level of 100,000 bu (35,240 hL) will require a scientific survey and assessment led by the State of Maine.

Classification

This action is authorized by 50 CFR part 648 and has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an Initial Regulatory Flexibility Analysis (IRFA) in section 5.0 of the RIR that describes the economic impacts this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of the **SUPPLEMENTARY INFORMATION** section. A summary of the IRFA follows:

In 1999, a total of 45 vessels reported harvesting surf clams or ocean quahogs from Federal waters under an ITQ system. Average 1999 gross income from surf clam harvests was $646,701 per vessel. Average 1999 gross income from ocean quahog harvests was $691,316 per vessel. In the small artisanal fishery for ocean quahogs in Maine, 38 vessels reported harvests in the clam logbooks, with an average value of $68,097 per boat. All of these vessels are small entities. The Council recommends no change in the 2001 quotas for ocean quahogs or Maine mahogany ocean quahogs from their present 2000 quotas of 4.500 and 0.100 million bu (2.396 million hL and 35,240 hL), respectively. The Council recommends an 11-percent increase in the surf clam quota from 2.565 million bu to 2.85 million bu (1.366 million hL to 1.518 million hL).

Since the 1999 harvest level of 3.772 million bu (2.0 million hL) for ocean quahogs is below the 2001 proposed quota and the Council assumes that no changes in fishing effort or yield-to-effort will take place in 2000, the Council believes that the 2001 proposed quota will yield a surplus quota available to vessels participating in the ocean quahog fishery. In addition, the Maine mahogany quahog fishery 1999 harvest level of 0.094 million Maine bu (33,134 hL) is slightly below the 2001 proposed quota, and preliminary landings reports for 2000 suggest that the Maine fishery may reach the 0.100-million Maine bu (35,240 hL) quota level allocated to the fishery before the year ends. However, fishermen may

continue harvesting after the mahogany quahog is reached, provided they purchase allocation from the ITQ portion of the ocean quahog fishery.

In the case of the surf clam fishery, nearly 99 percent, or 2.538 million bu (1.351 million hL), of the 1999 allocation of 2.565-million bu (1.366-million hL) quota was harvested. Preliminary trends for 2000 suggest that the quota will likely be harvested this year as well. Due to the scarcity of dense ocean quahog beds inshore, the surf clam industry has been increasingly shifting its focus away from the harvesting of ocean quahogs and has begun harvesting an increased number of surf clams. Therefore, the Council believes that the market can now absorb the 2001 proposed quota increase of 11 percent.

The Council analyzed four ocean quahog quota alternatives, in addition to the preferred 4.500-million bu (2.396-million hL) option, including 4.000, 4.250, 4.750, and 6.000 million bu (2.129, 2.263, 2.529, and 3.195 million hL). The minimum allowable quota specified in the current OY range is 4.0 million bu (2.129 million hL) of ocean quahogs. Adoption of this quota would represent a 12-percent decrease from the current 4.5-million bu (2.396-million hL) quota and, assuming the entire quota is harvested, a 6.1-percent increase in harvest from the 1999 harvest level of 3.770 million bu (2.0 million hL). This alternative would take the most conservative approach to managing the fishery that is currently available to the Council. Adopting the maximum allowable quota of 6.000 million bu (3.195 million hL) for ocean quahogs would represent a 33-percent increase in allowable harvest and a 59-percent increase in landings from 1999, assuming all the quota is taken. The industry does not have a market available to absorb such a massive increase in landings and may not have the vessel capacity necessary to harvest a quota this large. All of the alternatives, including the preferred alternative, would yield increased revenues relative to revenues from actual landings.

The Council identified four surf clam quota alternatives in addition to the preferred alternative of 2.850 million bu (1.518 million hL), including 1.850, 2.365, 2.565, and 3.400 million bu (0.985, 1.259, 1.366, and 1.810 million hL). The minimum allowable quota specified in the current OY range is 1.850 million bu (0.985 million hL) of surf clams. Adoption of this quota would represent a 28-percent decrease from the current 2.565-million bu (1.366-million hL) quota, and a 27-percent decrease from the 1999 harvest level of 2.538 million bu (1.351 million hL). Assuming that demand is price elastic, a reduction in quota of this magnitude would have a substantially negative impact on overall exvessel revenues. Adoption of the 2.365-million bu (1.259-million hL) quota would most likely have a limited impact on small entities, since it is identical to 1998 base year landings of 2.365 million bu (1.259 million hL). Adopting the maximum allowable quota of 3.40 million bu (1.810 million hL) for surf clams would allow for a 33-percent increase in harvest. The preferred alternative allows for the 11-percent increase of 2.565 to 2.85 million bu (1.366 million hL to 1.518 million hL). In summation, the Council determined that the only alternative that would significantly negatively impact revenues to vessels is the 1.850-million bu (0.985-million hL) alternative for surf clams. The status quo quota and the slight reduction alternative would be restrictive and have a slight impact on revenues. The resource can support the 11-percent increase in landings proposed in the preferred alternative, and the industry believes it can utilize this additional product and thus have a beneficial impact for the Nation.

The FMP specifies that the maximum quota for Maine mahogany ocean quahogs is 100,000 Maine bu (35,240 hL) and that an increase of the quota would require a scientific survey and stock assessment of the Maine mahogany ocean quahog resource. An assessment has not been completed, and, therefore, the Council did not look at higher alternative quotas for this fishery. The Council staff analyzed two smaller Maine mahogany ocean quahog quota alternatives, in addition to the preferred 100,000-Maine bu (35,240-hL) option, including 50,000 Maine bu (17,624 hL) and 72,466 Maine bu (25,543 hL). Maine mahogany ocean quahog fishermen may supplement their quota by purchasing or renting ocean quahog quota from ITQ holders. Therefore, any quota below the 1999 landing level of 93,938 bu (33,112 hL) would most likely cause a decrease in revenues to individual vessels, while a quota greater than that level could cause an increase.

Nine to 12 processors participated in the surf clam and ocean quahog fisheries. However, five firms are responsible for the vast majority of purchases in the exvessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surf clams and ocean quahog processors would most likely mirror the impacts of the various quotas to vessels as discussed above. Revenues earned by processors would be derived from the wholesale market for clam products, and, since a large number of substitute products (i.e., other food products) are available, the demand for processed clam products is likely to be price elastic and revenues, resulting in revenue increases or decreases with changes in price.

In 2000, surf clam allocation holders totaled 106, while 65 firms or individuals held ocean quahog allocation. If the recommended quotas are accepted (i.e., no change from 2000 quotas on ocean quahogs, Maine mahogany ocean quahogs, and a slight increase of 11 percent for surf clams), it is likely that impacts to allocation holders or buyers will be minimal. Theoretically, increases in quota would most likely benefit those who must purchase quota through lower prices (values) and negatively impact sellers of quota because the quota would be reduced in value. Decreases in quota would most likely have an opposite effect.

This proposed rule would not impose any new reporting, recordkeeping, or other compliance requirements. Therefore, the costs of compliance would remain unchanged.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be sent to Patricia A. Kurkul, the Regional Administrator (see **ADDRESSES**).

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

Dated: November 1, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–28675 Filed 11–7–00; 8:45 am]

BILLING CODE: 3510–22–S

Notices

Federal Register

Vol. 65, No. 217

Wednesday, November 8, 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

Office of the Secretary

Determination of Total Amounts and Quota Period for Tariff-Rate Quotas for Raw Cane Sugar and Certain Imported Sugars, Syrups, and Molasses

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice establishes the aggregate quantity of 1,362,000 metric tons, raw value, of raw cane sugar that may be entered under subheading 1701.11.10 of the Harmonized Tariff Schedule of the United States (HTS) during fiscal year (FY) 2000, with 227,000 metric tons held in reserve for possible allocation. This notice also establishes the aggregate quantity of 60,000 metric tons (raw value basis) for certain sugars, syrups, and molasses that may be entered under subheading 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS during FY 2000.

EFFECTIVE DATE: November 8, 2000.

ADDRESSES: Inquiries may be mailed or delivered to the Important Policy and Programs Division Director, Foreign Agriculture Service, AgStop 1021, South Building, U.S. Department of Agriculture, Washington, D.C. 20250–1021 or e-mail at *williamsdj@fas.usda.gov.*

FOR FURTHER INFORMATION CONTACT: David Williams (Team Leader, Import Policy and Programs Division), 202–720–2916.

SUPPLEMENTARY INFORMATION: Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides in pertinent part as follows:

The aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than 1,117,195 metric tons, as shall be established by the Secretary of Agriculture (hereinafter referred to as ''the Secretary''), and the aggregate quantity of sugars, syrups, and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than 22,000 metric tons, as shall be established by the Secretary. With either the aggregate quantity for raw cane sugar or the aggregate quantity for sugars, syrups, and molasses other than raw sugar, the Secretary may reserve a quota quantity for the importation of specialty sugars as defined by the United States Trade Representative.

These provisions of paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS authorize the Secretary of Agriculture to establish the total amounts (expressed in terms of raw value) for imports of raw cane sugar and certain other sugars, syrups, and molasses that may be entered under the subheadings of the HTS subject to the lower tier of duties of the tariff-rate quotas (TRQs) for entry during the fiscal year beginning October 1. Allocations of the quota amounts among supplying countries and areas will be made by the United States Trade Representative.

Notice

I hereby give notice, in accordance with paragraph (a) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 1,362,000 metric tons, raw value, or raw cane sugar described in subheading 1701.11.10 of the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1999, through September 30, 2000. Of this quantity, 1,135,000 metric tons is immediately available, to be allocated by the United States Trade Representative, and the remaining 227,000 metric tons will be held in reserve for possible allocation if warranted by market conditions.

I will issue Certificates of Quota Eligibility (CQEs) to allow the Philippines, Brazil, and the Dominican Republic to ship up to 25 percent of their respective initial country allocations at the low-tier tariff during each quarter of FY 2000. Australia, Guatemala, Argentina, and Peru will be allowed to ship up to 50 percent of their respective initial country allocations in the first six months of FY 2000. Unentered allocations, during any quarter or six month period, may be entered in any subsequent period. For all other countries, CQEs corresponding to their respective country allocations may be entered at the low-tier tariff at any time during the fiscal year. If additional country allocations result from the reserved TRQ quantity, they may be entered subsequent to their announcement by the United States Trade Representative.

I have further determined, in accordance with paragraph (a) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 60,000 metric tons, raw value, of certain sugars, syrups, and molasses described in subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 or the HTS may be entered or withdrawn from warehouse for consumption during the period from October 1, 1999 through September 30, 2000. I have further determined that out of this quantity of 60,000 metric tons, the quantity of 14,656 metric tons, raw value, is reserved for the importation of specialty sugars. These TRQ amounts may be allocated among supplying countries and areas by the United States Trade Representative.

Mexico's access to the U.S. market under the North American Free Trade Agreement (NAFTA) is established at 25,000 metric tons raw value. That access is for either raw or refined sugar, but total access under the refined sugar allocation and the raw-sugar allocation is not to exceed 25,000 metric tons. Mexico's access for either a raw or refined sugar is established pursuant to Annex 703.2 of the NAFTA.

Signed at Washington, D.C. on October 30, 2000.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 00–28661 Filed 11–7–00; 8:45 am]

BILLING CODE 3410–10–M

AMTRAK REFORM COUNCIL

Notice of Meeting

AGENCY: Amtrak Reform Council.

ACTION: Notice of Special Public Business Meeting in New York, New York.

SUMMARY: As provided in Section 203 of the Amtrak Reform and Accountability Act of 1997 (Reform Act), the Amtrak Reform Council (ARC) gives notice of a

special public meeting of the Council on Thursday, November 16, 2000. The meeting will begin at 1 p.m. The Council's agenda includes a discussion of the staff's working paper on Amtrak and the Northeast Corridor infrastructure; and a discussion of the staff's summary of the Council's outreach meetings, as well as other items proposed by the Council staff.

DATES: The Business Meeting will be held on Thursday, November 16, 2000 from 1 p.m. to 6 p.m. This meeting is open to the public.

ADDRESSES: The Business Meeting will take place in the New York State Public Service Commission, Department of Public Service, New York City Branch at One Penn Plaza, in New York, New York 10019. The location is between Seventh and Eighth Avenue and has street entrances on West 33rd and West 34th Street. The meeting will take place in the Boardroom on the eighth floor. Persons in need of special arrangements should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM–ARC, 400 Seventh Street, SW., Washington, DC 20590, or by telephone at (202) 366–0591; FAX: 202–493–2061. For information regarding ARC's upcoming events, the agenda for meetings, the ARC's First Annual Report, information about ARC Council Members and staff, and much more, you can also visit the Council's website at www.amtrakreformcouncil.gov.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (Reform Act), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the Reform Act provides: that the Council is to monitor cost savings from work rules established under new agreements between Amtrak and its labor unions; that the Council submit an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that, after a specified period, the Council has the authority to determine whether Amtrak can meet certain financial goals specified under the Reform Act and, if it finds that Amtrak cannot, to notify the President and the Congress.

The ARAA prescribes that the Council is to consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and the leadership of the Congress. Members serve a five-year term.

Issued in Washington, DC—November 2, 2000.

Thomas A. Till,

Executive Director.

[FR Doc. 00–28598 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

[I.D. 110200B]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Foreign Fishing Vessels Operating in Internal Waters.

Form Number(s): None.

OMB Approval Number: 0648-0329.

Type o f Request: Regular submission.

Burden Hours: 36.

Number of Respondents: 6.

Average Hours Per Response: 30 minutes.

Needs and Uses: Foreign fishing vessels engaged in processing and support of U.S. fishing vessels within the internal waters of a state, in compliance with the terms and conditions set by the authorizing governor, are required to report the tonnage and location of fish received from U.S. vessels. This reporting is required by the Magnuson-Stevens Fishery Conservation and Management Act. Weekly reports are submitted to the NMFS Regional Administrator to allow monitoring of the quantity of fish received by foreign vessels.

Affected Public: Business and other for-profit organizations.

Frequency: Weekly.

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 Madeleine Clayton, Departmental Forms Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@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: November 1, 2000.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–28679 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

[I.D. 110300A]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Antarctic Marine Living Resources Conservation and Management Measures.

Form Number(s): None.

OMB Approval Number: 0648-0194.

Type of Request: Regular submission.

Average Hours Per Response: 28 hours for a new or exploratory fishery application, 30 minutes for a harvesting permit application, 1 minute for a radio report, 12 minutes for a transshipment permit application, 30 minutes for a dealer permit application, 15 minutes for an import ticket, 30 minutes for a re-export permit application, 3 minutes for a catch document from an importer, 10 minutes for a catch document from a re-exporter, 15 minutes for a catch document from a harvester.*Burden Hours*: 149.

Number of Respondents: 62.

Needs and Uses: Pursuant to the Antarctic Marine Living Resources Convention Act of 1984, NOAA supports the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). CCAMLR meets annually to adopt conservation and management measures. These include harvesting restrictions, import controls, and data reporting requirements. As a member of CCAMLR, the United States is obligated to put these measures into effect.

Affected Public: Business and other for-profit organizations, 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 Madeleine Clayton, Departmental Forms Clearance Officer, (202) 482-3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@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: November 1, 2000.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–28681 Filed 11–7–00; 8:45am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 (1999) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of November 2000, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in November for the following periods:

	Periods
Antidumping Duty Proceedings	
Argentina:	
A–357–405—Barbed Wire & Barbless Fencing Wire	11/1/99–10/31/00
A–357–007—Carbon Steel Wire Rod*	11/1/99–12/31/99
Brazil:	
A–351–809—Circular Welded Non-Alloy Steel Pipe	11/1/99–10/31/00
Japan:	
A–588–038—Bicycle Speedometers*	11/1/99–12/31/99
A–588–813—Light Scattering Instruments*	11/1/99–12/31/99
Mexico:	
A–201–805—Circular Welded Non-Alloy Steel Pipe	11/1/99–10/31/00
Singapore:	
A–559–502—Light-Walled Rectangular Pipe & Tube*	11/1/99–12/31/99
Republic of Korea:	
A–580–809—Circular Welded Non-Alloy Steel Pipe	11/1/99–10/31/00
Taiwan:	
A–583–814—Circular Welded Non-Alloy Steel Pipe	11/1/99–10/31/00
A–583–826—Collated Roofing Nails	11/1/99–10/31/00
The People's Republic of China:	
A–570–850—Collated Roofing Nails	11/1/99–10/31/00
A–570–831—Fresh Garlic	11/1/99–10/31/00
A–570–826—Paper Clips	11/1/99–10/31/00
A–570–811—Tungsten Ore Concentrates*	11/1/99–12/31/99
Venezuela:	
A–307–805—Circular Welded Non-Alloy Steel Pipe*	11/1/99–12/31/99
Countervailing Duty Proccedings	
None.	
Suspension Agreements	
Japan:	
A–588–090—Certain Small Electric Motors of 5 to 150 Horsepower*	11/1/99–12/31/99
Mexico:	
A–201–820—Fresh Tomatoes	11/1/99–10/31/00
Singapore:	
C–559–001—Refrigeration Compressors*	11/1/99–12/31/99
Ukraine:	
A–823–805—Silicomanganese**	10/1/99–9/30/00

*Order revoked effective 01/01/2000, as a result of sunset review.

**In the opportunity notice published on October 20, 2000 (65 FR 63057), the country listed for silicomanganese was incorrect. The correct country for that product is listed above.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a

producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of November 2000. If the Department does not receive, by the last day of November 2000, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

November 2, 2000.

Holly A. Kuga,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 00–28682 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–810]

Initiation of Antidumping Duty Investigation: Solid Agricultural Grade Ammonium Nitrate From Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 8, 2000.

FOR FURTHER INFORMATION CONTACT: Melani Miller or Jarrod Goldfeder, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0116 and (202) 482–0189, respectively.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's regulations are to 19 CFR Part 351 (April 1999).

The Petition

On October 13, 2000, the Department of Commerce (''the Department'') received a petition filed in proper form by the Committee for Fair Ammonium Nitrate Trade (''the petitioner''), whose members are domestic producers of solid agricultural grade ammonium nitrate. The Department received supplemental information to the petition on October 27, 2000.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of solid agricultural (or fertilizer) grade ammonium nitrate from Ukraine are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department initiate (*see Determination of Industry Support for the Petition* section below).

Scope of Investigation

For purposes of this investigation, the products covered are solid, fertilizer grade ammonium nitrate products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for convenience and for purposes of the U.S. Customs Service, the written description of the merchandise under investigation is dispositive.

This scope is identical to the scope used in the Department's investigation of solid fertilizer grade ammonium nitrate from the Russian Federation. *See Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation,* 65 FR 42669 (July 11, 2000) (''*Ammonium Nitrate from Russia*''). Nevertheless, during our review of the petition, we discussed the scope with the petitioner to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit (''CRU'') at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of our preliminary determination.

Period of Investigation

Section 351.204(b) of the Department's regulations states that, in the case of a nonmarket economy country, in an investigation, the Department normally will examine merchandise sold during the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed. The regulations further state that the

Department may examine merchandise sold during any additional or alternate period it concludes is appropriate.

Following the above noted guidelines from section 351.204(b) of the Department's regulations, the two most recently completed fiscal quarters as of the month preceding the month in which the petition was filed would be the second and third fiscal quarters of 2000, April through September 2000.

For this investigation, the petitioner has requested that the Department either modify or expand the period of investigation (''POI'') to include the first fiscal quarter of 2000, January through March 2000. The petitioner argues that the ammonium nitrate industry is highly seasonal and that the volume of ammonium nitrate shipments is directly linked to agricultural cycles; specifically, demand and imports are higher during the spring planting season which runs from February through June. The petitioner notes that the Department has recognized the seasonality of the ammonium nitrate market in *Ammonium Nitrate from Russia.* Moreover, the petitioner points out that calendar year 2000 import data for Ukraine supports the conclusion that the first quarter 2000 should be included in the POI. According to the petitioner, the data shows that imports of ammonium nitrate from Ukraine have increased dramatically in the first two quarters of 2000 as compared to prior years. If only the second and third quarters were examined, the petitioner alleges that the Department would have a much more limited number of sales on which to make its determination.

The Department is considering the petitioner's arguments on this matter and will make a determination on whether to expand the normal POI as established by section 351.204(b) of the Department's regulations, April 1 through September 30, 2000, as the investigation proceeds.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry,'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins in ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the *Scope of Investigation* section above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. The Department, therefore, has adopted this dometsic like product definition.

The Department has determined that the petition contains adequate evidence of industry support; therefore, polling is unnecessary. *See Initiation Checklist* at Industry Support. To the best of the Department's knowledge, the producers who support the petition account for more than 50 percent of the production of the domestic like product. Additionally, no interested party pursuant to section 771(b)(A), (C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which our decision to initiate this investigation is based. Should the need arise to use any of this information in our preliminary or final determination for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

The petitioner identified four potential Ukrainian exporters and producers of solid agricultural grade ammonium nitrate. The petitioner based export price on official U.S. import statistics for the period January through June 2000. From these starting prices, the petitioner deducted foreign inland freight and foreign brokerage and handling. The petitioner based foreign inland freight on Indian rail rates as referenced by the Department at its online Document Library (Index of Factor Values). The foreign brokerage and handling charges were also based on the Department's Index of Factor Values. Both the inland freight and brokerage and handling rates were adjusted for inflation using the Indian Wholesale Price Index (''WPI'') as published in the *International Financial Statistics* of the International Monetary Fund.

The petitioner asserts that the Department considers Ukraine to be a nonmarket economy country (''NME'') and, therefore, constructed normal value based on the factors of production (''FOP'') methodology pursuant to section 773(c) of the Act. In previous cases, the Department has determined that Ukraine is an NME. *See, e.g.*, *Certain Cut-to-Length Carbon Steel Plate from Ukraine*, 62 FR 61754 (November 19 1997) and *Steel Concrete Reinforcing Bars from Austria, Belarus, Indonesia, Japan, Latvia, Moldova, the People's Republic of China, Poland, the Republic of Korea, the Russian Federation, Ukraine, and Venezuela*, 65 FR 45754 (July 25, 2000). In accordance with section 771(18)(C)(i) of the Act, the NME status remains in effect until revoked by the Department. As of the date of initiation of this proceeding, the NME status of Ukraine has not been revoked by the Department and, therefore, remains in effect. Accordingly, the normal value of the product appropriately is based on FOP valued in a surrogate market economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the

[1] *See Algoma Steel Corp. Ltd.,* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefore from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petitions,* 56 FR 32376, 32380–81 (July 16, 1991).

opportunity to provide relevant information related to the issues of Ukraine's NME status and the granting of separate rates to individual exporters.

For the factors of production, the petitioner used publicly available factor information from a Russian ammonium nitrate producer taken from *Ammonium Nitrate from Russia*. The petitioner stated that it was unable to gain access to any specific information regarding the factors of production for any Ukrainian ammonium nitrate producer and was, thus, unable to furnish information on Ukrainian FOP.

According to the petitioner, the use of the Russian producer's public factors provides a sound basis for estimation of Ukrainian factors because (1) both the Ukrainian and Russian ammonium nitrate plants use the same type of production process, and (2) Ukrainian and Russian ammonium nitrate plants use the same types of production technology. Thus, the petitioner has taken the position that, for purposes of the petition, the producers in Ukraine use the same inputs in the same quantities as do producers in Russia. Because data regarding the quantities of inputs used by Ukrainian producers was not reasonably available to the petitioner, and because the petitioner has provided information showing that the Russian and Ukrainian ammonium nitrate industries are substantially similar, we have accepted the use of the Russian factor information.

The petitioner selected India as the most appropriate surrogate market economy. In accordance with section 773(c)(4) of the Act, the petitioner valued factors of production, where possible, using Indian data. Labor was valued using the regression-based wage rate for Ukraine provided by the Department in accordance with section 351.408(c)(3) of the Department's regulations. Natural gas and electricity were valued using values from a 1998–1999 public annual report of an Indian producer of merchandise similar to the subject merchandise. Pursuant to the Department's past practice, the petitioner valued synthetic gas, purge gas, and hydrogen using ''natural gas equivalents'' (*see Ammonium Nitrate from Russia*) Catalysts and other auxiliary materials were valued using United Nations import data for India. One auxiliary material, lilamine, for which the petitioner could not find a public Indian surrogate value was valued using information from a domestic ammonium nitrate producer. For factory overhead, selling, general and administrative expenses, and profit, the petitioner applied ratios derived from information gathered from the same 1998–1999 public annual report that it used to value natural gas and electricity. Where no contemporaneous values could be found, the non-contemporaneous values used were adjusted to the comparison period to take inflation into account.

Based on a comparison of export price to normal value, as adjusted by the Department, the information in the petition and other information reasonably available to the Department indicates weighted-average dumping margins of between 222 and 285 percent. A description of the adjustments which the Department made to petitioner's calculations are contained in the *Initiation Checklist.*

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of solid agricultural grade ammonium nitrate from Ukraine are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value. The allegations of injury and causation are supported by relevant evidence including U.S. Customs import data, ITC data and information gathered during *Ammonium Nitrate from Russia,* lost sales, and pricing information. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist* at 4 and 5.

Allegation of Critical Circumstances

The petitioner has alleged that critical circumstances exist with regard to imports of solid, agricultural grade ammonium nitrate from Ukraine. To support its allegation, the petitioner provided evidence in the petition showing, among other things, a trend of increased imports of the subject merchandise during the period January to June 2000. Specifically, the petitioner contends that ammonium nitrate imports from Ukraine surged from no imports in 1999 to 155,398 short tons during the time period from January through June 2000.

The petitioner also provided evidence suggesting a history of dumping, and, alternatively, that the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the merchandise was being sold at less than fair value and that there was likely to be material injury as a result. The petitioner contends that, though there is not currently an existing antidumping order on Ukrainian ammonium nitrate, the European Union has made a preliminary determination that dumping is taking place in the European Union of ammonium nitrate from Ukraine. This, in the petitioner's view, provides evidence of a history of dumping.

Additionally, consistent with the Department's practice of reviewing the margins supported in the petition as evidence of importer knowledge, the petitioner notes that the petition margin of 285% is well above the standard 25% threshold. Finally, the petitioner argues that the timing of Ukraine's entrance into the U.S. ammonium nitrate market (immediately following the Department's January 7, 2000, preliminary determination that Russian ammonium nitrate was sold in the United States at less than normal value and the rapid decline of imports of ammonium nitrate from Russia), along with the significant increase in volume of imports and the adverse pricing effects these imports had, provides evidence that importers knew, or should have known, that Ukrainian ammonium nitrate imports were likely to cause injury to the domestic industry.

Based on these allegations, we will investigate this matter further and will make a preliminary critical circumstances determination based on available information at the appropriate time in accordance with section 351.206 of the Department's regulations. *See Initiation Checklist* at 9.

Request for an Expedited Preliminary Determination

The petitioner has requested that, in accordance with the Department's June 8, 2000, policy bulletin regarding expedited antidumping duty investigations, the Department issue an expedited preliminary determination in this investigation. *See* Department Policy Bulletin No. 00.1 ''Expedited Antidumping Duty Allegations'' (''policy bulletin'', which can be found on the Department's web page at *http://ia.ita.doc.gov.* The policy bulletin lays out specific criteria that the Department will consider in deciding whether to expedite an investigation, including evidence of an extraordinary surge in imports prior to the filing of the petition, evidence of significant import penetration, evidence of an unusually high dumping margin or recent declines

in import prices, whether there are prior determinations of dumping against the same product (or class of product) from the subject country in the United States or in other countries, and whether the Department's resources permit it to expedite the preliminary determination.

The petitioner alleges that there has been a surge of ''unfairly traded imports'' of ammonium nitrate from Ukraine at ''unprecedented levels'' and that Ukrainian producers have captured U.S. market share through ''aggressive and persistent underselling.'' The petitioner further alleges that, after the U.S. industry received relief in June 2000 via a suspension agreement in *Ammonium Nitrate from Russia,* U.S. importers simply made Ukraine a ''replacement'' source for Russian ammonium nitrate. The petitioner claims that the product is highly seasonal and that early relief is needed to avoid losing sales during the critical spring 2001 growing season.

We are setting aside a period for parties to comment on the petitioner's request for an expedited preliminary determination. The Department encourages all parties to submit such comments no later than November 13, 2000. Comments should be addressed to the Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. We intend to make a determination on the petitioner's request for an expedited preliminary determination by November 16, 2000.

Initiation of Antidumping Investigation

Based on our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of solid agricultural grade ammonium nitrate from Ukraine are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of Ukraine.

International Trade Commission Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by November 27, 2000, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of solid fertilizer grade ammonium nitrate from Ukraine. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is published in accordance with section 777(i) of the Act.

Dated: November 3, 2000.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–28683 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110200E]

Survey to Measure Effectiveness of Community-Oriented Policing for ESA Enforcement

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Proposed information collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before January 8, 2001.

ADDRESSES: Direct all written comments to Madeleine Clayton, Departmental Forms Clearance Officer, Department of Commerce, Room 6086, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at MClayton@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dayna Matthews, National Marine Fisheries Service, 510 Desmond Drive S.E., Suite 103, Lacey, WA 98503 (360-753-4409).

SUPPLEMENTARY INFORMATION:

I. Abstract

The objective of the survey is to evaluate the success of the NMFS Office for Law Enforcement community-oriented policing program for Endangered Species Act (ESA) enforcement for anadromous species in the Pacific Northwest.

II. Method of Collection

The information will be gathered through both voluntary self-administered surveys and in-depth interviews.

III. Data

OMB Number: None.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households; Federal government; State, local, or tribal government.

Estimated Number of Respondents: 880.

Estimated Time Per Response: 20 minutes for a survey, 80 minutes for an interview.

Estimated Total Annual Burden Hours: 375.

Annual Cost to Public: $700.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 1, 2000.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–28680 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 103000E]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Skate Oversight Committee and Skate Advisory Panel in November, 2000. Recommendations from these committees will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The Skate Advisory Panel meeting will held on Thursday, November 30, 2000, at 8:30 a.m. and the Skate Oversight Committee will join them at 9:30 a.m.

ADDRESSES: The meeting will be held at the Ramada Inn, 936 West Main Road, Middletown, RI 02842; telephone: (401) 846-7600

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465-0492.

SUPPLEMENTARY INFORMATION: This is the first meeting for the newly-established Skate Advisory Panel. Advisors will meet to review advisory panel policies and elect a chairman. The Skate Committee will join them for a workshop on skate species identification. There will be a presentation of the final Skate Stock Assessment and Fishery Evaluation (SAFE) Report and development and approval of a scoping document for Skate Fishery Management Plan. The committee will review a timeline for scoping.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: November 2, 2000.

Richard W. Surdi,

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

[FR Doc. 00–28678 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 103000F]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold meetings of its Advisory Panel Selection Committee (closed), Controlled Access Committee, Marine Reserves Committee, Dolphin Wahoo Committee and the South Atlantic Board. Joint meetings of the Snapper Grouper Committee and Advisory Panel, the Law Enforcement Committee and Advisory Panel, and the Red Drum Committee and the South Atlantic Board will also be held. Public comment periods will be held on the proposed Dolphin Wahoo Fishery Management Plan (FMP) and any framework changes to the Snapper Grouper FMP. There will also be a Council Session.

DATES: The meetings will be held from November 27-December 1, 2000. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Sheraton Atlantic Beach Hotel, 2717 West Fort Macon Road, Atlantic Beach, NC 28512; telephone: 1-800-624-8875 or (252) 240-1155, fax: (252) 240-1452.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer; telephone: (843) 571-4366; fax: (843) 769-4520; email: kim.iverson@noaa.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

November 27, 2000, 1:30 p.m. - 5:30 p.m.- Joint Snapper Grouper Committee and Advisory Panel Meeting;

The Snapper Grouper Committee and Advisory Panel will meet jointly to review snapper grouper species assessments and reports, review the Compliance Report, review framework items including the use of powerheads, quota overruns and other items as necessary. The Committee and Advisory Panel will also hear a report on the status of the red porgy assessment and projections peer review.

November 28, 2000, 8:30 a.m. - 10 a.m.- Joint Snapper Grouper Committee and Advisory Panel Meeting (continued);

The Snapper Grouper Committee and Advisory Panel will meet to develop Committee recommendations for ranking marine reserves criteria and for the National Artificial Reef Plan.

November 28, 2000, 10 a.m. to 12 noon- Marine Reserves Committee Meeting;

The Marine Reserves Committee will meet to develop recommendations on the Gray's Reef Memorandum of Understanding (MOU), discuss development of a strategy to incorporate Gray's Reef in the Council's marine reserve process, review and develop comments and recommendations on the NMFS draft White Paper, develop recommendations for ranking marine reserves criteria and review the status of a closed area lawsuit in the Gulf of Mexico.

November 28, 2000, 1:30 p.m. - 3:30 p.m.- Dolphin Wahoo Committee Meeting;

The Dolphin Wahoo Committee will meet to review the actions of the Caribbean and Gulf of Mexico Councils regarding the Dolphin Wahoo FMP and revisions to the FMP specific to the other Council's actions.

November 28, 2000, 3:30 p.m. - 5 p.m.- Joint Red Drum Committee and South Atlantic Board Meeting;

The Red Drum Committee will meet jointly with the South Atlantic Board to receive a briefing on the process for transferring red drum management to the Atlantic States Marine Fisheries Commission (ASMFC) and provide directions to staff.

November 29, 2000, 8:30 a.m. - 10:30 a.m.- South Atlantic Board Meeting;

The South Atlantic Board will meet to discuss the coordination of fish contaminant sampling and hear presentations on the 2001-05 management plan, trawl survey results and the data management web page and data access items.

November 29, 2000, 10:30 a.m. - 12 noon- Advisory Panel Selection Committee Meeting (closed session);

The Advisory Panel Selection Committee will meet to review

membership applications and develop recommendations.

November 29, 2000, 1:30 p.m.- 5:30 p.m. - Controlled Access Committee Meeting;

The Controlled Access Committee will meet to hear a NMFS presentation on vessel capacity issues and develop recommendations, review options for rock shrimp controlled access and develop recommendations to staff.

November 30, 2000, 8:30 a.m. - 12 noon- Joint Law Enforcement Committee and Advisory Panel Meeting;

The Law Enforcement Committee and Advisory Panel will meet to hear reports on the South Carolina/NMFS cooperative law enforcement grant and the status of Congressional funding for law enforcement, develop recommendations for ranking marine reserve criteria, review the status of Vessel Monitoring Systems in the Southeast, discuss law enforcement benefits of requiring the use of vessel operator permits, review options for rock shrimp controlled access, hear a report on NOAA General Counsel enforcement related activities, review the Compliance Report and discuss the law enforcement aspects of the use of powerheads.

November 30, 2000, 1:30 p.m. - 5:15 p.m.- Council Session.

From 1:30 p.m. - 1:45 p.m., the Council will call the meeting to order, adopt the agenda and approve minutes from the September 2000 meeting.

From 1:45 p.m. - 2:30 p.m., the Council will hold a public comment period on any proposed changes to the Dolphin Wahoo FMP (beginning at 1:45 p.m.), hear a report from the Dolphin Wahoo Committee and as necessary modify the FMP and re-approve it for submission to the Secretary of Commerce.

From 2:30 p.m.- 3 p.m., the Council will hear a report from the Law Enforcement Committee including their recommendations for ranking marine reserves criteria.

From 3 p.m. - 3:45 p.m., the Council will hold a public comment period on any Council proposed framework changes to the Snapper Grouper FMP (beginning at 3:00 p.m.), hear a report from the Snapper Grouper Committee and make a decision on framework actions.

From 3:45 p.m. - 4:15 p.m., the Council will hear a report from the Marine Reserves Committee, consider the Gray's Reef MOU, develop a strategy to incorporate Gray's Reef in the Council's marine reserve process and develop comments and recommendations on the NMFS draft White Paper.

From 4:15 p.m. - 4:45 p.m., the Council will hear a report from the Controlled Access Committee and develop comments on vessel capacity issues.

From 4:45 p.m. - 5:15 p.m., the Council will hear a report from the Advisory Panel Selection Committee and appoint new advisory panel members (closed session).

December 1, 2000, 8:30 a.m.- 12 noon - Council Session

From 8:30 a.m. - 9 a.m., the Council will hear a report from the Red Drum Committee and provide directions to staff.

From 9 a.m. - 9:15 a.m., the Council will hear a report from staff updating economic activities and issues.

From 9:15 a.m. - 9:30 a.m., the Council will hear a report from staff updating social activities and issues.

From 9:30 a.m. - 10 a.m., the Council will hear a report on the status of the Bluefish FMP from the Mid-Atlantic Fishery Management Council.

From 10 a.m. - 10:30 a.m., the Council will hear a presentation on the NMFS Southeast Regional Office's permit program.

From 10:30 a.m. - 11 a.m., the Council will hear a presentation on Endangered Species Act Section 7 Consultations from the NMFS.

From 11 a.m. - 11:10 a.m., the Council will hear an update on the Atlantic Coastal Cooperative Statistics Program.

From 11:10 a.m. - 11:20 a.m., the Council will hear a report on the Ecosystem Management Workshop.

From 11:20 a.m. - 11:30 a.m., the Council will hear NMFS Status Reports on 2000/01 Mackerel Framework, the resubmitted Calico Scallop FMP and the resubmitted Sargassum FMP. Council will also hear NMFS Status Reports on Landings for Atlantic king mackerel, Gulf king mackerel (eastern zone), Atlantic Spanish mackerel, Snowy grouper & Golden tilefish, wreckfish, greater amberjack and south Atlantic Octocorals.

From 11:30 p.m.- 12 noon, Council will hear agency and liaison reports and discuss other business and upcoming meetings.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

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 November 20, 2000.

Dated: November 2, 2000.

Richard W. Surdi,

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

[FR Doc. 00–28677 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

November 2, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Special shift from Categories 647/648 to Categories 347/348 is being partially canceled, raising the limit for Categories 647/648 and lowering the limit for Categories 347/348.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also

see 64 FR 54870, published on October 8, 1999.

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 4, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 2000 and extends through December 31, 2000.

Effective on November 9, 2000, you are directed to adjust the limits for the categories listed below, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
347/348	2,136,774 dozen.
647/648	4,194,354 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.00–28619 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Nepal

November 2, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended, and Memorandum of Understanding (MOU) dated July 13, 2000 between the Governments of the United States and Nepal establish limits for the period January 1, 2001 through December 31, 2001.

These limits may be revised if Nepal becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Nepal.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2001 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Information regarding the 2001 CORRELATION will be published in the **Federal Register** at a later date.

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; the Bilateral Textile Agreement, effected by exchange of notes dated May 30 and June 1, 1986, as amended and extended; and the Memorandum of Understanding dated July 13, 2000 between the Governments of the United States and Nepal, you are directed to prohibit, effective on January 1, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Nepal and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
336/636	306,848 dozen.
340	402,896 dozen.
341	1,119,397 dozen.
342/642	351,638 dozen.
347/348	907,501 dozen.
363	8,206,100 numbers.
369–S [1]	1,012,958 kilograms.
640	202,775 dozen.
641	457,208 dozen.

[1] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the current bilateral agreement between the Governments of the United States and Nepal.

Products in the above categories exported during 2000 shall be charged to the applicable category limits for that year (see directive dated October 4, 1999) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

These limits may be revised if Nepal becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to Nepal.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–28620 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

November 2, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Pakistan and exported during the period January 1, 2001 through December 31, 2001 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2001 limits.

Carryforward and special carryforward that has been applied to the 2000 limits is being deducted from the 2001 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Information regarding the 2001 CORRELATION will be published in the **Federal Register** at a later date.

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Pakistan and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001, in excess of the following limits:

Category	Twelve-month restraint limit
Specific limits	
219	10,949,710 square meters.
226/313	152,943,035 square meters.
237	532,553 dozen.
239pt. [1]	2,299,956 kilograms.
314	7,963,424 square meters.
315	99,102,766 square meters.
317/617	42,794,104 square meters.
331/631	3,083,839 dozen pairs.
334/634	297,421 dozen.
335/635	485,768 dozen.
336/636	639,065 dozen.
338	5,706,342 dozen.
339	1,711,644 dozen.
340/640	805,673 dozen of which not more than 319,532 dozen shall be in Categories 340–D/640–D [2].
341/641	958,597 dozen.
342/642	474,456 dozen.
347/348	1,001,593 dozen.
351/651	402,836 dozen.
352/652	1,065,108 dozen.
359–C/659–C [3]	1,917,195 kilograms.
360	6,471,237 numbers.
361	7,524,693 numbers.
363	53,077,350 numbers.
369–F/369–P [4]	3,021,271 kilograms.
369–R [5]	14,911,513 kilograms.
369–S [6]	922,416 kilograms.
613/614	30,284,124 square meters
615	32,217,147 square meters.
625/626/627/628/629	99,085,556 square meters of which not more than 49,542,779 square meters shall be in Category 625; not more than 49,542,779 square meters shall be in Category 626; not more than 49,542,779 square meters shall be in Category 627; not more than 10,250,231 square meters shall be in Category 628; and not more than 49,542,779 square meters shall be in Category 629.
638/639	544,072 dozen.
647/648	1,031,540 dozen.
666–P [7]	862,142 kilograms.
666–S [8]	4,564,280 kilograms.

[1] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[2] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030; Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.

[3] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[4] Category 369–F: only HTS number 6302.91.0045; Category 369–P: only HTS numbers 6302.60.0010 and 6302.91.0005.

[5] Category 369–R: only HTS number 6307.10.1020.

[6] Category 369–S: only HTS number 6307.10.2005.

[7] Category 666–P: only HTS numbers 6302.22.1010, 6302.22.1020, 6302.22.2010, 6302.32.1010, 6302.32.1020, 6302.32.2010 and 6302.32.2020.

[8] Category 666–S: only HTS numbers 6302.22.1030, 6302.22.1040, 6302.22.2020, 6302.32.1030, 6302.32.1040, 6302.32.2030 and 6302.32.2040.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2000 shall be charged to the applicable category limits for that year (see directive dated December 1, 1999) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–28621 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Slovak Republic

November 2, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 9, 2000.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for certain categories are being adjusted for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Also see 64 FR 51961, published on September 27, 1999.

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 21, 1999, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Slovak Republic and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000.

Effective on November 9, 2000, you are directed to adjust the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
410	377,196 square meters.
433	14,130 dozen.
443	118,050 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1999.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–28622 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in the United Arab Emirates

November 2, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in the United Arab Emirates and exported during the period January 1, 2001 through December 31, 2001 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC). Some limits have been reduced for carryforward used.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish limits for the 2001 period. The 2001 levels for Categories 315 and 361 are zero.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notices 64 FR 71982, published on December 22, 1999). Information regarding the 2001 CORRELATION will be published in the **Federal Register** at a later date.

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2000.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the United Arab Emirates and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001 in excess of the following levels of restraint:

Category	Twelve-month restraint limit
219	1,637,918 square meters.
226/313	2,800,880 square meters.
315	–0–.
317	45,183,883 square meters.
326	2,644,035 square meters.
334/634	333,803 dozen.
335/635/835	229,149 dozen.
336/636	289,295 dozen.
338/339	780,379 dozen of which not more than 520,252 dozen shall be in Categories 338–S/339–S [1].

Category	Twelve-month restraint limit
340/640	483,793 dozen.
341/641	448,188 dozen.
342/642	356,059 dozen.
347/348	579,711 dozen of which not more than 289,855 dozen shall be in Categories 347–T/348–T [2].
351/651	255,916 dozen.
352	471,777 dozen.
361	–0–.
363	8,813,448 numbers.
369–O [3]	822,558 kilograms.
369–S [4]	122,684 kilograms.
638/639	333,803 dozen.
647/648	478,452 dozen.
847	300,424 dozen.

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020.

[2] Category 347–T: only HTS numbers 6103.19.2015, 6103.19.9020, 6103.22.0030, 6103.42.1020, 6103.42.1040, 6103.49.8010, 6112.11.0050, 6113.00.9038, 6203.19.1020, 6203.19.9020, 6203.22.3020, 6203.42.4005, 6203.42.4010, 6203.42.4015, 6203.42.4025, 6203.42.4035, 6203.42.4045, 6203.49.8020, 6210.40.9033, 6211.20.1520, 6211.20.3810 and 6211.32.0040; Category 348–T: only HTS numbers 6104.12.0030, 6104.19.8030, 6104.22.0040, 6104.29.2034, 6104.62.2006, 6104.62.2011, 6104.62.2026, 6104.62.2028, 6104.69.8022, 6112.11.0060, 6113.00.9042, 6117.90.9060, 6204.12.0030, 6204.19.8030, 6204.22.3040, 6204.29.4034, 6204.62.3000, 6204.62.4005, 6204.62.4010, 6204.62.4020, 6204.62.4030, 6204.62.4040, 6204.62.4050, 6204.69.6010, 6204.69.9010. 6210.50.9060, 6211.20.1550, 6211.20.6810, 6211.42.0030 and 6217.90.9050.

[3] Category 369–O: all HTS numbers except 6307.10.2005 (Category 369–S); 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020 and 6406.10.7700 (Category 369pt.).

[4] Category 369–S: only HTS number 6307.10.2005.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2000 shall be charged to the applicable category limits for that year (see directive dated December 10, 1999) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–28623 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Republic of Uruguay

November 2, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limits for textile products, produced or manufactured in Uruguay and exported during the period January 1, 2001 through December 31, 2001 are based on limits notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the 2001 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 64 FR 71982, published on December 22, 1999). Information regarding the 2001 CORRELATION will be published in the **Federal Register** at a later date.

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 2, 2000.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 2001, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Uruguay and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
334	203,284 dozen.
335	174,998 dozen.
410	3,044,954 square meters of which not more than 1,739,976 square meters shall be in Category 410–A [1] and not more than 2,803,289 square meters shall be in Category 410–B [2].
433	18,182 dozen.
434	27,125 dozen.
435	54,782 dozen.
442	38,753 dozen.

[1] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[2] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

The limits set forth above are subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 2000 shall be charged to the applicable category limits for that year (see directive dated October 21, 1999) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–28624 Filed 11–7–00; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before January 8, 2001.

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, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: November 2, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.

Title: Evaluation of the State Grants Program and Teacher Recruitment Grants Program of Title II of the Higher Education Act.

Frequency: Annually.

Affected Public:

Businesses or other for-profit; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,200.

Burden Hours: 1,000.

Abstract: In 1999, the federal government funded a major effort toward increasing teacher quality through the State Grants Program and Teacher Recruitment Grants Program. Together, the programs allow states, institutions of higher education, and/or local education agencies to increase the quality of the teacher workforce through certification reform, recruitment efforts, alternative certification routes, and accountability measures. This evaluation looks at both programs to determine how federal funds were spent, what issues arose in implementing the programs, and the impact of the programs.

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 4050, Regional Office Building 3, Washington, D.C. 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 Jacqueline Montague at (202) 708–5359 or via her internet address Jackie_Montague@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. 00–28602 Filed 11–7–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Energy Efficiency and Renewable Energy Office

Notice of Competitive Financial Assistance for the Office of Energy Efficiency and Renewable Energy

AGENCY: EERE, Department of Energy.

ACTION: Notice of competitive financial assistance solicitation.

SUMMARY: The Department of Energy (DOE) announces a competitive solicitation for applications for grants and cooperative agreements for information dissemination, public outreach, training, and related technical analysis and technical assistance activities involving renewable energy and energy efficiency. It is estimated that funding of approximately FY2001 $2 to $3 million will be available under renewable energy programs, and FY2001 $3 to $4 million will be available under energy efficiency programs for awards under this solicitation in fiscal year 2001. Areas of interest involving renewable energy include wind, hydrogen, and geothermal technologies. Energy efficiency areas of interest include energy efficiency in the transportation, buildings, and industrial sectors. The awards may be for a period of six months to three years. Proposals will be

subject to the objective merit review procedures for the Office of Energy Efficiency and Renewable Energy (EERE). Eligible applicants for this solicitation are profit organizations, non-profit institutions and organizations, state and local governments, universities, individuals, Native American organizations, and Alaskan Native Corporations.

ADDRESSES: The formal solicitation document, which will include greater detail about specific program areas of interest, application instructions, and evaluation criteria, is expected to be issued mid-November 2000. The solicitation will include specific funding totals for each program area of interest. Application due dates for the various program areas will be staggered throughout January 2001, and applications will be processed by three DOE procurement offices to expedite awards. Prospective applicants under the following Program Areas of Interest will be encouraged to submit a pre-application not longer than two pages, no later than 11:30 p.m. Eastern Standard Time on Friday, December 1, 2000: Program Area 1D, Office of Power Technologies—Electric Utility Restructuring: Information Dissemination, Technical Analysis and Outreach Activities; Program Area 4, Office of Building Technology, State and Community Programs—Information Dissemination, Outreach and Related Technical Analysis; Program Area 6A, Office of the Assistant Secretary for Energy Efficiency and Renewable Energy—Technology and Systems Integration: Information Dissemination, Outreach and Related Analysis; and Program Area 6B, Office of the Assistance Secretary for Energy Efficiency and Renewable Energy—International Energy Efficiency and Renewable Energy: Technical Assistance to Support Clean Energy Development. Those submitting pre-applications will be notified within approximately 14 days whether all or part of their project is encouraged or discouraged for further consideration.

The formal solicitation document will be disseminated electronically as solicitation number DEPS01–01EE10781 through the Department's Current Business Opportunities of the Headquarters Procurement Services Homepage located at www.pr.doe.gov/solicit.html and the Industry Interactive Procurement System (IIPS) Homepage located at http://doe-iips.pr.doe.gov. The IIPS system have become the primary way for the Office of Headquarters Procurement Services to conduct competitive acquisitions and financial assistance transactions. IIPS provides the medium for disseminating solicitations, receiving financial assistance applications and proposals, evaluating, and awarding various instruments in a paperless environment.

To get more information about IIPS and to register your organization, go to *http://doe-iips.pr.doe.gov*. Follow the link on the IIPS home page to the Secure Services page. Registration is a prerequisite to the submission of an application, and applicants are encouraged to register as soon as possible. A help document, which describes how IIPS works, can be found at the bottom of the Secure Services page.

FOR FURTHER INFORMATION CONTACT: Contact the U.S. Department of Energy, Office of Headquarters Procurement Services, Attention MA–542 (Barry Page, EERE–2001), 1000 Independence Ave., SW., Washington, DC 20585, telephone number 800–683–0751, or e-mail at: eere.grants@pr.doe.gov. Questions or comments should be categorized as administrative or financial assistance related. Administrative questions or comments relate only to the operation of IIPS. All questions or comments should be directed to the attention of Mr. Barry Page. The preferred method of submitting questions and/or comments is through e-mail. Only questions and comments submitted to Mr. Page will be considered. Questions and/or comments requiring coordination with EERE program officials will be directed by DOE personnel to the cognizant offices internally through IIPS.

SUPPLEMENTARY INFORMATION: The Office of EERE supports DOE's strategic objectives of increasing the efficiency and productivity of energy use, while limiting environmental impacts; reducing the vulnerability of the U.S. economy to disruptions in energy supplies; ensuring that a competitive electric utility industry is in place that can deliver adequate and affordable supplies with reduced environmental impacts; supporting U.S. energy, environmental, and economic interests in global markets; and delivering leading-edge technologies. A key component of this program is the support of information dissemination, public outreach, training and related technical analysis and technical assistance activities to: (1) Stimulate increased energy efficiency in transportation, buildings, and industry and increased use of renewable energy; and (2) accelerate the adoption of new technologies to increase energy efficiency and the use of renewable energy. The purpose of this solicitation is to further these objectives through financial assistance in the following areas:

Office of Power Technologies (OPT)—The primary mission of this Office is to lead the national effort to develop solar and other renewable energy technologies and to accelerate their acceptance and use on a national and international level. Also, OPT develops advanced high temperature superconducting power equipment and energy storage systems, addresses advanced technology needs for transmission and distribution systems, and provides information and technical assistance on electric utility restructuring issues. Financial assistance applications will be requested for information dissemination, public outreach, and related technical analysis activities involving several specific renewable technologies such as wind, hydrogen and geothermal technologies. Also, proposals will be requested to perform the following activities: information dissemination, technical assistance, and outreach relating to electric utility restructuring; and co-sponsorship of conferences involving the power technologies sector.

Office of Industrial Technologies (OIT)—The mission of this Office is to improve the energy efficiency and pollution prevention performance of U.S. industry. The Office has a particular focus on nine industries, including the aluminum, steel, metal casting, glass, forest and paper products, chemicals, petroleum refining, agriculture, and mining industries. At the national level, the Office has successfully facilitated the development of industry visions and technology roadmaps with these nine industries. Financial assistance applications will be requested to support information dissemination and outreach to facilitate multi-States implementation of the Industries of the Future program.

Office of Transportation Technologies (OTT)—The mission of this Office is to support the development and use of advanced transportation vehicles and alternative fuel technologies which will reduce energy demand, particularly for petroleum; reduce criteria pollutant emissions and greenhouse gas emissions; and enable the U.S. transportation industry to sustain a strong competitive position in domestic and world markets. Financial assistance applications will be requested to conduct workshops and conferences related to the Clean Cities Program and to provide technical assistance and outreach to Western Hemispheric

countries to promote the adoption of Clean Cities Programs or similar volunteer programs to expand the use of alternative fuels and alternative fuel technologies.

Office of Building Technology, State and Community Programs (BTS)—The mission of this Office is to develop, promote, and integrate energy technologies and practices to make buildings more efficient and affordable and communities more livable. Financial assistance applications will be requested to support information dissemination, public outreach, and related technical analysis activities for the following BTS priorities: Addressing the efficient and renewable energy technology information deficit among commercial building constructors, owners, and managers; promoting energy efficiency and renewable energy utilization as a public value for residential builders and home buyers; increasing the availability of energy efficient school design, retrofit and technical resource information for school board members and school administrators; preparing the building trades, building operators, and building managers for the new generation of efficient and renewable energy technologies; promoting the widespread installation of dedicated compact fluorescent lamp fixtures; and strengthening the *Rebuild America Program* through outreach activities with stakeholder organizations representing facility managers, business officials, and policy makers at colleges and universities, State and local governments, elementary and secondary schools, and public and other low-income housing.

Federal Energy Management Program (FEMP)—The mission of this Program is to assist agencies in achieving the federal energy management goals and to disseminate information to states, local governments and the public on innovative approaches to the use of energy. Financial assistance will be requested to support several specific program areas such as a national lighting certification program for lighting professionals.

The *Office of the Assistant Secretary for EERE* has the overall management responsibility for the entire Office of EERE, including the OPT, OTT, OIT, BTS, and the Federal Energy Management Program (FEMP). Financial assistance applications will be requested to support information dissemination, outreach, and related analysis activities under Program Area 6A, Technology and Systems Integration: Information Dissemination, Outreach, and Related Analysis, for projects which have the objectives to:

(1) Encourage the design, development, and adoption of energy efficiency and/or renewable energy systems that incorporate two or more technologies, or incorporate technology(ies) supported by at least two DOE program offices (including at least one from EERE), and that have identified potential for multiple applications across sectors;

(2) Stimulate greater technology integration and systems integration activities, including multi-application product development (a) within the energy efficiency and renewable energy sector (*e.g.,* multi-feedstock/multi-product biorefineries; distributed power generation technologies, applications, and grid interface issues; combined heat-and-power systems; industrial, commercial, and district-energy concepts; on-site clean fuel production and automotive fueling systems; and active/passive commercial building energy management systems); and (b) between EERE and the fossil energy sector (*e.g.,* coal/biomass co-firing; higher efficiency natural gas technologies; multi-fuel micro-turbines; carbon extraction and sequestration technologies);

(3) Encourage the design, development, and adoption of EERE technology-based strategies for accomplishing environmental and human health objectives under the Clean Air Act and other environmental laws and policies, particularly at the State and local government level;

(4) Encourage the use of Geographical Information Systems (GIS) and other computer-assisted analytical, planning, and decision-support tools to assist communities to evaluate the energy, environmental, and economic impacts and costs of various options for energy generation, distribution, and use; and

(5) Develop financial risk and liability models for investments in EERE technologies and systems in order to assist investors and other stakeholders to evaluate financial risk exposure resulting from energy investment choices.

In addition, financial assistance applications will be requested to support region-wide technical assistance activities in developing countries and countries in transition to support the development of human and institutional capabilities related to EERE by governmental entities, not-for-profit organizations, and industry organizations. The region-wide activities must encompass one of the following regions: Latin America, Africa, South Asia, or Eastern Europe, and encompass several countries within that region.

Million Solar Roofs Initiative (MSRI)—The purpose of the MSRI is to spur the installation of solar energy systems on one million U.S. buildings by 2010. The initiative seeks to catalyze market demand through the elimination of barriers to the use of solar energy systems on buildings and the establishment of State and Community Partnerships. Applications will be requested under this solicitation to develop information, training, and workshops to assist in the elimination of specific barriers. A separate solicitation providing direct support to Million Solar Roofs State and Community Partnerships will be issued by the Golden Field Office not later than January 2001.

Additional information about the programs of the Office of EERE can be obtained at the Office's Internet site at *http://www.eren.doe.gov/ee.html.*

Issued in Washington, DC on November 2, 2000.

Arnold A. Gjerstad,

Director, Program Services Division, Office of Headquarters Procurement Services.

[FR Doc. 00–28628 Filed 11–7–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11541–000 Idaho]

Atlanta Power Station; Notice of Meeting

November 2, 2000.

A telephone conference will be convened by staff of the Office of Energy Projects on December 6, 2000, at 1 p.m. eastern standard time. The purpose of the meeting is to discuss the operation of the upstream fishway and the design of the downstream fish screen structure as suggested by the U.S. Department of the Interior Fish and Wildlife Service (FWS) in their comments on the draft environmental assessment of the Atlanta project. Also, the meeting will clarify issues that need to be addressed in the Final Environmental Assessment.

Any person wishing to be included in the telephone conference should contact Gaylord W. Hoisington at (202) 219–2756 or e-mail at gaylord.hoisington@ferc.fed.us. Please notify Mr. Hoisington by November 30,

2000, if you want to be included in the telephone conference.

David P. Boergers,

Secretary.

[FR Doc. 00–28633 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–254–003]

Dauphin Island Gathering Partners; Notice of Refund Report

November 2, 2000.

Take notice that on October 30, 2000, Dauphin Island Gathering Partners (DIGP) tendered for filing its refund report in Docket Nos. RP00–254–000 and RP00–254–001.

DIGP states that this filing and the refunds were made to comply with the Commission's May 23, 2000 Letter Order. DIGP states that refunds were paid on August 30, 2000 and October 12, 2000.

DIGP states that copies of this filing are being served contemporaneously on all participants listed on the service list in this proceeding and on all persons who are required by the Commission's regulations to be served with the application initiating these proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before November 9, 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. 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 00–28637 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–012]

Dominion Transmission, Inc.; Notice of Negotiated Rate Filing

November 2, 2000.

Take notice that on October 27, 2000, Dominion Transmission, Inc. (DTI) tendered for filing to the Commission the following tariff sheets for disclosure of a recently negotiated transaction with Allegheny Energy Unit 1 and 2, L.L.C.:

First Revised Sheet No. 1300
Second Revised Sheet No. 1404
Original Sheet No. 1405

DTI requests an effective date of November 1, 2000, for the agreement.

DTI states that the transaction includes a negotiated rate. Further, because the transaction includes a provision that may be a material deviation from the form of service agreement included in DTI's tariff, DTI has also filed the letter agreement between the parties.

DTI states that copies of the filing have been served on all parties on the official service list, DTI's customers, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20462, 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 00–28635 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–013]

Dominion Transmission, Inc.; Notice of Tariff Filing

November 2, 2000.

Take notice that on October 27, 2000, Dominion Transmission, Inc. (DTI) tendered for filing the following tariff sheets for disclosure of a recently negotiated transaction with PSEG Power New York, Inc.:

Second Revised Sheet No. 1300
First Revised Sheet No. 1405
Original Sheet No. 1406

DTI requests an effective date of November 1, 2000, for the agreement.

DTI states that the transaction includes a negotiated rate. Further, because the transaction includes a provision that may be a material deviation from the form of service agreement included in DTI's tariff, DTI has also filed the letter agreement between the parties.

DTI states that copies of the filing have been served on all parties on the official service list, DTI's customers, and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 00–28636 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–033]

Koch Gateway Pipeline Company; Notice of Negotiated Rate Filing

November 2, 2000.

Take notice that on October 30, 2000, Koch Gateway Pipeline Company (Koch) filed with the Commission contracts between Koch and the following companies for disclosure of recently negotiated rate transactions. As shown on the contracts, Koch requests an effective date of November 1, 2000.

Special Negotiated Rate Between Koch Gateway Pipeline and Dynergy Gas Transportation
Koch Gateway Pipeline and Laclede Gas Company

Koch states that it has served copies of this filing upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NW., 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 00–28634 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–66–000]

Koch Gateway Pipeline Company Notice of Proposed Changes to FERC Gas Tariff

November 2, 2000.

Take notice that on October 30, 2000, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective November 1, 2000.

Koch states that the purpose of this filing is to make the necessary changes in Koch's tariff to reflect the implementation of Internet communication.

Koch states that copies of this filing have been served upon Koch's customers, state commissions and other interested parties.

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, 8888 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–28641 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–257–004]

Ozark Gas Transmission, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

November 2, 2000.

Take notice that on October 27, 2000, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective on November 1, 2000.

Substitute First Revised Sheet No. 13
First Revised Sheet No. 17
First Revised Sheet No. 46
First Revised Sheet No. 47
First Revised Sheet No. 80

Ozark states that the purpose of this filing is to place into effect settlement rates on an interim basis pending Commission approval of the Offer of Settlement that was filed with the Commission in this proceeding on October 27, 2000, which proposes to resolve all issues in this proceeding and is supported by the majority of the parties hereto.

Ozark further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions and all persons on the official service list for the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. 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).

Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 00–28638 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–408–000]

Ozark Gas Transmission, L.L.C. Notice of Proposed Changes in FERC Gas Tariff

November 2, 2000.

Take notice that October 27, 2000, Ozark Gas Transmission, L.L.C. (Ozark) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following pro forma revised tariff sheets, to be effective on a date to be determined by the Commission pursuant to Order No. 637.

First Revised Sheet No. 106
Original Sheet No. 106B

Ozark also requested that it be permitted to withdraw the following pro forma tariff sheets previously filed in this proceeding:

First Revised Sheet No. 106
Original Sheet No. 106B

Ozark states that the purpose of this filing is to amend its proposed penalty revenue crediting mechanism in accordance with the terms of the Offer of Settlement in its Section 4 general rate case which was filed on October 27, 2000 in Docket No. RP00–257–000. Ozark further states that the Settlement requires it to propose in this proceeding a penalty revenue crediting mechanism whereby monthly actual penalty revenues will be allocated to non-offending firm shippers in proportion to their monthly fixed cost contribution to Ozark's revenue requirements, shippers incurring a penalty during a particular month will not be eligible to receive an allocation of penalty revenues for that month and shippers will receive allocated monthly penalty credits through annual refunds.

Ozark further states that it has served copies of this filing upon the company's jurisdictional customers and interested state commissions and all persons on the official service list for this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR http://www.ferc.fed.us/efi/doorbell. htm.

David P. Boergers,
Secretary

[FR Doc. 00–28639 Filed 11–07–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–569–001]

Portland Natural Gas Transmission System; Notice of Proposed Changes in FERC Gas Tariff

November 2, 2000.

Take notice that on October 27, 2000, Portland Natural Gas Transmission System (PNGTS) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets, to become effective March 27, 2000:

Substitute First Revised Sheet No. 351
Substitute First Revised Sheet No. 352
Substitute First Revised Sheet No. 354
Substitute First Revised Sheet No. 355

PNGTS states that the purpose of this filing is to comply with the requirements of the Commission's October 19, 2000 order in this proceeding.

PNGTS states that copies of the filing were mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,
Secretary.

[FR Doc. 00–28640 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–200–000, et al.]

Cinergy Services, Inc., et al. Electric Rate and Corporate Regulation Filings

October 30, 2000.

Take notice that the following filings have been made with the Commission:

1. Cinergy Services, Inc.

[Docket No. ER01–200–000]

On October 23, 2000, Cinergy Services, Inc. (Services), Cincinnati Gas & Electric Company (CG&E), and PSI Energy, Inc. (collectively, Cinergy) filed a notice of termination of the Operating Agreement, dated March 2, 1994, by and among CG&E, PSI, and Services. The Operating Agreement is designated as Cinergy Operating Companies Rate Schedule FERC No. 1. Cinergy has requested that termination take effect on December 31, 2000.

In its filing, Cinergy states that it intends to commence a dialogue with affected parties regarding potential alternatives that might allow the Operating Agreement to be replaced with a new agreement(s) that continues some level of coordinated generation operations, but, at, the same time, adequately reflects the changed circumstances associated with the initiation of retail choice in Ohio. Cinergy also states that it believes the Commission can play a important role in facilitating the conference.

To initiate these discussions, a conference will be held at 1:00 EST on November 6, 2000, at the Columbia Club, Boardroom, 121 Monument Circle, Indianapolis, Indiana. The Commission's Dispute Resolution Service will be present to help facilitate the conference. The conference will address, among other matters, whether a third party neutral should be assigned to the process.

All parties are invited to attend. If a party has any questions regarding the

conference, please call John S. Moot at (202) 371–7310, or Richard Miles at 1 (877) FERC ADR (337–2237) or (202) 208–0702.

2. PacifiCorp

[Docket No. EC01–8–000]

Take notice that PacifiCorp, on October 16, 2000, tendered for filing in accordance with Section 203 of the Federal Power Act and 18 CFR part 33 of the Commission's Rules and Regulations, an application seeking an order authorizing PacifiCorp to sell to PPM One LLC, a PacifiCorp affiliate, specified transmission facilities associated with PacifiCorp's sale of three wind generation facilities located in Riverside County, California. The application also seeks Federal Energy Regulatory Commission authorization for the assignment of the current PacifiCorp-Southern California Edison Company wholesale distribution agreement and the assignment of the current PacifiCorp-California Independent System Operator participating generator agreement to purchaser.

Comment date: November 6, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Calpine Corporation; Dighton Power Associates L.P.; Rumford Power Associates L.P.; Tiverton Power Associates L.P.

[Docket No. EC01–10–000]

Take notice that on October 23, 2000, Calpine Corporation (Calpine), Dighton Power Associates L.P. (Dighton), Rumford Power Associates L.P. (Rumford), and Tiverton Power Associates L.P. (Tiverton) (jointly, Applicants) submitted for filing an application under section 203 of the Federal Power Act for authorization for the transfer of certain general and limited partnership interests in Dighton, Rumford, and Tiverton from affiliates of Energy Management, Inc. to Calpine or its affiliates.

Comment date: November 13, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Commonwealth Edison Company

[Docket No. ER01–220–000]

Take notice that on October 25, 2000, Commonwealth Edison Company (ComEd), tendered for filing an unexecuted Short-Term Firm Transmission Service Agreement with LG&E Energy Marketing Inc. (LGE) under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of October 1, 2000, for the agreement with LGE, and accordingly, seeks waiver of the Commission's notice requirements.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Alliant Energy Corporate Services Inc.

[Docket No. ER01–222–000]

Take notice that on October 25, 2000, Alliant Energy Corporate Services Inc. (ALTM), tendered for filing a signed Service Agreement under ALTM's Market Based Wholesale Power Sales Tariff (MR–1) between itself and Dynegy Power Marketing, Inc. (DYPM).

ALTM respectfully requests a waiver of the Commission's notice requirements, and an effective date of October 24, 2000.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER00–3788–000]

Take notice that on October 25, 2000, Commonwealth Edison Company (ComEd), tendered for filing revisions to the Network Service Agreements filed with the Commission on September 29, 2000 in the above-referenced docket.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Central Illinois Light Company

[Docket No. ER00–3386–001]

Take notice that on October 25, 2000, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, made a compliance filing with the Commission concerning an Interconnection Agreement with Bio-Energy Partners for Generation Interconnection and Parallel Operation.

Copies of the filing were served on the affected customer and the Illinois Commerce Commission.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Northern States Power Company (Minnesota Company); Northern States Power Company (Wisconsin Company)

[Docket No. ER00–3663–001]

Take notice on October 25, 2000, Xcel Energy Services, Inc., in compliance with FERC Order No. 614, tendered for filing a Short-Term Market-Based Electric Service Agreement between NSP and Madison Gas & Electric Company (Customer).

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Tucson Electric Power Company

[Docket No. ER01–208–000]

Take notice that on October 25, 2000, Tucson Electric Power Company (Tucson), tendered an errata to its October 24, 2000 Revised Open Access Transmission Tariff Filing.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Tampa Electric Company

[Docket No. ER01–217–000]

Take notice that on October 25, 2000, Tampa Electric Company (Tampa Electric) tendered for filing a service agreement with Cargill Fertilizer, Inc. (Cargill Fertilizer) for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff.

Tampa Electric proposes an effective date of October 25, 2000, for the tendered service agreement, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on Cargill Fertilizer and the Florida Public Service Commission.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Corp.

[Docket No. ER01–218–000]

Take notice that on October 25, 2000, Wisconsin Electric Power Corp. tendered for filing with the Federal Energy Regulatory Commission pursuant to Section 35.13 of the Commission's Regulations, 18 CFR 35.13, one revised version of its FERC Electric Tariff Second Revised Volume No. 2 and five new service schedules (Schedules F,G, H, I, and J) pursuant to which Wisconsin Electric Power Corp., will offer five new power services at ''up to'' cost-based rates. The new services offered will be Dynamic Regulation and Frequency Response Service, Energy Imbalance Service, Dynamic Capacity and Energy Service, Spinning Reserve Service, and Supplemental Reserve Service. The services will be ''off-system'' versions of the services currently available to Wisconsin Electric Power Co.'s customers under Wisconsin Energy Corporation Operating Companies' open access transmission tariff, FERC Electric Tariff First Revised Volume No. 1.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Mexico

[Docket No. ER01–221–000]

Take notice that on October 25, 2000, Public Service Company of New Mexico (PNM), tendered for filing an executed Transaction Confirmation Agreement (dated October 13, 2000) under Service Schedule B to the Western Systems Power Pool (WSPP) Agreement, defining services to be provided between PNM and Utah Associated Municipal Power Systems (UAMPS). The Transaction Confirmation Agreement is filed pursuant to WSPP requirements to file any agreement more than one year in duration, and PNM is requesting an effective date of October 1, 2000. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to UAMPS, to the general counsel of WSPP, and to the New Mexico Public Regulation Commission.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Reliant Energy Shelby County, LP

[Docket No. ER01–223–000]

Take notice that on October 25, 2000, Reliant Energy Shelby County, LP (Reliant Shelby County), tendered for filing a Master Commodity Sale Agreement between Reliant Energy Services, Inc. (RES) as agent for Reliant Shelby County and Wisconsin Electric Power Company (WEPCO) establishing WEPCO as a customer under Reliant Shelby County's market-based rate tariff.

Reliant Shelby County requests an effective date of October 2, 2000 for the service agreement.

Reliant Shelby County states that a copy of the filing was served on WEPCO.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Duquesne Light Company

[Docket No. ER01–224–000]

Take notice that on October 25, 2000, Duquesne Light Company (DLC), tendered a Service Agreement dated October 24, 2000 with The Detroit Edison Company under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds The Detroit Edison Company as a customer under the Tariff.

DLC requests an effective date of October 24, 2000 for the Service Agreement.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Duquesne Light Company

[Docket No. ER01–225–000]

Take notice that on October 25, 2000, Duquesne Light Company (DLC), tendered a Service Agreement dated October 24, 2000 with The Detroit Edison Company under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds The Detroit Edison Company as a customer under the Tariff.

DLC requests an effective date of October 24, 2000, for the Service Agreement.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. California Independent System Operator Corporation

[Docket No. ER01–226–000]

Take notice that on October 25, 2000, the California Independent System Operator Corporation, tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Energy 2001, Inc., for acceptance by the Commission.

The ISO states that this filing has been served on Energy 2001, Inc., and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective October 11, 2000.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. California Independent System Operator Corporation

[Docket No. ER01–227–000]

Take notice that on October 25, 2000, the California Independent System Operator Corporation, tendered for filing a Participating Generator Agreement between the ISO and Energy 2001, Inc., for acceptance by the Commission.

The ISO states that this filing has been served on Energy 2001, Inc., and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective October 11, 2000.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Consumers Energy Company

[Docket No. ER01–229–000]

Take notice that on October 25, 2000, Consumers Energy Company (Consumers) tendered for filing executed Firm and Non-Firm Point to Point Transmission Service Agreements with Nordic Marketing, LLC (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The agreements have effective dates of September 26, 2000.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customer.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Consumers Energy Company

[Docket No. ER01–235–000]

Take notice that on October 25, 2000, Consumers Energy Company (Consumers), tendered for filing executed Firm and Non-Firm Point to Point Transmission Service Agreements with Wisconsin Electric Power Company (Customer) pursuant to the Joint Open Access Transmission Service Tariff filed on December 31, 1996 by Consumers and The Detroit Edison Company (Detroit Edison).

The agreements have effective dates of October 23, 2000.

Copies of the filed agreement were served upon the Michigan Public Service Commission, Detroit Edison, and the Customer.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/ online/rims.htm* (call 202–208–2222 for assistance). Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web

site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–28597 Filed 11–07–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES01–7–000, et al.]

NorthWestern Corporation, et al. Electric Rate and Corporate Regulation Filings

November 1, 2000

Take notice that the following filings have been made with the Commission:

1. NorthWestern Corporation

[Docket No. ES01–7–000]

Take notice that on October 25, 2000, NorthWestern Corporation submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue short-term debt with maturities of one year or less, including commercial paper, in an amount not to exceed $500 million at any one time.

NorthWestern Corporation also requests a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Dominion Resources, Inc. and Consolidated Natural Gas Company

[Docket Nos. EC99–81–004 and MG00–6–004]

Take notice that on October 27, 2000, Dominion Resources, Inc. and Consolidated Natural Gas Company filed a response to an October 17, 2000, Commission data request that was issued by Commission staff under delegated authority.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. Lee Power Partners, L.L.C.

[Docket No. EG01–12–000]

Take notice that on October 27, 2000, Lee Power Partners, L.L.C. (Applicant) filed with the Federal Energy Regulatory Commission an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's Regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended.

Applicant is a Delaware limited liability company and is owned by an indirect subsidiary of GPU, Inc. and an indirect subsidiary of El Paso Energy Corporation. Applicant is developing a combined cycle gas-fueled generating plant with a nominal 715 MW net capacity in Lee County, Mississippi, near the city of Saltillo (the Facility) and will make sales of electric energy and capacity at wholesale from that Facility. Applicant's business offices are located at 1100 Louisiana Street, Houston, TX 77002.

Copies of the application have been served upon the Mississippi Public Service Commission, the New Jersey Board of Public Utilities, the Pennsylvania Public Utility Commission, and the Securities and Exchange Commission.

Comment date: November 22, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. MEP Flora Power, L.L.C.

[Docket No. EG01–13–000]

Take notice that on October 30, 2000, MEP Flora Power, L.L.C., an indirect wholly owned subsidiary of UtiliCorp United Inc., tendered for filing an Application for Determination of Exempt Wholesale Generator Status.

Comment date: November 22, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Duke Energy Washoe, L.L.C.

[Docket No. ER01–241–000]

Take notice that on October 26, 2000, Duke Energy Washoe, L.L.C. (Duke Washoe), tendered for filing pursuant to Section 205 of the Federal Power Act its proposed FERC Electric Tariff No. 1. Duke Washoe seeks authority to sell energy and capacity, as well as ancillary services, at market-based rates, together with certain waivers and preapprovals. Duke Washoe also seeks authority to sell, assign, or transfer transmission rights that it may acquire in the course of its marketing activities.

Duke Washoe seeks an effective date sixty (60) days from the date of filing for its proposed rate schedules.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Southwest Power Pool, Inc.

[Docket No. ER01–242–000]

Take notice that on October 27, 2000, Southwest Power Pool, Inc. (SPP), on behalf of its members, tendered for filing on behalf of its members, submits revised pages to the currently effective version of its tariff (SPP Tariff) intended to reflect a name change from Central & South West Corporation, Inc. (Public Service Company of Oklahoma and Southwestern Electric Power Company) or Central & South West Services to Public Service Company and Southwestern Electric Power Company, Subsidiaries of American Electric Power, Inc. (AEP West), as well as a decrease in the rates, the revenue requirement, and the loss factor for service associated with AEP West. In addition, SPP has submitted the revisions to its Tariff required by Order No. 614.

SPP seeks an effective date of November 1, 2000, for these changes.

Copies of this filing have been served on all affected state commissions, SPP customers, and SPP members.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Rayburn Country Electric Cooperative, Inc.

[Docket No. ER01–243–000]

Take notice that on October 27, 2000, Rayburn Country Electric Cooperative, Inc. (Rayburn Electric), tendered for filing proposed changes in its FERC Electric Service Tariff, Rate Schedule WP–2, Sheet No. 11, that would allow Rayburn Electric to retain margin adjustment refund amounts owed to its Members and use those amounts to offset future increases in the cost of purchased power to its Members.

Rayburn Electric proposes this change to mitigate the rate increase which will occur as a result of Rayburn Electric's obligations under a new purchased power agreement.

Copies of the filing were served upon Rayburn Electric's Members (as reflected on Attachment C of the filing).

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. PJM Interconnection, L.L.C.

[Docket No. ER01–244–000]

Take notice that on October 27, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing amendments to the PJM Open Access Transmission Tariff (PJM Tariff) to include in the PJM Tariff the Small Resource Interconnection Procedure Manual which contains expedited procedures pursuant to Section 36.12 of the PJM Tariff for the interconnection of generation resources less than 10 megawatts, and requested cancellation of pages to the PJM Tariff and the Amended and Restated

Operating Agreement of PJM Interconnection, L.L.C., setting forth the Customer Load Reduction Pilot Program that terminated pursuant to PJM Interconnection, Inc., 92 FERC ¶ 61,059 (2000) on September 30, 2000.

PJM requests an effective date of December 27, for the amendments and the cancellation.

Copies of this filing were served upon all members of PJM and each state electric utility regulatory commission in the PJM control area.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Rockingham Power, L.L.C.

[Docket No. ER01–245–000]

Take notice that on October 27, 2000, Rockingham Power, L.L.C. (Rockingham), tendered for filing a proposed tariff for Emergency Redispatch Service. The tariff sets forth the compensation for the dispatch of the Rockingham generating facility by Duke Energy Corp., during emergencies.

Rockingham requests that the notice requirements set forth in Rule 35.3(a) be waived to the extent required to allow the tariff to become effective as of October 28, 2000.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Green Mountain Power Corporation

[Docket No. ER00–246–000]

Take notice that on October 27, 2000, Green Mountain Power Corporation (GMP), tendered a for filing a notice of cancellation and a service agreement for Burlington Electric Department to take service under its Firm Point-to-Point Transmission Service tariff.

Copies of this filing have been served on each of the affected parties, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Virginia Electric and Power Company

[Docket No. ER01–247–000]

Take notice that on October 27, 2000, Virginia Electric and Power Company (Virginia Power or Company), tendered for filing proposed Attachment N to its Open Access Transmission Tariff that prescribes the procedures that Virginia Power will employ with respect to requests to interconnect new generators within the Virginia Power transmission system or to increase the capacity of generators that are already interconnected with the System.

Virginia Power requests that the Commission waive its notice requirements to allow the preceding to become effective on October 27, 2000.

Copies of the filing were served upon Virginia Power's jurisdictional customers and the Virginia State Corporation Commission.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Wisconsin Public Service Corporation

[Docket No. ER01–248–000]

Take notice that on October 27, 2000, the Wisconsin Public Service Corporation (WPSC), tendered for filing Supplement No. 14 to its partial requirements service agreement with Manitowoc Public Utilities (MPU). Supplement No. 14 provides MPU's contract demand nominations for January 2001—December 2005, under WPSC's W–2A partial requirements tariff and MPU's applicable service agreement.

The company states that copies of this filing have been served upon MPU and to the State Commissions where WPSC serves at retail.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Citizens Communications Company

[Docket No. ER01–249–000]

Take notice that on October 27, 2000, Citizens Communications Company, tendered for filing an Agreement to sell to Select Energy, Inc. a portion of its energy entitlement pursuant to the Firm Energy Contract between NEPOOL Phase II Participants and HydroQuebec, dated October 4, 1984.

A copy of this filing was served on Select Energy, Inc. In addition, a copy of the rate schedule is available for inspection at the offices of Citizens' Vermont Electric Division during regular business hours.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Calpine Power Services Company, Calpine Energy Services, L.P.

[Docket No. ER01–250–000]

Take notice that on October 27, 2000, Calpine Power Services Company (CPSC) and Calpine Energy Services, L.P. (CES), tendered for filing a request that the applicable rate schedule be amended to reflect the assignment of CPSC's membership in the WSPP to its affiliate, CES. Such assignment is allowed under Section 14 of the WSPP Agreement.

CPSC and CES state that a copy of this filing was served upon the General Counsel of the WSPP.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Engage Energy America Corp.

[Docket No. ER01–251–000]

Take notice that on October 27, 2000, Engage Energy America Corp. submitted a Notice of Succession pursuant to 18 CFR 35.16 and 131.51 of the Commission's regulations. Westcoast Gas Services Delaware (America) Inc. (WGSI Delaware) has changed its name to Engage Energy America Corp. and effective September 27, 2000, succeeded to WGSI Delaware's Rate Schedule FERC No. 1, Market-Based Rate Schedule filed in Docket No. ER00–3315–000, which was effective September 1, 2000.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Edison Sault Electric Company

[Docket No. ER01–252–000]

Take notice that on October 27, 2000, Edison Sault Electric Company (Edison Sault), tendered for filing a Certificate of Concurrence assenting to and concurring in a Joint Operating Agreement between Wisconsin Electric Power Company (Wisconsin Electric), and Edison Sault. The Joint Operating Agreement was filed by Wisconsin Electric on October 27, 2000. The purpose of the Joint Operating Agreement is to allow Wisconsin Electric and Edison Sault to coordinate their electricity supply activities, and to authorize Wisconsin Electric to serve as Edison Sault's agent with respect to the provision of certain electricity supply services.

Copies of this filing were served upon Cloverland Electric Cooperative, the Michigan Public Service Commission, and the Wisconsin Public Service Commission.

Comment date: November 17, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/ online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–28595 Filed 11–07–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–10–000, et al.]

Puget Sound Energy Inc., et al. Electric Rate and Corporate Regulation Filings

October 31, 2000.

Take notice that the following filings have been made with the Commission:

[Docket No. EL01–10–000]

1. Puget Sound Energy, Inc.

Take notice that on October 26, 2000, Puget Sound Energy, Inc. (PSE), tendered for filing a Complaint against all jurisdictional sellers of energy and/or capacity at wholesale into electric energy and/or capacity markets in the Pacific Northwest, including parties to the Western Systems Power Pool Agreement (the WSPP Agreement).

In its Complaint, PSE petitions the Commission for an order capping the prices at which sellers subject to Commission jurisdiction, including sellers of energy or capacity under the WSPP Agreement, may sell capacity or energy into the Pacific Northwest's wholesale power markets. Specifically, PSE seeks an order that caps the prices for wholesale sales of energy or capacity into the Pacific Northwest at a level equal to the lowest cap on prices established, ordered, or permitted by the Commission for wholesale purchases in or wholesale sales of energy or capacity to or though markets operated by the California Independent System Operator Corporation or the California Power Exchange Corporation.

The Complaint seeks a refund effective date, to the extent any refund is called for, of sixty days after the filing of the Complaint.

Copies of this filing were served upon parties to the WSPP, and transmitted electronically to the WSPP for posting on its website (*www.wspp.org*) and for electronic distribution to all parties to the WSPP Agreement.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice. Answers to the Complaint shall also be filed on or before November 16, 2000.

2. Madison Windpower, LLC

[Docket No. EG01–11–000]

Take notice that on October 25, 2000, Madison Windpower, LLC (Madison), tendered for filing information with respect to a change in facts relative to its status as an exempt wholesale generator and a demonstration that such change does not affect such status pursuant to Section 32(a) of the Public Utility Holding Company Act of 1935, as amended and Section 365.8 of the Commission's regulations.

Comment date: November 21, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. UtiliCorp United Inc.

[Docket No. ES01–4–001]

Take notice that on October 18, 2000, UtiliCorp United Inc. submitted an amendment to its application seeking a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: November 7, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER01–233–000]

Take notice that on October 26, 2000, Cinergy Services, Inc. (Cinergy) and Continental Energy Services tendered for filing a request for cancellation of Service Agreement No. 204, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of October 13, 2000.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Solar Turbines Incorporated

[Docket No. ER00–3400–001]

Take notice that on October 26, 2000, Solar Turbines Incorporated (Solar), tendered for filing with the Commission a Compliance filing intended to comply with the Commission's September 26, 2000 Order. That Order required Solar to file the appropriate Tariff sheets containing designations in accordance with Order 614, within thirty (30) days.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Arizona Public Service Company

[Docket No. ER01–31–001]

Take notice that on October 26, 2000, the Arizona Public Service Company tendered for filing proposed revisions to Arizona Public Service Company's fuel adjustment clause.

A copy of this filing has been served the all parties on the service list.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. PJM Interconnection, L.L.C.

[Docket No. ER01–240–000]

Take notice that on October 26, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing the following executed agreements: (i) An umbrella service agreement for network integration transmission service under state required retail access programs for Sempra Energy Solutions (Sempra), (ii) an umbrella service agreement for short-term firm point-to-point transmission service for The New Power Company (New Power), (iii) an umbrella service agreement for non-firm point-to-point transmission service for New Power, and (iv) an umbrella service agreement for network integration transmission service under state required retail access programs for New Power.

Copies of this filing were served upon Sempra, New Power, and the state commissions within the PJM control area.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas City Power & Light Company Docket No.

[Docket No. ER01–239–000]

Take notice that on October 26, 2000, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreements dated October 20, 2000 by KCPL. KCPL proposes an effective date of January 1, 2000. This Agreement provides for the rates and charges for Firm Transmission Service by KCPL for wholesale transactions.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888–A in Docket No. OA97–636–000.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Northwest Regional Transmission Association

[Docket No. ER01–238–000]

Take notice that on October 26, 2000, the Northwest Regional Transmission Association (NRTA), tendered for filing a First Revised Sheet No. 53 (superseding Original Sheet No. 53) of the Governing Agreement of the Northwest Regional Transmission Association (NRTA). This filing revises NRTA's filing of August 23, 2000 under Docket No. ER99–4508–001, by which NRTA submitted its entire Governing Agreement (including an index of customers) as ''Northwest Regional Transmission Organization First Revised Electric Rate Schedule FERC No.1'' in compliance with Order No. 614, Docket No. RM99–12–000, 90 FERC ¶ 61,352, issued March 31, 2000. The reason for filing the revised sheet is that the identification of one of NRTA's members, Citizens Power LLC, has changed because Citizens Power LLC was acquired by and merged into Edison Mission Marketing & Trading, Inc. effective as of September 1, 2000.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Entergy Services, Inc.

[Docket No. ER01–237–000]

Take notice that on October 25, 2000, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., tendered for filing the Seventh Amendment to the Power Coordination, Interchange and Transmission Service Agreement (PCITA) between Entergy Arkansas, Inc. and the City of Conway, dated October 12, 2000. The Amendment to the PCITA modifies Exhibit A to the PCITA by establishing a new point of delivery.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Arizona Public Service Company

[Docket No. ER01–234–000]

Take notice that on October 26, 2000, Arizona Public Service Company (APS), tendered for filing umbrella Service Agreements to provide Short-Term Firm and Non-Firm Point-to-Point Transmission Service to Conectiv Energy Supply, Inc., under APS' Open Access Transmission Tariff.

A copy of this filing has been served on Conectiv Energy Supply, Inc., and the Arizona Corporation Commission.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER01–231–000]

Take notice that on October 24, 2000, Cinergy Services, Inc. (Cinergy) and Illinova Energy Partners, Inc., tendered for filing a request for cancellation of Service Agreements No. 207, under Cinergy Operating Companies, Market-Based Power Sales Tariff—MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of October 13, 2000.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER01–230–000]

Take notice that on October 26, 2000, Cinergy Services, Inc. (Cinergy) and Montaup Electric Company tendered for filing a request for cancellation of Service Agreements No. 44, under Cinergy Operating Companies, Market-Based Power Sales Tariff—MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of October 13, 2000.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER01–232–000]

Take notice that on October 26, 2000, Cinergy Services, Inc. (Cinergy) and Montaup Electric Company tendered for filing a request for Cancellation of Service Agreement No. 44, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of October 13, 2000.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Central Maine Power Company

[Docket No. ER01–228–000]

Take notice that on October 25, 2000, Central Maine Power Company (CMP), tendered for filing as an initial rate schedule pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (the Commission) regulations, 18 CFR 35.12 an executed interconnection agreement between CMP and S.D. Warren Company.

The executed interconnection agreement is intended to replace and supersede the unexecuted interconnection agreement filed by CMP on March 30, 2000.

As such, CMP is requesting that the executed interconnection agreement become effective March 1, 2000.

Copies of this filing have been served upon the Commission, the Maine Public Utilities Commission, and S.D. Warren Company.

Comment date: November 16, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. Florida Power & Light Company

[Docket No. ER93–465–028

Take notice that on October 25, 2000, Florida Power & Light Company (FPL), tendered for filing a refund report in the above-captioned dockets.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER00–2854–000]

Take notice that on October 25, 2000, Entergy Services, Inc., tendered for filing revisions to its Amendment to the System Agreement filed with the Commission on June 15, 2000 in the above-referenced docket.

Comment date: November 15, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at *http://www.ferc.fed.us/ online/rims.htm* (call 202–208–2222 for assistance).

Beginning November 1, 2000, comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 00–28596 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene and Protests

November 2, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of license.

b. *Project No.:* 2232–413.

c. *Dated Filed:* October 3, 2000.

d. *Applicant:* Duke Energy Corporation.

e. *Name of Project:* Catawba-Wateree Project.

f. *Location:* In the Beaver Dam Creek area of Lake Wylie, on the Catawba River, in Lancaster, York, and Fairfield Counties, South Carolina and Gaston, Lincoln, and Burke Counties, North Carolina. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Mr. Joe Hall, Duke Power, P.O. Box 1006, Charlotte, NC 28201–1006, (704) 382–8576.

i. *FERC Contact:* Michael Spencer, michael.spencer@FERC.fed.us, (202) 219–2846.

j. *Deadline for filing comments, motions to intervene and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The licensee requests an amendment to its license to: (1) Grant an easement to the City of York for a parcel of project land containing a total of 0.52 acres for construction of a raw water intake and a 360-foot-long, 28-inch-diameter pipeline; and (2) grant an easement to the City of York for a 6 million gallons per day maximum water withdrawal rate through the facility.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20246, or by calling (202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

m. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–28630 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

November 2, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application:* Amendment of License.

b. *Project No.:* 6641–038.

c. *Date Filed:* July 21, 2000.

d. *Applicant:* City of Marion, Kentucky, and Smithland Hydroelectric Partners.

e. *Name of Project:* Smithland.

f. *Location:* The project is located on the Ohio River in Livingston County, Kentucky, at the U.S. Army Corps of Engineers' Smithland Lock and Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* City of Marion, Kentucky, and Smithland Hydroelectric Partners, 120 Calumet Ct., Aiken, SC 29803, (803) 642–2749.

i. *FERC Contact:* Any questions on this notice should be addressed to Dave Snyder at (202) 219–2385.

j. *Deadline for filing comments and/or motions:* December 8, 2000.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the Project Number (6641–038) on any comments or motions filed.

k. *Description of Filing:* Pursuant to § 4.200(c) and § 4.202(a) of the Commission's Rules of Practice and Procedure (18 CFR), the City of Marion, Kentucky, and Smithland Hydroelectric Partners, request, among other things, an extension of time until June 2005 to complete construction of the Smithland Project.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222

for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–28631 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

November 2, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application:* Amendment of License.

b. *Project No.:* 10228–015.

c. *Date Filed:* July 21, 2000.

d. *Applicant:* Cannelton Hydroelectric Project, L.P.

e. *Name of Project:* Cannelton.

f. *Location:* The project is located on the Ohio River in Hancock County, Kentucky, at the U.S. Army Corps of Engineers' Cannelton Locks and Dam.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Cannelton Hydroelectric Project, L.P., 120 Calumet Ct., Aiken, SC 29803, (803) 642–2749.

i. *FERC Contact:* Any questions on this notice should be addressed to Dave Snyder at (202) 219–2385.

j. *Deadline for filing comments and/or motions:* December 8, 2000. All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Please include the Project Number (10228–015) on any comments or motions filed.

k. *Description of Filing:* Pursuant to § 4.200(c) and § 4.202(a) of the Commission's Rules of Practice and Procedure (18 CFR), Cannelton Hydroelectric Project, L.P., requests, among other things, an extension of time until December 2005 to complete construction of the Cannelton Project.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 00–28632 Filed 11–7–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Rates for the Central Valley and California-Oregon Transmission Projects

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Rates.

SUMMARY: The Western Area Power Administration (Western) is proposing new rates for Central Valley Project (CVP) firm power, power scheduling, scheduling coordinator, transmission, California-Oregon Transmission Project (COTP) transmission, and CVP ancillary services. The current rates expire September 30, 2002. The current power rates are insufficient due to significant increases in the prices of energy in the California electric markets. Proposing new rates for all the services listed above extends the rates for these services through the end of the current CVP Power Marketing Plan.

A rate increase will provide sufficient revenue to repay all annual costs, including interest expense, and repay required investment within the allowable period. Rate impacts are detailed in a rate brochure to be provided to all interested parties. The proposed new rates are scheduled to go into effect on April 1, 2001, and will remain in effect through December 31, 2004, which is the end of the current CVP Power Marketing Plan. This **Federal Register** notice initiates the public process to replace the existing approved rates that expire September 30, 2002.

Western previously proposed rates that were published in the **Federal Register**, March 3, 2000. The publication of this **Federal Register** notice rescinds those proposed rates. Western will disregard all public input associated with the rescinded proposed rates.

DATES: The consultation and comment period will begin November 8, 2000 and will end December 29, 2000. Western will present a detailed explanation of these new proposed rates at a public information forum scheduled for November 17, 2000, beginning at 1 p.m. Pacific Standard Time (PST), at the Sierra Nevada Regional Office. Western will receive oral and written comments at a public comment forum scheduled for December 13, 2000, beginning at 1 p.m. PST, at the Sierra Nevada Regional Office. Western must receive all comments by the end of the consultation and comment period to assure consideration of the comments.

ADDRESSES: Send written comments to Mr. Jerry W. Toenyes, Regional Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, e-mail toenyes@wapa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Dietz, Rates Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4453, e-mail ddietz@wapa.gov.

SUPPLEMENTARY INFORMATION: With the publication of this notice Western is withdrawing the previously proposed rates published on March 3, 2000 (65 FR 11569). Due to significant unexpected increases in the prices of energy in the California electric markets, the rates proposed in the March 3, 2000, **Federal Register** notice would be insufficient to recover the project costs. Therefore, Western rescinds those proposed rates and will disregard all public input associated with the rescinded proposed rates.

This **Federal Register** notice will initiate the public process to replace the existing approved rates that expire September 30, 2002. The proposed new rates for CVP firm power are designed to recover an annual revenue requirement that includes the investment repayment, interest, purchase power costs, transmission, operation and maintenance expense, and any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule approved by the Federal Energy Regulatory Commission (FERC). A cost-of-service study allocates the projected annual revenue requirement for firm power between capacity and energy.

The capacity revenue requirement includes: (i) 100 percent of capacity purchase costs; (ii) 50 percent of the investment repayment; (iii) 50 percent of the interest expense; (iv) 50 percent of the operation and maintenance expense allocated to power; and (v) 100 percent of CVP and COTP transmission expense. Projected CVP and COTP transmission revenue and 50 percent of projected CVP project use revenue reduce the annual costs that determine the capacity revenue requirement.

The energy revenue requirement includes: (i) 100 percent of energy purchase costs; (ii) 50 percent of the investment repayment; (iii) 50 percent of the interest expense; and (iv) 50 percent of the operation and maintenance expense allocated to power. Projected surplus power revenue and 50 percent of projected CVP project use revenue reduce annual costs to determine the energy revenue requirement.

The resulting capacity/energy revenue requirement split varies from 30 percent allocated to capacity from April 1, 2001, through September 30, 2001, to 15 percent allocated to capacity from October 1, 2004, through December 31, 2004. The average capacity/energy revenue requirement split for the rate period is 22 percent to capacity and 78 percent to energy. The variation in the capacity/energy revenue requirement split is due to fluctuations in energy purchase costs and seasonal CVP hydro generation.

Western also developed new proposed rates for CVP firm power with the transmission revenue requirement removed from the firm power revenue requirement. These rates would apply if Western joins the California Independent System Operator (CAISO) and if the CAISO uses the transmission revenue requirement to develop a regional transmission rate. Western has not made a decision on joining the CAISO. The decision to join the CAISO is not part of this rate adjustment public process. These new proposed power rates with the transmission revenue requirement removed are designed to recover an annual revenue requirement that includes investment repayment, interest, purchase power, operation and maintenance expense, and any charges or credits associated with the creation, termination, or modification to any tariff, contract, or schedule approved by FERC.

A cost-of-service study allocates projected annual revenue requirement for firm power between capacity and energy. The capacity revenue requirement includes: (i) 100 percent of capacity purchase costs; (ii) 50 percent of the investment repayment; (iii) 50 percent of the interest expense; and (iv) 50 percent of the operation and maintenance expense allocated to power.

Fifty percent of the projected CVP project use revenue reduces the annual cost to determine the capacity revenue requirement. The energy revenue requirement includes: (i) 100 percent of energy purchase costs; (ii) 50 percent of the investment repayment; (iii) 50 percent of the interest expense; and (iv) 50 percent of the operation and maintenance expense allocated to power. Projected surplus power revenue and 50 percent of the projected CVP project use revenue reduce the annual cost to determine the energy revenue requirement.

The resulting capacity/energy revenue requirement split varies from 24 percent allocated to capacity from April 1, 2001, through September 30, 2001, to 11 percent allocated to capacity from October 1, 2004, through December 31, 2004. The average capacity/energy revenue requirement split for the rate period is 17 percent to capacity and 83 percent to energy. The variation in the

capacity/energy revenue requirement split is due to fluctuations in energy purchase costs and seasonal CVP hydro generation.

For both sets of firm power rates described above, Western will pass through to its customers any additional costs or credits that may be charged or credited to Western as the result of the creation, termination, or modification of any tariff, contract, schedule or other documents approved by FERC. When possible, Western will pass through directly to each customer FERC approved costs or credits in the same manner Western receives these costs or credits. If the FERC approved costs or credits are charged to Western in such a way that a direct pass through to each customer is not possible, Western will distribute the FERC approved costs or credits to each customer in a manner consistent with the rate design used in developing the proposed rates.

The new proposed rates for CVP firm power and the applicable revenue requirement split between capacity and energy are in Table 1.

TABLE 1.—PROPOSED FIRM POWER RATES

Effective period	Total composite mills/kWh	Capacity $/kWmonth	Energy mills/kWh	Capacity/energy split
04/01/01 to 09/30/01	22.71	3.81	15.99	30/70
10/01/01 to 09/30/02	26.16	3.34	20.64	21/79
10/01/02 to 09/30/03	26.96	3.48	21.24	21/79
10/01/03 to 09/30/04	26.46	3.41	20.85	21/79
10/01/04 to 12/31/04	29.62	2.96	25.06	15/85

The proposed rates for CVP firm power with the transmission revenue requirement removed and applicable revenue requirement split between capacity and energy are in Table 1A.

TABLE 1A.—PROPOSED FIRM POWER RATES WITH THE TRANSMISSION REVENUE REQUIREMENT REMOVED FROM THE FIRM POWER REVENUE REQUIREMENT

Effective period	Total composite mills/kWh	Capacity $/kWmonth	Energy mills/kWh	Capacity/energy split
04/01/01 to 09/30/01	21.04	2.86	15.99	24/76
10/01/01 to 09/30/02	24.74	2.48	20.64	17/83
10/01/02 to 09/30/03	25.57	2.63	21.24	17/83
10/01/03 to 09/30/04	25.08	2.57	20.85	17/83
10/01/04 to 12/31/04	28.22	2.05	25.06	11/89

The Deputy Secretary of the Department of Energy (DOE), approved the existing Rate Schedule CV–F9 for CVP commercial firm power on September 19, 1997 (Rate Order No. WAPA–77, 62 FR 50924, September 29, 1997). FERC confirmed and approved the rate schedule on January 8, 1998, under FERC Docket No. EF97–5011–000 (82 FERC ¶ 62,006). The existing Rate Schedule CV–F9 became effective on October 1, 1997, for the period ending September 30, 2002. Under Rate Schedule CV–F9, the composite rate on October 1, 2000, is 18.56 mills per kilowatthour (mills/kWh), the base energy rate is 10.51 mills/kWh and the capacity rate is $3.81 per kilowattmonth (kWmonth).

The proposed rates for CVP firm power will result in an overall composite rate increase of approximately 22 percent on April 1, 2001, when compared with the current CVP commercial firm power rates under Rate Schedule CV–F9. Table 2 provides a comparison of the current rates in Rate Schedule CV–F9 and the proposed rates along with the percentage change in the rates.

TABLE 2.—COMPARISON OF CURRENT AND PROPOSED RATES

Effective period	Total composite rate	Percent change	Capacity $/kW month	Percent change	Energy mills/kWh	Percent change
Percentage Change in Firm Power Rates						
Current Rate Schedule						
Existing 10/01/00 to 09/30/01	18.56	.....	3.81	.....	10.51	.....

TABLE 2.—COMPARISON OF CURRENT AND PROPOSED RATES—Continued

Effective period	Total composite rate	Percent change	Capacity $/kW month	Percent change	Energy mills/kWh	Percent change
Proposed Rates						
04/01/01 to 09/30/01	22.71	22	3.81	0	15.99	52
10/01/01 to 09/30/02	26.16	41	3.34	−12	20.64	96
10/01/02 to 09/30/03	26.96	45	3.48	−9	21.24	102
10/01/03 to 09/30/04	26.46	43	3.41	−10	20.85	98
10/01/04 to 12/31/04	29.62	60	2.96	−22	25.06	138

The proposed rates for CVP firm power with the transmission revenue requirement removed will result in an overall composite rate increase of approximately 13 percent on April 1, 2001, when compared with the current CVP commercial firm power rates under Rate Schedule CV–F9. Table 2A provides a comparison of the current rates in Rate Schedule CV–F9 and the proposed rates with the Transmission Revenue Requirement removed along with the percentage change in the rates.

TABLE 2A.—COMPARISON OF CURRENT AND PROPOSED RATES WITH THE TRANSMISSION REVENUE REQUIREMENT REMOVED [1]

Effective period	Total composite rate	Percent change	Capacity $/kW month	Percent change	Energy mills/kWh	Percent change
Percentage Change in Firm Power Rates						
Current Rate Schedule						
Existing 10/01/00 to 09/30/01	18.56	.....	3.81	.....	10.51	.....
Proposed Rates With the Transmission Revenue Requirement Removed						
04/01/01 to 09/30/01	21.04	13	2.86	−25	15.99	52
10/01/01 to 09/30/02	24.74	33	2.48	−35	20.64	96
10/01/02 to 09/30/03	25.57	38	2.63	−31	21.24	102
10/01/03 to 09/30/04	25.08	35	2.57	−33	20.85	98
10/01/04 to 12/31/04	28.22	52	2.05	−46	25.06	138

[1] These rates do not include the cost of transmission; therefore, the customer is required to buy transmission at an additional cost.

Adjustment Clauses Associated With the Proposed Rates for CVP Firm Power

Power Factor Adjustment

This provision in Rate Schedule CV–F9 will remain the same under the proposed rates for CVP firm power.

Low Voltage Loss Adjustment

This provision in Rate Schedule CV–F9 will remain the same under the proposed rates for CVP firm power.

Revenue Adjustment

The Revenue Adjustment Clause (RAC) provides for a comparison between the projected net revenues in the rate adjustment power repayment study to the actual net revenues. If the actual net revenue is more than the projected net revenue, CVP preference customers receive a credit. If actual net revenue is less than the projected net revenue, CVP preference customers may pay a surcharge, if needed, to make a minimum investment payment. The limit for the RAC credit or surcharge is $20 million, plus any purchase power contract adjustments during the fiscal year (FY) for which the RAC is being calculated.

The RAC is calculated annually and the associated distribution of the RAC credit or surcharge occurs during a 9-month period on power bills issued January through September. For customers whose RAC credits cannot be fully credited through nine equal monthly amounts, Western has the option to increase the RAC credit during August and September. The FY 2001 RAC calculation will be based on the net revenue for FY 2001, including revenues and expenses for October 2000 to March 2001, which is outside of the rate adjustment period. A RAC will be calculated for October through December 2004. The maximum RAC credit or surcharge for October through December 2004 is $10 million plus purchase power contract adjustments applied to the April to September 2005 bills.

Proposed Rate for Power Scheduling Service

The proposed rate for power scheduling service is $76.65 per hour and is based on costs incurred to provide the service. Power scheduling service provides for scheduling resources to meet load and reserve requirements.

Proposed Rate for Scheduling Coordinator Service

The proposed rate for scheduling coordinator service is $76.65 per hour and is based on costs incurred to provide the service. Scheduling coordinator service provides scheduling, real-time dispatching, and financial settlements with the CAISO and/or power exchanges.

Proposed Formula Rate for CVP Transmission

The proposed formula rate for firm CVP transmission includes two components:

Component 1: Transmission revenue requirement/(CVP capacity + total transmission capacity under long-term contracts). Component 1 is the ratio of Western's transmission revenue requirement to the sum of the maximum operating capacity of the Northern CVP power plants under normal operating conditions (CVP capacity) and the total transmission capacity under long-term contracts between Western and other parties. Northern CVP power plants are J.F. Carr, Folsom, Keswick, Nimbus, Shasta, Spring Creek, and Trinity.

Component 2: Pass through of any transmission-related costs or credits incurred by Western due to electric industry restructuring or other changes in the industry. The costs or credits in component 2, as well as any changes to these costs or credits, will be passed through to each appropriate transmission customer.

Western will revise the rate from component 1 based on updated data as of April 30 of each year. Western will also revise the rate from component 1 if there is a change in component 1 of the CVP firm transmission rate of at least $.05 per kWmonth. The estimated rate resulting from the proposed formula rate for firm CVP transmission for April to September 2001 is $0.70 per kWmonth, a 37-percent increase from the existing rate of $0.51 per kWmonth, under Rate Schedule CV–FT3. Based on a contract agreement to provide transmission service in the future, the estimated rate resulting from the proposed formula rate for firm CVP transmission for FY 2002 is $.56 per kWmonth, a 10-percent increase from the existing rate of $.51 per kWmonth.

The estimated rate resulting from the proposed formula rate for nonfirm CVP transmission service for April to September 2001 is 1.00 mill/kWh. The proposed formula rate for nonfirm CVP transmission is based on the same two components used in the proposed formula rate for firm CVP transmission. A revision to the nonfirm rate resulting from component 1 will occur whenever component 1 of the firm transmission rate is revised. If the rates from the proposed formula rate are higher than other transmission rates in California, firm or nonfirm transmission service for 1 year or less may be sold at lower rates.

The proposed formula rate for CVP transmission service is based on a revenue requirement that recovers: (i) The costs for facilities that support the transfer capability of the CVP transmission system (excluding generation facilities and radial lines); (ii) the nonfacilities costs allocated to transmission; and (iii) any transmission-related costs or credits incurred by Western due to electric industry restructuring or other changes in the industry. The proposed formula rate includes Western's cost for scheduling, system control and dispatch service, and reactive supply and voltage control service associated with the transmission service. The proposed formula rate is applicable to existing CVP firm transmission service and future point-to-point transmission service.

Proposed Rate for Transmission of CVP Power by Others

Western will pass through transmission service costs or credits it incurs for delivering CVP power over a third party's transmission system to the requesting CVP customer. Rates under this schedule will be automatically adjusted as third party transmission costs or credits are adjusted.

Proposed Formula Rate for Network Integration Transmission

If Western offers network integration transmission service, it will be consistent with FERC Order No. 888. The proposed formula rate is the product of the network customer's load ratio share times one-twelfth of the annual network integration transmission revenue requirement. The load ratio share is the network customer's hourly load coincident with Western's monthly CVP transmission system peak minus the coincident peak for all firm CVP (including reserved capacity) point-to-point transmission service, plus the reserved capacity of all firm point-to-point transmission service customers.

The proposed formula rate for network integration transmission service is based on a revenue requirement that recovers: (i) The costs for facilities that support the transfer capability of the CVP transmission system (excluding generation facilities and radial lines); (ii) the nonfacilities costs allocated to transmission; and (iii) any transmission-related costs or credits incurred by Western due to electric industry restructuring or other changes in the industry. The proposed formula rate includes Western's cost for scheduling, system control and dispatch service, and reactive supply and voltage control service needed to provide the transmission service.

Proposed Formula Rate for COTP Transmission

The proposed formula rate for COTP transmission includes two components:

Component 1: Transmission Revenue Requirement/Western's share of COTP Seasonal Capacity. Component 1 is the ratio of the transmission revenue requirement to Western's share of COTP seasonal capacity. Western will update the rate resulting from component 1 at least 15 days before the start of each California-Oregon Intertie rating season. Seasonal definitions for summer, winter, and spring are June through October, November through March, and April through May, respectively.

Component 2: Pass through of any transmission-related costs or credits incurred by Western due to electric industry restructuring or other changes in the industry. The costs or credits in component 2, as well as any changes to these costs or credits, will be passed through to each appropriate transmission customer.

The estimated rates resulting from the proposed formula rate for firm COTP transmission service for April 2001 to March 2002 are: Summer—$0.94 per kWmonth, winter—$1.12 per kWmonth, and spring—$1.00 per kWmonth. These rates resulting from the proposed formula rate result in a 30-percent decrease during the summer, a 16-percent decrease during the winter, and a 25-percent decrease during the spring compared to the existing rate of $1.34 per kWmonth.

The proposed formula rate for nonfirm COTP transmission is based on the same two components used in the proposed formula rate for firm COTP transmission. The estimated rates resulting from the proposed formula rate for nonfirm transmission service for April 2001 to March 2002 are: Summer—1.29 mills/kWh, winter—1.54 mills/kWh, and spring—1.37 mills/kWh. These rates for nonfirm COTP transmission service result in an 11-percent decrease during the summer, a 6-percent increase during the winter, and a 5-percent decrease during the spring compared to the existing rate of 1.45 mills/kWh. If the rates from the proposed formula rate are higher than other transmission rates in California, firm or nonfirm transmission service for 1 year or less may be sold at lower rates.

Rates resulting from the proposed formula rate for COTP transmission service are based on a revenue requirement that recovers: (i) Western's share of costs for facilities that support

the transfer capability of the COTP; (ii) Western's share of the nonfacilities costs allocated to transmission; and (iii) any transmission-related costs or credits incurred by Western due to electric industry restructuring or other changes in the industry. The rates resulting from the proposed formula rate include Western's cost for scheduling, system control and dispatch service, and reactive supply and voltage control service associated with transmission service. The proposed formula rate would apply to existing COTP transmission service and future point-to-point transmission service.

Proposed Rates for Ancillary Services

Western will provide ancillary services, subject to availability, at the proposed rates in Table 3. Western designed these proposed rates to recover only the costs it incurs for providing the service(s). If these cost-based rates are higher than other ancillary service rates in California, sales of ancillary services of 1 year or less may be sold at lower rates.

TABLE 3.—PROPOSED RATES FOR ANCILLARY SERVICES

Ancillary service type	Rate
Transmission Scheduling, System Control and Dispatch Service—required to schedule movement of power through, out of, within, or into a control area.	Appropriate transmission rates include Western's cost.
Reactive Supply and Voltage Control Service—reactive power support provided from generation facilities necessary to maintain transmission voltages within acceptable limits of the system.	Appropriate transmission rates include Western's cost.
Regulation and Frequency Response Service—provides generation to match resources and loads on a real-time continuous basis.	Monthly: $2.496 per kWmonth. Weekly: $0.574 per kWweek. Daily: $0.082 per kWday.
Energy Imbalance Service—provied when a difference occurs between the scheduled and actual delivery of energy to a load or from a generation resource within a control area over a single month.	*Within Limits of deviation Band:* Accumulated deviations are to be corrected or eliminated within 30 days. Any net deviations that are accumulated at the end of the month (positive or negative) are to be exchanged with like hours of energy or charged at the composite rate for CVP firm power then in effect.
Hourly Deviation (MW)—net scheduled amount of energy for the hour minus the hourly net metered (actual delivered) amount.	*Outside Limits of Deviation Band:* (i) *Positive Deviations*—the greater of no charge, or any additional cost incurred. (ii) *Negative Deviations*—during on-peak hours, the greater of 3 times the proposed rates for CVP firm power or any additional cost incurred. During off-peak hours, the greater of the proposed rates for CVP firm power or any additional cost incurred.
Spinning Reserve Service—provides capacity available the first 10 minutes to take load and is synchronized with the power system.	Monthly: $2.946 per kWmonth. Weekly: $0.672 per kWweek. Daily: $0.096 per kWday. Hourly: $0.0040 per kWh.
Supplemental Reserve Service—provides capacity not synchronized, but can be available to service loads within 10 minutes.	Monthly: $2.491 per kWmonth. Weekly: $0.574 per kWweek. Daily: $0.082 per kWday. Hourly: $0.0034 per kWh.

Since the proposed rates constitute a major rate adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, Western will hold both a public information forum and a public comment forum. After reviewing public comments, Western will recommend provisional rates for approval on an interim basis by the DOE Deputy Secretary.

These proposed rates for the CVP and COTP are established pursuant to the DOE Organization Act, 42 U.S.C. 7101–7352; the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and other acts that specifically apply to the projects involved.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated: (1) The authority to develop long-term power and transmission rates on a nonexclusive basis to Western's Administrator; and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. Existing DOE procedures for public participation in power rate adjustments (10 CFR part 903) became effective on September 18, 1985 (50 FR 37835).

Availability of Information

All brochures, studies, comments, letters, memoranda, or other documents made or kept by Western for developing the proposed rates are available for inspection and copying at the Sierra Nevada Regional Office, 114 Parkshore Drive, Folsom, California.

Regulatory Procedural Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of a proposed rulemaking. Western has determined that this action does not require a Regulatory Flexibility analysis since it is a rulemaking involving rates or services for public property.

Environmental Compliance

In compliance with the National Environmental Policy Act (NEPA) of

1969, 42 U.S.C. 4321, *et seq.*; Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: October 16, 2000.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 00–28626 Filed 11–07–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Proposed Salt Lake City Area Integrated Projects Firm Power Rate Formula Adder

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed rates.

SUMMARY: The Western Area Power Administration's (Western) Colorado River Storage Project (CRSP) Management Center (MC) is proposing a rate formula adder to the existing rate for firm long-term sales of Salt Lake City Area Integrated Projects (SLCA/IP) power. The SLCA/IP consists of the CRSP, Collbran, and Rio Grande Projects which were integrated for marketing and ratemaking purposes on October 1, 1987. The CRSP described here includes two CRSP participating projects which have power facilities, Dolores and Seedskadee Projects.

In the long term, the existing SLCA/IP composite rate of 17.57 mills/kilowatthour (kWh) is sufficient to pay for all costs including operation, maintenance, replacement, and interest expenses and to repay investment and irrigation assistance obligations within the required period. CRSP MC staff will continue to monitor the long-term firm power rate for the SLCA/IP to determine if a long-term rate adjustment will need to be placed into effect.

The proposed rate formula adder is needed to provide additional revenue in the CRSP Basin Fund, a revolving fund in the United States Treasury, to pay for near-term purchase power costs and to increase the working capital in the CRSP Basin Fund. The proposed rate formula adder scheduled to go into effect on February 1, 2001, will remain in effect until September 30, 2003, or until superseded by another rate adjustment, whichever occurs first. This **Federal Register** notice initiates the formal process for the proposed rate formula adder.

DATES: The consultation and comment period will begin when this **Federal Register** notice is published and will end December 8, 2000. Public information forum and public comment forum meeting dates are scheduled for these locations:

1. Public information forum—November 20, 2000, 10:30 a.m., Salt Lake City, Utah; Public comment forum—November 20, 2000, 2 p.m., Salt Lake City, Utah.

2. Public information forum—November 21, 2001, 10:30 a.m., Phoenix, Arizona; Public comment forum—November 21, 2001, 2 p.m., Phoenix, Arizona.

ADDRESSES: The address for the Salt Lake meetings is at the Sheraton Hotel (formerly the Hilton), 150 West 500 South, Salt Lake City, Utah. The address for the meetings in Phoenix is Western Area Power Administration, Desert Southwest Region, 615 South 43rd Avenue, Phoenix, Arizona. Written comments may be sent to: Mr. Dave Sabo, CRSP Manager, CRSP Management Center, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, e-mail sabo@wapa.gov. Western should receive written comments by the end of the consultation and comment period to be assured they are considered. Oral comments will be received at the public comment meetings.

FOR FURTHER INFORMATION CONTACT: Ms. Carol Loftin, Rates Manager, CRSP Management Center, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147–0606, telephone (801) 524–6380, e-mail loftinc@wapa.gov, or visit CRSP MC's home page at: www.wapa.gov/crsp/crsp.htm.

SUPPLEMENTARY INFORMATION: The existing long-term rate for SLCA/IP firm power is designed to recover an annual revenue requirement based on repaying power investment; paying interest, purchased power, operation, maintenance, and replacement expenses; and repaying irrigation assistance costs, as required by law.

The Deputy Secretary of the Department of Energy (DOE) approved the existing Rate Schedule SLIP–F6 for SLCA/IP firm power on March 23, 1998 (Rate Order No. WAPA–78). The Federal Energy Regulatory Commission (FERC) confirmed and approved the rate schedule on July 17, 1998, in FERC Docket No. EF98–5171–000. The existing Firm Power Rate Schedule expires on March 31, 2003. Under Rate Schedule SLIP–F6, the energy rate is 8.10 mills/kWh, and the capacity rate is $3.44 per kilowattmonth (kWmonth). The composite rate (revenue requirements per kWh usage) is 17.57 mills/kWh.

The proposed rate formula adder is needed to provide additional revenue to fund near-term purchased power costs and to increase the working capital balance in the CRSP Basin Fund. Higher-than-normal purchased power expenses have resulted from lower-than-expected hydrology conditions, higher-than-normal purchase power prices, and the summer test release for endangered fish from Glen Canyon Dam (GCD).

The rate formula adder will be applied during the next 3 fiscal years (FY) from February 1, 2001, through September 30, 2003. The following proposed formulas will be used to determine the rate formula adder:

(1) BB + ER—PP—O&M = EB

BB = CRSP Basin Fund balance at the beginning of the FY

ER = expected revenues for the current FY

PP = estimated purchase power costs which could include non-reimbursable purchase power costs

O&M = operation and maintenance expenses which includes non-reimbursable expenses, replacements, and transmission expenses

EB = CRSP Basin Fund balance at the end of the FY

(2) RB—EB = RN

RB = minimum required balance in the CRSP Basin Fund at the end of the FY (FY 2001 = $35 million, FY 2002 = $50 million, FY 2003 = $60 million)

RN = additional revenue needed

The RN is divided by the projected energy sales as shown in the existing ratesetting study to determine the additional composite rate needed.

RATE FORMULA ADDER ESTIMATED BY FISCAL YEAR

[$1,000,000]

	FY 2001 February 1, 2001-September 30, 2001	FY 2002 October 1, 2001-September 30, 2002	FY 2003 October 1, 2002-September 30, 2003
Beginning Balance	45.2	35.0	50.0
Expected Revenue [1]	140.0	140.0	140.0
Expected Costs:			
Purchased Power [2]	108.8	108.8	108.8
OM&R [3]	79.1	79.1	79.1
Unbudgeted Costs [4]	2.0	2.0	2.0
Total Costs	189.9	189.9	189.9
Ending Balance	(4.7)	(14.9)	0.1
Minimum Required Balance	35.0	50.0	60.0
Revenue Needed	39.7	64.9	59.9
Rate Adder Needed: [5]			
Composite (mills/kWh)	11.02	10.52	9.70

[1] Current revenue based on FY 1999 Sales and Revenue Report.
[2] Based on latest 10/20/00 estimate.
[3] As currently budgeted (2002). Includes budgeted Recovery Implementation Program costs.
[4] Cost required by recent HR 2348, legislation, Upper Colorado Fish Recovery Program.
[5] Based on power sales as projected in existing rate PRS (FY 1997).

Based upon the most recent data available at the time of this publication, the proposed rate formula adder for FY 2001 (which is proposed to be effective February 1, 2001) is expected to be an additional 5.1 mills/kWh for energy and $2.17 per kWmonth for capacity. The proposed composite rate adder is 11.02 mills/kWh.

At the end of FY 2001, an update of the data in the rate formula adder will indicate the adder for the following FY. At the end of the Winter Season each year, FY data and current projections will be reviewed to determine if the FY rate formula adder needs to be revised. If needed, a mid-FY revision to the adder would be made at this time. The Winter Season is the period from October 1 to March 31. The Summer Season is the period from April 1 to September 30. The rate formula adder calculations that are updated each FY will provide for an increase in the CRSP Basin Fund working capital balance until it reaches $60 million by the end of FY 2003. Customers will be notified in September of each year as to the next FY rate formula adder. In March of each year, the customers will be notified if a mid-FY revision is required. The rate formula adder will be charged by adding an additional capacity and energy rate to the SLIP–F6 rate. The table below displays the existing rate and the estimated rate formula adders for the next 3 FYs.

TOTAL SLCA/IP FIRM POWER RATE ESTIMATED BY FISCAL YEAR

	FY 2001 February 1, 2001-September 30, 2001			FY 2002 October 1, 2001-September 30, 2002		FY 2003 October 1, 2002-September 30, 2003	
	Existing rate	Adder	Total	Adder	Total	Adder	Total
Energy rate (mills/kWh)	8.1	5.1	13.2	4.8	12.9	4.5	12.6
Capacity rate ($/kWmonth)	3.44	2.17	5.61	2.07	5.51	1.91	5.35
Composite rate (mills/kWh)	17.57	11.02	28.59	10.52	28.09	9.70	27.27

At the public information forums on November 20 and 21, 2000, in Salt Lake City and Phoenix, CRSP MC staff will explain in detail the rate formula adder and its application for the period of February 1, 2001, through September 30, 2001, and also provide estimates for the following 2 FYs.

The proposed rate formula adder is highly dependent upon hydrology conditions of the Upper Colorado River Basin, volatility of purchased power prices, potential of continuing test flows this summer at GCD, and the CRSP Basin Fund cash balance. A discussion of these issues follows.

Hydrology Conditions

Water year (WY) 2000 ended on September 30, 2000. The unregulated inflow to Lake Powell during the run-off season was 4.35 million acre-feet (maf) or 56 percent of average.

Hydrological assumptions are used in preparing estimates for generation from the SLCA/IP facilities. This, combined with contractual commitments, gives Western its purchased power requirements. Releases assumed by Western for the Winter Season 2001 are from the 24-month study prepared by the Bureau of Reclamation in October 2000. For the Summer Season 2001, Western assumed an amount of water release which, when added to the Winter season releases, totaled 8.23 maf from GCD. Summer releases were patterned by month using a dry-year pattern. For all other SLCA/IP power facilities, the Reclamation 24-month study was used.

Purchased Power Prices

Western may need to purchase electrical power from other utilities to support its minimum contractual commitment referred to as Sustainable Hydro Power (SHP). Given the water conditions previously described, Western developed estimates of the purchased power amounts required to

provide the SHP amounts for each season. For the Winter Season 2001, Western included purchased power prices for which Western has already contracted. For the Summer Season 2001, Western's estimates of purchased power prices were derived from the New York Merchantile Exchange's (NYMEX) Palo Verde Electricity futures prices at the time the analysis was prepared.

Test Flows

Test flows at GCD are possible again next summer, as a result of an obligation the Bureau of Reclamation has under the conditions of a biological opinion (a requirement under the Endangered Species Act). Test flows occur in minimum-flow years. The probability of such an occurrence in FY 2001 is 34 percent.

CRSP Basin Fund Cash Balance

The CRSP Basin Fund ended FY 2000 with a balance of about $42.5 million in cash. The lower-than-normal balance was mainly due to the high cost of purchased power prices during July, August, and September 2000. The need to purchase additional power was compounded by the low environmental test flows from GCD.

Purchase arrangements for energy needed to meet contractual obligations have been made for the Winter Season 2001. These purchases were at much higher costs than normal and adversely affected the CRSP Basin Fund's cash flow. Monthly revenues into the CRSP Basin Fund normally run from $10 million to $14 million per month; expenditures for purchased power are now at these levels. Any spending on transmission, replacements, and operation and maintenance costs will result in a negative cash flow during months when purchased energy costs are equivalent to or greater than revenue inflows.

In the event of another year where hydrology conditions are significantly below average and where low test flows from GCD are required, the CRSP Basin Fund working capital would be insufficient at the present rate.

Procedural Requirements

Since the proposed rate formula adder constitutes a major rate adjustment as defined at 10 CFR 903.2, both public information forums and public comment forums will be held. However, the consultation and comment period has been shortened because of the financial hardship faced by the CRSP Basin Fund. After reviewing public comments, Western will recommend that the proposed rate formula adder or a revised proposed rate formula adder be approved on an interim basis by the DOE Deputy Secretary.

The proposed rate formula adder to the SLCA/IP firm power rates is being established pursuant to the Department of Energy Organization Act, 42 U.S.C. 7101–7352; the Reclamation Act of 1902, ch. 1093, 32 Stat. 388, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and other acts specifically applicable to the projects involved.

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of DOE delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; and (2) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. In Delegation Order No. 0204–172, effective November 24, 1999, the Secretary of Energy delegated the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary. Existing DOE procedures for public participation in power rate adjustments are found at 10 CFR part 903.

Availability of Information

All studies, comments, letters, memorandums, or other documents made or kept by Western for developing the proposed rates are and will be made available for inspection and copying at the CRSP Management Center, located at 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1534.

Regulatory Procedural Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined that this action does not require a regulatory flexibility analysis since it is a rulemaking of particular applicability involving rates or services applicable to public property.

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); Council on Environmental Quality Regulations (40 CFR parts 1500–1508); and DOE NEPA Regulations (10 CFR part 1021), Western determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined that this rule is exempt from Congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking of particular applicability relating to rates or services and involves matters of procedure.

Dated: October 27, 2000.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 00–28627 Filed 11–7–00; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34225A; FRL–6753–2]

Diazinon; Revised Pesticide Risk Assessment; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a public meeting to present the revised risk assessment for the organophosphate pesticide diazinon to interested stakeholders. This public meeting, called a ''Technical Briefing,'' will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessment for diazinon. In addition, representatives of the Department of Agriculture (USDA) will also provide ideas on possible risk management for diazinon.

DATES: The technical briefing will be held on, December 5, 2000, from 1:00 p.m. to 5:00 p.m.

ADDRESSES: The technical briefing will be held at the Radisson Hotel, Old Town Alexandria, 901 N. Fairfax St., Alexandria, VA 22314, (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: By mail: Ben Chambliss, Special Review and Registration Division (7508C),

Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8174; e-mail address: *chambliss.ben@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphate pesticides, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get 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,'' '' Regulations and Proposed Rules,'' 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/.*

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at *http://www.epa.gov/pesticides/op/.* In addition, a brief summary of the diazinon revised risk assessment is now available at *http://www.epa.gov/pesticides/op/status.htm/,* as well as in paper as part of the public version of the official record as described in Unit I.B.2.

2. *In person.* The Agency has established an official record under docket control number OPP–34225A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticide, diazinon. The Agency is presenting the revised risk assessments for diazinon to interested stakeholders. This technical briefing is designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessment: Including the major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessment affected the revised risk assessment; and the pesticide use information/data that was used in developing the revised risk assessment. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will provide ideas on possible risk management.

The technical briefing is part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

On the day of the technical briefing, in addition to making copies available at the meeting site, the Agency will also release for public viewing the diazinon revised risk assessments and related documents to the Public Information and Records Integrity Branch and the OPP Internet web site that are described in Unit I.B.1. In addition, the Agency will issue a **Federal Register** notice to provide an opportunity for a 60–day public participation period during which the public may submit risk management and mitigation ideas and recommendations and proposals for transition.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: October 24, 2000.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–28422 Filed 11–07–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[PF–980; FRL–6750–2]

Notice of Filing Pesticide Petitions to Establish Tolerances for Certain Pesticide Chemicals in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by docket control number PF–980, must be received on or before December 8, 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.C. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–980 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Linda DeLuise, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,

Washington, DC 20460; telephone number: (703) 305–5428; e-mail address: *deluise.linda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Eamples of potentially affected entities
Industry	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not intended to be ehaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed 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,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.*

2. *In person.* The Agency has established an official record for this action under docket control number PF–980. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, ecluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number PF–980 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, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, ecluding 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 PF–980. 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 ecept in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified 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. Eplain 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, eplain how you arrived at the estimate that you provide.
5. Provide specific eamples to illustrate your concerns.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. What Action is the Agency Taking?

EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 25, 2000.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

The petitioner summaries of the pesticide petitions is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the view of the petitioner. EPA is publishing the petitions summaries verbatim without editing it in any way. The petitions summaries announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemicals residues or an eplanation of why no such method is needed.

1. FMC Corporation

PP 0F6207

EPA has received a pesticide petition PP 0F6207 from FMC Corporation, 1735 Market Street, Philadelphia, PA 19103 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.418 by establishing tolerances for residues of the insecticide zeta-cypermethrin (±-a-Cyano(3-phenoxyphenyl)methyl (±) cis, trans 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw agricultural commodities (RAC): wheat, grain at 0.15 parts per million (ppm); wheat, forage, at 2.5 ppm; wheat, hay at 6.0 ppm; wheat, straw at 6.5 ppm; wheat, bran at 0.20 ppm; sorghum, grain, at 0.50 ppm; sorghum, forage at 0.10 ppm; sorghum, fodder at 1.5 ppm; tomatoes at 0.10 ppm; peppers at 0.30 ppm; peas and beans (dried, succulent, and edible podded) at 0.50 ppm; soybeans at 0.05 ppm; poultry, meat at 0.05 ppm; poultry, meat by-products at 0.05 ppm; poultry, fat at 0.05 ppm and, eggs at 0.05 ppm; meat of cattle, goats, hogs, horses, and, sheep at 0.3 ppm; fat of cattle, goats, hogs, horses, and sheep at 0.30 ppm; and, milk, fat at 0.2 ppm (reflecting 0.01 ppm in whole milk).

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of cypermethrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabelled cypermethrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances (gas chromatography with electron capture detection (GC/ECD).

3. *Magnitude of residues*. Crop field trial residue data from studies conducted at the maimum label rates for wheat, sorghum, peas, beans, soybeans, tomatoes, and peppers show that the proposed zeta-cypermethrin tolerances on wheat, grain at 0.15 ppm; wheat, forage, at 2.5 ppm; wheat, hay at 6.0 ppm; wheat, straw at 6.5 ppm; wheat, bran at 0.20 ppm; sorghum, grain, at 0.50 ppm; sorghum, forage at 0.10 ppm; sorghum, fodder at 1.5 ppm; tomatoes at 0.10 ppm; peppers at 0.30 ppm; peas, and beans (dried, succulent, and edible podded) at 0.50 ppm; soybeans at 0.05 ppm; will not be eceeded when the zeta-cypermethrin products labeled for these uses are used as directed.

B. Toxicological Profile

1. *Acute toxicity*. For the purposes of assessing acute dietary risk, FMC has used the no observed adverse effect level (NOAEL) of 10.0 milligrams/kilograms (mg/kg)/day from the zeta-cypermethrin acute neurotoxicityy study in rats. The lowest effect level (LEL) of 50.0 mg/kg/day was based on clinical signs. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicty*. The following genotoxicity tests were all negative: *In vivo* chromosomal aberration in rat bone marrow cells; *in vitro* cytogenic chromosome aberration; unscheduled DNA synthesis; chinese hampster ovary/hypoanthine guanine phophoribosyl transferase (CHO/HGPRT) mutagen assay; weakly mutagenic; gene mutation (Ames).

3. *Reproductive and developmental toxicity*. No evidence of additional sensitivity to young rats was observed following prenatal or postnatal exposure to zeta-cypermethrin.

i. A 2–-generation reproductive toxicity study with zeta-cypermethrin in rats demonstrated a NOAEL of 7.0 mg/kg/day and a LOAEL of 27.0 mg/kg/day for parental/systemic toxicity based on body weight, organ weight, and clinical signs. There were no adverse effects in reproductive performance. The NOAEL for reproductive toxicity was considered to be ≤45.0 mg/kg/day (the highest dose tested).

ii. A developmental study with zeta-cypermethrin in rats demonstrated a maternal NOAEL of 12.5 mg/kg/day and a LOAEL of 25 mg/kg/day based on decreased maternal body weight gain, food consumption and clinical signs. There were no signs of developmental toxicity at 35.0 mg/kg/day, the highest dose level tested.

iii. A developmental study with cypermethrin in rabbits demonstrated a maternal NOAEL of 100 mg/kg/day and a LOAEL of 450 mg/kg/day based on decreased body weight gain. There were no signs of developmental toxicity at 700 mg/kg/day, the highest dose level tested.

4. *Subchronic toxicity*. Short- and intermediate-term toxicity. The NOAEL of 10.0 mg/kg/day based on clinical signs at the LEL of 50.0 mg/kg/day in the zeta-cypermethrin acute neurotoxicity study in rats would also be used for short- and intermediate-term MOE calculations (as well as acute, discussed in (1) above).

5. *Chronic toxicity*— i. The reference dose (RfD) of 0.005 mg/kg/day for zeta-cypermethrin is based on a NOAEL of 1.0 mg/kg/day from a cypermethrin dog chronic study and an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer). The endpoint effect of concern was based on gastrointestinal disturbances.

ii. Cypermethrin is classified as a Group C chemical (possible human carcinogen with limited evidence of carcinogenicity in animals) based upon limited evidence for carcinogenicity in female mice; assignment of a Q* has not been recommended.

6. *Animal metabolism*. The metabolism of cypermethrin in animals is adequately understood. Cypermethrin has been shown to be rapidly absorbed, distributed, and excreted in rats when administered orally. Cypermethrin is metabolized by hydrolysis and oidation.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of cypermethrin are not of toxicological concern and need not be included in the tolerance epression.

8. *Endocrine disruption*. No special studies investigating potential estrogenic or other endocrine effects of cypermethrin have been conducted. However, no evidence of such effects were reported in the standard battery of required toxicology studies which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that cypermethrin has an adverse effect on the endocrine system.

C. Aggregate exposure

1. *Dietary exposure*—i. *Food*. Permanent tolerances, in support of registrations, currently eist for residues of zeta- cypermethrin on cottonseed, pecans, lettuce, head, onions, bulb, cabbage, and, livestock commodities of cattle, goats, hogs, horses, and sheep (along with the associated meat and milk tolerances). For the purposes of assessing the potential dietary exposure for these eisting and the subject proposed tolerances, FMC has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

a. *Acute exposure and risk*. Acute dietary exposure risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. For the purposes of assessing acute dietary risk for zeta-cypermethrin, FMC has used the NOAEL of 10.0 mg/kg/day from the zeta-cypermethrin acute neurotoxicity study in rats. The LEL of 50.0 mg/kg/day was based on clinical signs. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the margins of exposure (MOE) are significantly greater than the EPA standard of 100 for all subpopulations. The 95th percentile of exposure for the overall U.S. population was estimated to be 0.000630 mg/kg/day (margin of exposure (MOE) of 15884); 99th percentile 0.002184 mg/kg/day (MOE of 4577); and 99.9th percentile 0.010260 mg/kg/day (MOE of 974). The 95th percentile of exposure for all infants <1 year old was estimated to be 0.000599 mg/kg/day (MOE of 16682); 99th percentile 0.005656 mg/kg/day (MOE of 1768); and 99.9th percentile 0.029094 mg/kg/day (MOE of 343). The 95th percentile of exposure for nursing infants < 1 year old was estimated to be 0.000172 mg/kg/day (MOE of 58054); 99th percentile 0.000967 mg/kg/day (MOE of 10336); and 99.9th percentile 0.004937 mg/kg/day (MOE of 2025). The 95th percentile of exposure for non-nursing infants < 1 year old (the most highly exposed population subgroup) was estimated to be 0.000760 mg/kg/day (MOE of 13155); 99th percentile 0.011082 mg/kg/day (MOE of 902); and 99.9th percentile 0.032957 mg/kg/day (MOE of 303). The 95th percentile of exposure for children 1 to 6 years old and children 7 to 12 years old was estimated to be, respectively, 0.000936 mg/kg/day (MOE of 10681) and 0.000644 mg/kg/day (MOE of 15524); 99th percentile 0.002768 mg/kg/day (MOE of 3612) and 0.001945 (MOE of 5141); and 99.9th percentile 0.012752 mg/kg/day (MOE of 784) and 0.006688 (MOE of 1495). The 95th percentile of exposure for females (13+/nursing) was estimated to be 0.000602 mg/kg/day (MOE of 16602); 99th percentile 0.002340 mg/kg/day (MOE of 4273); and 99.9th percentile 0.011387 mg/kg/day (MOE of 878). Therefore, FMC concludes that the acute dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

b. *Chronic exposure and risk*. The RfD of 0.0125 mg/kg/day for zeta-cypermethrin is based on a NOAEL of 1.0 mg/kg/day from a cypermethrin dog chronic study and an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer). The endpoint effect of concern was based on gastrointestinal disturbances. A chronic dietary exposure/risk assessment has been performed for zeta-cypermethrin using the above RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the anticipated residue contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000151 mg/kg body weight (bwt)/day and utilize 3.0% of the RfD for the overall U. S. population. The ARC for nursing infants (<1 year) and non-nursing infants (<1 year) (subgroup most highly exposed) are estimated to be 0.000024 mg/kg bwt/day and 0.000335 mg/kg bwt/day and utilizes 0.5% and 6.7% of the RfD, respectively. The ARC for children 1-6 years old and children 7-12 years old are estimated to be 0.000285 mg/kg bwt/day and 0.000168 mg/kg bwt/day and utilizes 5.7 percent and 3.4 percent of the RfD, respectively. The ARC for females (13+/nursing) are estimated to be 0.000144 mg/kg bwt/day and utilizes 2.9 percent of the RfD. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 percent of the RfD. Therefore, FMC concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

ii. *Drinking water*. Laboratory and field data have demonstrated that cypermethrin is immobile in soil and will not leach into groundwater. Other data show that cypermethrin is virtually insoluble in water and etremely lipophilic. As a result, FMC concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Further, a screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in groundwater at depths of 1 and 2 meters are essentially zero (<<0.001 parts per billion(ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maimum concentration predicted in the simulated pond was 0.052 parts per billion. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible. Therefore, FMC concludes that together these data indicate that residues are not epected to occur in drinking water.

2. *Non-dietary exposure*. Zeta-cypermethrin is registered for agricultural crop applications only, therefore non-dietary exposure assessments are not warranted.

D. Cumulative Effects

In consideration of potential cumulative effects of cypermethrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by cypermethrin would be cumulative with those of other chemical compounds; thus only the potential risks of cypermethrin have been considered in this assessment of its aggregate exposure. FMC intends to submit information for the EPA to consider concerning potential cumulative effects of cypermethrin consistent with the schedule established by EPA on August 4, 1997 (62 FR 42020) (FRL–5734–6) and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

1. *U.S. population*. Based on a complete and reliable toxicology database, the RfD for zeta-cypermethrin is 0.005 mg/kg/day, based on a NOAEL of 1.0 mg/kg/day from the cypermethrin dog chronic study and an uncertainty factor of 200. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into an analysis to estimate the Anticipated Residue Contribution (ARC) for 26 population subgroups. The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000151 mg/kg body weight (bwt)/day and utilize 3.0 percent of the RfD for the overall U. S. population. The ARC for nursing infants (<1 year) and non-nursing infants (<1 year) (subgroup most highly exposed) are estimated to be 0.000024 mg/kg bwt/day and 0.000335 mg/kg bwt/day and utilizes 0.5 percent and 6.7 percent of the RfD, respectively. The ARC for children 1-6 years old and children 7-12 years old are estimated to be 0.000285 mg/kg bwt/day and 0.000168 mg/kg bwt/day and utilizes 5.7 percent and 3.4 percent of the RfD, respectively. The ARC for females (13+/nursing) are estimated to be 0.000144 mg/kg bwt/day and utilizes 2.9 percent of the RfD. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 percent of the RfD. Therefore, FMC concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the aggregate risk assessment, does not appear to be of concern. For the purposes of assessing acute dietary risk for zeta-cypermethrin, FMC has used the NOAEL of 10.0 mg/kg/day from the zeta-cypermethrin acute neurotoxicity study in rats. The LEL of 50.0 mg/kg/day was based on clinical signs. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the margins of exposure (MOE) are significantly greater than the EPA standard of 100 for all subpopulations. The 95th percentile of exposure for the overall U. S. population was estimated to be 0.000630 mg/kg/day (MOE of 15884); 99th percentile 0.002184 mg/kg/day (MOE of 4577); and 99.9th. percentile 0.010260 mg/kg/day (MOE of 974). The 95th percentile of exposure for all infants < 1 year old was estimated to be 0.000599 mg/kg/day (MOE of 16682); 99th percentile 0.005656 mg/kg/day (MOE of 1768); and 99.9th percentile 0.029094 mg/kg/day (MOE of 343). The 95th percentile of exposure for nursing infants < 1 year old was estimated to be 0.000172 mg/kg/day (MOE of 58054); 99th percentile 0.000967 mg/kg/day (MOE of 10336); and 99.9th percentile 0.004937 mg/kg/day (MOE of 2025). The 95th percentile of exposure for non-nursing infants < 1 year old (the most highly exposed population subgroup) was estimated to be 0.000760 mg/kg/day (MOE of 13155); 99th percentile 0.011082 mg/kg/day (MOE of 902); and 99.9th percentile 0.032957 mg/kg/day (MOE of 303). The 95th percentile of exposure for children 1 to 6 years old and children 7 to 12 years old was estimated to be, respectively, 0.000936 mg/kg/day (MOE of 10681) and 0.000644 mg/kg/day (MOE of 15524); 99th percentile 0.002768 mg/kg/day (MOE of 3612) and 0.001945 (MOE of 5141); and 99.9th percentile 0.012752 mg/kg/day (MOE of 784) and 0.006688 (MOE of 1495). The 95th percentile of exposure for females (13+/nursing) was estimated to be 0.000602 mg/kg/day (MOE of 16602); 99th percentile 0.002340 mg/kg/day (MOE of 4273); and 99.9th percentile 0.011387 mg/kg/day (MOE of 878). Therefore, FMC concludes that there is reasonable certainty that no harm will result from acute exposure to zeta-cypermethrin.

2. *Infants and children*— i. *General*. In assessing the potential for additional sensitivity of infants and children to residues of zeta-cypermethrin, FMC considered data from developmental toxicity studies in the rat and rabbit, and a 2–generation reproductive study in the rat. The data demonstrated no indication of increased sensitivity of rats to zeta-cypermethrin or rabbits to cypermethrin in utero and/or postnatal exposure to zeta-cypermethrin or cypermethrin. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA may apply an additional margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database.

ii. *Developmental toxicity studies*. In the prenatal developmental toxicity studies in rats and rabbits, there was no evidence of developmental toxicity at the highest doses tested (35.0 mg/kg/day in rats and 700 mg/kg/day in rabbits). Decreased body weight gain was observed at the maternal LOAEL in each study; the maternal NOAEL was established at 12.5 mg/kg/day in rats and 100 mg/kg/day in rabbits.

iii. *Reproductive toxicity study*. In the 2-generation reproduction study in rats, offspring toxicity (body weight) and parental toxicity (body weight, organ weight, and clinical signs) was observed at 27.0 mg/kg/day and greater. The parental systemic NOAEL was 7.0 mg/kg/day and the parental systemic LOAEL was 27.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 45.0 mg/kg/day, highest dose tested.

iv. *Prenatal and postnatal sensitivity*— a. *Prenatal*. There was no evidence of developmental toxicity in the studies at the highest doses tested in the rat (35.0 mg/kg/day) or in the rabbit (700 mg/kg/day). Therefore, there is no evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

b. *Postnatal*. Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special postnatal sensitivity to infants and children in the rat reproduction study.

v. *Conclusion*. Based on the above, FMC concludes that reliable data support use of the standard 100-fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants and children. As stated above, aggregate exposure assessments utilized significantly less than 1% of the RfD for either the entire U.S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to cypermethrin residues.

F. International Tolerances

There are no Codex, Canadian or Mexican residue limits for residues of zeta-cypermethrin in or on wheat (grain, forage, hay, straw, and bran), sorghum (grain, forage and fodder), tomatoes, peppers, peas and beans (dried, succulent and edible podded), and soybeans.

2. FMC Corporation

PP 1F3994

EPA has received a pesticide petition PP 1F3994 from FMC Corporation, 1735 Market Street, Philadelphia, PA 19103 proposing, pursuant to section 408(d) of the FFDCA, 21 U.S.C. 346a(d), to amend 40 CFR 180.418 by establishing tolerances for residues of the insecticide zeta-cypermethrin (±-a-Cyano(3-phenoxyphenyl)methyl (±) cis, trans 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw agricultural commodities (RAC): Sunflower, seeds at 0.20 ppm; sunflower, oil at 0.20 ppm, poultry, meat at 0.05 ppm, poultry, meat by-products at 0.05 ppm, poultry, fat at 0.05 ppm and eggs at 0.05 ppm, meat of cattle, goats, hogs, horses, and sheep at 0.3 ppm, fat of cattle, goats, hogs, horses, and sheep at 2.0 ppm, and milk, fat at 1.0 ppm (reflecting 0.2 ppm in whole milk).

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of cypermethrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabelled cypermethrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances (Gas Chromatography with Electron Capture Detection GC/ECD.

3. *Magnitude of residues*. Crop field trial residue data from studies conducted at the maimum label rates for sunflowers show that the proposed zeta-cypermethrin tolerances on sunflower, seeds at 0.20 ppm, sunflower, oil at 0.20 ppm.

B. Toxicological Profile

1. *Acute toxicity*. For the purposes of assessing acute dietary risk, FMC has used the NOAEL of 0.5 mg/kg/day based on the NOAEL of 1.0 mg/kg/day from the cypermethrin chronic toxicity study in dogs and a correction factor of two to account for the differences in the percentage of the biologically active isomer. The LOAEL of 5.0 mg/kg/day was based on gastrointestinal disturbances observed in the first week of the study. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicty*. The following genotoxicity tests were all negative: *In vivo* chromosomal aberration in rat bone marrow cells; *in vitro* cytogenic chromosome aberration; unscheduled DNA synthesis; CHO/HGPRT mutagen assay; weakly mutagenic: Gene mutation (Ames).

3. *Reproductive and developmental toxicity*. No evidence of additional sensitivity to young rats was observed following prenatal or postnatal exposure to zeta-cypermethrin.

i. A 2–generation reproductive toxicity study with zeta-cypermethrin in rats demonstrated a NOAEL of 7.0 mg/kg/day and a LOAEL of 27.0 mg/kg/day for parental/systemic toxicity based on body weight, organ weight, and clinical signs. There were no adverse effects in reproductive performance. The NAOEL for reproductive toxicity was considered to be > 45.0 mg/kg/day (the highest dose tested (HDT)).

ii. A developmental study with zeta-cypermethrin in rats demonstrated a maternal NOAEL of 12.5 mg/kg/day and a LOAEL of 25 mg/kg/day based on decreased maternal body weight gain, food consumption and clinical signs. There were no signs of developmental toxicity at 35.0 mg/kg/day, the highest dose level tested.

iii. A developmental study with cypermethrin in rabbits demonstrated a maternal NOAEL of 100 mg/kg/day and a LOAEL of 450 mg/kg/day based on decreased bwt gain. There were no signs of developmental toxicity at 700 mg/kg/day, the HDT.

4. *Subchronic toxicity.* Short- and intermediate-term toxicity. The NOAEL of 2.5 mg/kg/day from the cypermethrin chronic toxicity study in dogs and a correction factor of two to account for the differences in the percentage of the biologically active isomer would also be used for short- and intermediate-term MOE calculations. The LOAEL of 7.5 mg/kg/day was based on neurotoxic clinical signs which were displayed starting week one of the study.

5. *Chronic toxicity*— i. The reference dose (RfD) of 0.005 mg/kg/day for zeta-cypermethrin is based on gastrointestinal disturbances in a cypermethrin study in dogs with an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer).

ii. Cypermethrin is classified as a Group C chemical (possible human carcinogen with limited evidence of carcinogenicity in animals) based upon limited evidence for carcinogenicity in female mice; assignment of a Q* has not been recommended.

6. *Animal metabolism*. The metabolism of cypermethrin in animals is adequately understood. Cypermethrin has been shown to be rapidly absorbed, distributed, and excreted in rats when administered orally. Cypermethrin is metabolized by hydrolysis and oidation.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of cypermethrin are not of toxicological concern and need not be included in the tolerance epression.

8. *Endocrine disruption*. No special studies investigating potential estrogenic or other endocrine effects of cypermethrin have been conducted. However, no evidence of such effects were reported in the standard battery of required toxicology studies which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that cypermethrin has an adverse effect on the endocrine system.

C. Aggregate exposure

1. *Dietary exposure*— i. *Food*. Permanent tolerances, in support of registrations, currently eist for residues of zeta-cypermethrin on cottonseed; pecans; lettuce, head; onions, bulb; and cabbage and livestock commodities of cattle, goats, hogs, horses, and sheep (along with the associated meat and milk tolerances). For the purposes of assessing the potential dietary exposure for these eisting and the subject proposed tolerances, FMC has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

a. *Acute exposure and risk*. Acute dietary exposure risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. For the purposes of assessing acute dietary risk for zeta-cypermethrin, FMC has used the NOAEL of 0.5 mg/kg/day based on the NOAEL of 1.0 mg/kg/day from the cypermethrin chronic toxicity study in dogs and a correction factor of two to account for the differences in the percentage of the biologically active isomer. The LOAEL of 5.0 mg/kg/day was based on gastrointestinal disturbances which were displayed during week one of this study. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the margins of exposure (MOE) are significantly greater than the EPA standard of 100 for all

subpopulations. The 95th percentile of exposure for the overall U. S. population was estimated to be 0.000330 mg/kg/day (MOE of 1514); 99th percentile 0.001136 mg/kg/day (MOE of 440); and 99.9th percentile 0.002544 mg/kg/day (MOE of 196). The 95th percentile of exposure for all infants < 1 year old was estimated to be 0.000096 mg/kg/day (MOE of 5211); 99th percentile 0.000365 mg/kg/day (MOE of 1368); and 99.9th percentile 0.001438 mg/kg/day (MOE of 347). The 95th percentile of exposure for nursing infants < 1 year old was estimated to be 0.000040 mg/kg/day (MOE of 12532); 99th percentile 0.000194 mg/kg/day (MOE of 2575); and 99.9th percentile 0.000899 mg/kg/day (MOE of 556). The 95th percentile of exposure for non-nursing infants < 1 year old was estimated to be 0.000114 mg/kg/day (MOE of 4391); 99th percentile 0.000437 mg/kg/day (MOE of 1144); and 99.9th percentile 0.001732 mg/kg/day (MOE of 288). The 95th percentile of exposure for children 1 to 6 years old (the most highly exposed population subgroup) and children 7 to 12 years old was estimated to be, respectively, 0.000442 mg/kg/day (MOE of 1131) and 0.000413 mg/kg/day (MOE of 1209); 99th percentile 0.001355 mg/kg/day (MOE of 368) and 0.001349 (MOE of 370); and 99.9th percentile 0.003454 mg/kg/day (MOE of 144) and 0.002928 (MOE of 170). The 95th percentile of exposure for females (13+/nursing) was estimated to be 0.000306 mg/kg/day (MOE of 1635); 99th percentile 0.001174 mg/kg/day (MOE of 425); and 99.9th percentile 0.002583 mg/kg/day (MOE of 193). Therefore, FMC concludes that the acute dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

b. *Chronic exposure and risk*. The RfD of 0.005 mg/kg/day for zeta-cypermethrin is based on gastrointestinal disturbances in a cypermethrin study in dogs with an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer). A chronic dietary exposure/risk assessment has been performed for zeta-cypermethrin using the above RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the anticipated residue contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000033 mg/kg body weight (bwt)/day and utilize 0.7 percent of the RfD for the overall U. S. population. The ARC for nursing infants (<1 year) and non-nursing infants (<1 year) are estimated to be 0.000009 mg/kg bwt/day and 0.000035 mg/kg bwt/day and utilizes 0.2 percent and 0.7 percent of the RfD, respectively. The ARC for children 1-6 years old (subgroup most highly exposed) and children 7-12 years old are estimated to be 0.000078 mg/kg bwt/day and 0.000052 mg/kg bwt/day and utilizes 1.6 percent and 1.0 percent of the RfD, respectively. The ARC for females (13+/nursing) are estimated to be 0.000033 mg/kg bwt/day and utilizes 0.7 percent of the RfD. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 percent of the RfD. Therefore, FMC concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

ii. *Drinking water*. Laboratory and field data have demonstrated that cypermethrin is immobile in soil and will not leach into groundwater. Other data show that cypermethrin is virtually insoluble in water and etremely lipophilic. As a result, FMC concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Further, a screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in groundwater at depths of 1 and 2 meters are essentially zero (<<0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maimum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible. Therefore, FMC concludes that together these data indicate that residues are not epected to occur in drinking water.

2. *Non-dietary exposure*. Zeta-cypermethrin is registered for agricultural crop applications only, therefore non-dietary exposure assessments are not warranted.

D. Cumulative Effects

In consideration of potential cumulative effects of cypermethrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by cypermethrin would be cumulative with those of other chemical compounds; thus only the potential risks of cypermethrin have been considered in this assessment of its aggregate exposure. FMC intends to submit information for the EPA to consider concerning potential cumulative effects of cypermethrin consistent with the schedule established by EPA on August 4, 1997 (62 FR 42020) (FRL–5734–6) and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

1. *U.S. population*. Based on a complete and reliable toxicology database, the RfD for zeta-cypermethrin is 0.005 mg/kg/day for zeta-cypermethrin based on gastrointestinal disturbances in a cypermethrin study in dogs with an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer). Available information on anticipated residues, monitoring data and percent crop treated was incorporated into an analysis to estimate the Anticipated Residue Contribution (ARC) for 26 population subgroups. The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000033 mg/kg body weight (bwt)/day and utilize 0.7 percent of the RfD for the overall U. S. population. The ARC for nursing infants (<1 year) and non-nursing infants (<1 year) are estimated to be 0.000009 mg/kg bwt/day and 0.000035 mg/kg bwt/day and utilizes 0.2 percent and 0.7 percent of the RfD, respectively. The ARC for children 1-6 years old (subgroup most highly exposed) and children 7-12 years old are estimated to be 0.000078 mg/kg bwt/day and 0.000052 mg/kg bwt/day and utilizes 1.6 percent and 1.0 percent of the RfD, respectively. The ARC for females (13+/nursing) are estimated to be 0.000033 mg/kg bwt/day and utilizes 0.7 percent of the RfD. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 percent of the RfD. Therefore, FMC

concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the aggregate risk assessment, does not appear to be of concern.

The 95th percentile of exposure for the overall U. S. population was estimated to be 0.000330 mg/kg/day (MOE of 1514); 99th percentile 0.001136 mg/kg/day (MOE of 440); and 99.9th percentile 0.002544 mg/kg/day (MOE of 196). The 95th percentile of exposure for all infants < 1 year old was estimated to be 0.000096 mg/kg/day (MOE of 5211); 99th percentile 0.000365 mg/kg/day (MOE of 1368); and 99.9th percentile 0.001438 mg/kg/day (MOE of 347). The 95th percentile of exposure for nursing infants < 1 year old was estimated to be 0.000040 mg/kg/day (MOE of 12532); 99th percentile 0.000194 mg/kg/day (MOE of 2575); and 99.9th percentile 0.000899 mg/kg/day (MOE of 556). The 95th percentile of exposure for non-nursing infants < 1 year old was estimated to be 0.000114 mg/kg/day (MOE of 4391); 99th percentile 0.000437 mg/kg/day (MOE of 1144); and 99.9th percentile 0.001732 mg/kg/day (MOE of 288). The 95th percentile of exposure for children 1 to 6 years old (the most highly exposed population subgroup) and children 7 to 12 years old was estimated to be, respectively, 0.000442 mg/kg/day (MOE of 1131) and 0.000413 mg/kg/day (MOE of 1209); 99th percentile 0.001355 mg/kg/day (MOE of 368) and 0.001349 (MOE of 370); and 99.9th percentile 0.003454 mg/kg/day (MOE of 144) and 0.002928 (MOE of 170). The 95th percentile of exposure for females (13+/nursing) was estimated to be 0.000306 mg/kg/day (MOE of 1635); 99th percentile 0.001174 mg/kg/day (MOE of 425); and 99.9th percentile 0.002583 mg/kg/day (MOE of 193). Therefore, FMC concludes that there is reasonable certainty that no harm will result from acute exposure to zeta-cypermethrin.

2. *Infants and children*— i. *General*. In assessing the potential for additional sensitivity of infants and children to residues of zeta-cypermethrin, FMC considered data from developmental toxicity studies in the rat and rabbit, and a 2–generation reproductive study in the rat. The data demonstrated no indication of increased sensitivity of rats to zeta-cypermethrin or rabbits to cypermethrin in utero and/or postnatal exposure to zeta-cypermethrin or cypermethrin. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA may apply an additional margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database.

ii. *Developmental toxicity studies*. In the prenatal developmental toxicity studies in rats and rabbits, there was no evidence of developmental toxicity at the highest doses tested (35.0 mg/kg/day in rats and 700 mg/kg/day in rabbits). Decreased body weight gain was observed at the maternal LOAEL in each study; the maternal NOAEL was established at 12.5 mg/kg/day in rats and 100 mg/kg/day in rabbits.

iii. *Reproductive toxicity study*. In the 2–generation reproduction study in rats, offspring toxicity (body weight) and parental toxicity (body weight, organ weight, and clinical signs) was observed at 27.0 mg/kg/day and greater. The parental systemic NOAEL was 7.0 mg/kg/day and the parental systemic LOAEL was 27.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 45.0 mg/kg/day, HDT.

iv. *Pre- and post-natal sensitivity*— a. *Pre-natal*. There was no evidence of developmental toxicity in the studies at the highest doses tested in the rat (35.0 mg/kg/day) or in the rabbit (700 mg/kg/day). Therefore, there is no evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

b. *Post-natal*. Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study.

v. *Conclusion*. Based on the above, FMC concludes that reliable data support use of the standard 100-fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants and children. As stated above, aggregate exposure assessments utilized significantly less than 1 percent of the RfD for either the entire U. S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to cypermethrin residues.

F. International Tolerances

There are no Codex, Canadian, or Mexican residue limits for residues of zeta-cypermethrin in or on sunflowers.

[FR Doc. 00–28421 Filed 11–07–00; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

November 1, 2000.

SUMMARY: The Federal Communications Commission, 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 January 8, 2001. 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 Commissions, 445 12th Street, SW., Room 1–A804, 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 No.: 3060–0806.

Title: Universal Service—Schools and Libraries Universal Service Program.

Form No.: FCC Forms 470 and 471.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 40,000.

Estimated Time Per Response: 7.3 hrs (avg.).

Total Annual Burden: 660,000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Recordkeeping; Third Party Disclosure.

Needs and Uses: The Commission adopted rules providing support for all telecommunications services, internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit a description of the services desired to the Administrator via FCC Form 470. FCC Form 471 is submitted by schools and libraries that have ordered telecommunications services, internet access, and internal connections. The information is used to determine eligibility.

OMB Control No.: 3060–0819.

Title: Lifeline Assistance (Lifeline) Connection Assistance (Link Up) Reporting Worksheet and Instructions (47 CFR 54.400–54.417).

Form No.: FCC Form 497.

Type of Review: Extension.

Respondents: Business or Other for Profit.

Number of Respondents: 18,000.

Estimated Time Per Response: 3 hrs (avg.).

Total Annual Burden: 54,000 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Monthly; Quarterly.

Needs and Uses: Eligible telecommunications carriers are permitted to receive universal service support reimbursement for offering certain services to qualifying low-income customers. The telecommunications carriers must file FCC Form 497 to solicit reimbursement. Collection of the data is necessary for the administrator to accurately provide settlements for the low-income programs according to Commission rules. FCC Form 497 has been revised to make it consistent with the requirements contained in CC Docket No. 96–45, FCC 00–208. In CC Docket No. 96–45, the Commission adopted measures to promote telecommunications subscribership within American Indian and Alaska Native tribal communities and mandated enhancements to the existing Lifeline and Link Up programs.

OMB Control No.: 3060–0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC 601.

Type of Review: Revision of an existing collection.

Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 240,320.

Estimated Time Per Response: 1.25 hours.

Total Annual Burden: 210,280 hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $48,364,000, which includes application filing fees.

Needs and Uses: FCC 601 is used as the general application (long form) for market based licensing and site-by-site licensing in the Wireless Telecommunications Radio Services. The purpose of this revision is to make the necessary form changes for the Tribal Lands bidding credits, to make the necessary adjustments to the instructions for implementation of Coast and Ground Radio Services to ULS, to add a general certification statement for RF certification as adopted in Report and Order, FCC–96–326, and to further clarify various instructions for the applicants. We sought emergency clearance on these changes in order to allow form changes to be in place for the auctions scheduled for the beginning of November and are now seeking a 3 year clearance. The information is used by the Commission to determine whether the applicant is legally, technically and financially qualified to be licensed.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–28684 Filed 11–07–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

October 31, 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.: 3060–0806.

Expiration Date: 04/30/2001.

Title: Universal Service—Schools and Libraries Universal Service Program.

Form No.: FCC Forms 470 and 471.

Respondents: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Estimated Annual Burden: 60,000 respondents; 7.3 hours per response (avg.). 440,000 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure; Recordkeeping.

Description: The Commission adopted rules providing support for all telecommunications services, internet access, and internal connections for all eligible schools and libraries. To participate in the program, schools and libraries must submit a description of the services desired to the Administrator via FCC Form 470. FCC Form 471 is submitted by schools and libraries that have ordered telecommunications services, internet access, and internal connections. The information is used to determine eligibility. OMB recently approved revisions made to the FCC Form 471. The forms are available via the universal service website (www.universalservice.org). Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0819.

Expiration Date: 04/30/2001.

Title: Lifeline Assistance (Lifeline) Connection Assistance (Link Up) Reporting Worksheet and Instructions (47 CFR Sections 54.400–54.417).

Form No.: FCC Form 497.

Respondents: Business or other for-profit.

Estimated Annual Burden: 18,000 respondents; 3 hours per response (avg.). 54,000 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Quarterly; Monthly.

Description: Eligible telecommunications carriers are permitted to receive universal service support reimbursement for offering certain services to qualifying low-income customers. The telecommunications carriers must file FCC Form 497 to solicit reimbursement.

Collection of the data is necessary for the administrator to accurately provide settlements for the low-income programs according to Commission rules. FCC Form 497 has been revised to make it consistent with the requirements contained in CC Docket No. 96–45, FCC 00–208. In CC Docket No. 96–45, the Commission adopted measures to promote telecommunications subscribership within American Indian and Alaska Native tribal communities and mandated enhancements to the existing Lifeline and Link Up programs. The form is available via the universal service website (www.universalservice.org). Obligation to respond: Required to obtain or retain benefits.

OMB Control No.: 3060–0719.

Expiration Date: 10/31/2003.

Title: Quarterly Report of IntraLATA Carriers Listing Payphone Automatic Number Identifications (ANIs).

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 1600 respondents; 4 hours per response (avg.); 5600 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Quarterly; Third Party Disclosure; Recordkeeping.

Description: Pursuant to the mandate in Section 276(b)(1)(A) to establish a per call compensation plan to ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call, IntraLATA carriers are required to provide to interexchange carriers a quarterly report. IntraLATA carriers must submit a quarterly list of payphone ANIs to the interexchange carriers. This will facilitate resolution of disputed ANIs in the per-call compensation context. The report allows IXCs to determine which dial-around calls are made from payphones. The data, which must be maintained for at least 18 months after the close of a compensation period, will facilitate verification of disputed ANIs. Obligation to respond: Mandatory.

OMB Control No.: 3060–0743.

Expiration Date: 10/31/2003

Title: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 4542 respondents; hours per response (avg.); 131,077 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion.

Description: In CC Docket No. 96–128, the Commission promulgated rules and requirements implementing Section 276 of the Telecommunications Act of 1996. Among other things, the rules (1) establish fair compensation for every completed intrastate and interstate payphone call; (2) discontinue intrastate and interstate carrier access charge payphone service elements and payments, and intrastate and interstate payphone subsidies from basic exchange services; and (3) adopt guidelines for use by the states in establishing public interest payphones to be located where there would otherwise not be a payphone.

(a) State Review and Removal of State Regulations Concerning Adequacy of Local Coin Rate Disclosure. States must review their regulations and remove them where necessary to ensure consistency with the Commission's regulations. (No. of respondents: 50; hours per response: 50 hours; total annual hour burden: 2500 hours).

(b) State Review and Removal of Market Entry or Exit Requirements. States must review their regulations and remove them where necessary to ensure consistency with the Commission's regulations. (No. of respondents: 50; hours per response: 50 hours; total annual burden: 2500 hours).

(c) State Showing of Proof of Market Failure for Exception to Market-Rate Local Coin Call Requirement. States must comply with the Commission's market-rate local coin call requirement, except where they show proof of market failure. Such a showing could consist of, for example, a detailed summary of the record of a state proceeding that examines the costs of providing payphone service within that state and the reasons why the public interest is served by having the state set rates within that market. (No. of respondents: 50; hours per response: 50 hours; total annual burden: 2500 hours).

(d) State Review and Removal of Adequacy of Provision of Public Interest Payphones. Each state must review whether it has adequately provided for public interest payphones in a manner consistent with the Order. (No. of respondents: 50; hours per response: 50 hours; total annual burden: 2500 hours).

(e) *Payphone Providers' Transmission of Specific Payphone Coding Digits.* All payphones are required to transmit specific payphone coding digits as a part of their automatic number identification (''ANI''), which will assist in identifying them to compensation payors. Currently, the local exchange carriers (''LECs'') are required to tariff federally originating line screening (''OLS'') services that provide a discrete code to identify payphones that are maintained by non-LEC providers. This requirement provides that LECs must furnish similar coding digits for their own payphones. (No. of respondents: 197; hours per response: 20 hours; total annual burden: 3940 hours).

(f) Interexchange Carriers' Provision of Tracking of All Compensable Calls. Carriers must provide tracking of all compensable calls received from payphones to ensure that each and every completed call from a payphone is receiving compensation. (No. of respondents: 275; hours per response: 100 hours; total annual burden: 27,500 hours).

(g) LEC Verification of Disputed ANIs and Maintaining and Making Available the Verification Data. LECs must provide verification of disputed ANIs on request and in a timely manner. In order to facilitate the process and provide efficient verification of disputed ANIs, the LECs must maintain and make available the verification data for at least 18 months after the close of the compensation period. (No. of respondents: 400; hours per response: 30 minutes quarterly; total annual burden: 800 hours).

(h) LEC Timely Notification of Payphone Disconnection. LECs are required to notify the carrier-payors of each payphone's disconnection on a basis that is as timely as possible. (No. of respondents: 400; hours per response: 30 minutes; total annual burden: 200 hours).

(i) LEC Indication on the Payphone's Monthly Bill That the Amount Due is for Payphone Services. LECs are required to affirmatively state on their bills to PSPs that the bills are for payphone service, to facilitate payment of compensation and to avoid disputes. (No. of respondents: 400; hours per response: 10 hours; total annual burden: 4000 hours).

(j) LEC Tariff Filings. Pursuant to the mandate in Section 276(b)(1)(B) to remove payphone costs from the CCL charge, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, 47 U.S.C. § 276(b)(1)(B), incumbent LECs must file revised tariffs for central office coin transmission services and CCL charges, to ensure that LEC services are priced reasonably and do not include subsidies. This also requires LECs to submit proposed interconnection requirements to the Commission. (No. of respondents: 400; hours per response: 100 hours; total annual burden: 40,000 hours).

(k) Reclassification of LEC-Owned Payphones. Pursuant to the mandate in Section 276(b)(1)(B) to remove payphone costs from the CCL charge and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, 47 U.S.C. § 276(b)(1)(B), incumbent LECs must either reclassify their payphone assets as nonregulated or transfer them to a separate affiliated engaged in nonregulated activities. Such reclassification or transfer includes establishing Part 64 cost pools, which are groupings of costs that maximize the extent to which cost causative allocation factors can be used to divide costs between regulated and nonregulated activities, as well as revising their cost allocation manuals. (No. of respondents: 400; hours per response: 100 hours; total annual burden 40,000 hours).

(l) Reclassification of AT&T Payphones. AT&T must either reclassify its payphone assets as nonregulated or transfer them to a separate affiliated engaged in nonregulated activities. Such reclassification or transfer includes establishing Part 64 cost pools, which are groupings of costs that maximize the extent to which cost causative allocation factors can be used to divide costs between regulated and nonregulated activities, as well as revising their cost allocation manuals. (No. of respondents: 1; hours per response: 100 hours; total annual burden: 100 hours).

(m) Payphone Provider's Verification of its Status to IXC Paying Compensation. Pursuant to the mandate in Section 276(b)(1)(A) that all payphone providers be fairly compensated for calls using their payphones, the Order established a definition of a payphone eligible for compensation as a payphone that appears on LEC-provided customer-owned, coin-operated telephone (''COCOT'') lists. If a payphone provider does not appear on this list, it must provide alternative verification information to the IXC paying compensation. Otherwise, the IXC would be unable to verify that the particular payphone provider was in fact eligible for compensation. (No. of respondents: 197; hours per response: 1 hour; total annual burden: 197 hours).

(n) Payphone Providers' Posting of Local Coin Call Rate on Each Payphone Placard. Pursuant to the mandate in Section 276(b)(1)(A) that the Commission establishes a fair compensation plan, the Commission decided to let the market set the price for individual calls originated by payphones. In order to ensure that callers have information about the price of the calls they make, payphone providers are required to post the local coin call rate within the informational placard on each payphone. (No. of respondents: 197; hours per response: 20 hours; total annual burden: 3940 hours).

(o) LEC Provision of Emergency Numbers to Carrier-Payors. Pursuant to the mandate in Section 276(b)(1)(A) that emergency calls shall not be subject to per call compensation, 47 U.S.C. Section 276 (b)(1)(A), the rules in the Order on Reconsideration provide that LECs shall supply to carrier-payors, on demand, a list of emergency numbers so that carrier-payors will know that they do not have to compensate payphone providers for those calls. (No. of respondents: 400; hours per response: 1 hour; total annual burden: 400 hours).

All of the requirements would be used to ensure that interexchange carriers, payphone service providers (''PSPs''), LECs, and the states, comply with their obligations under the 1996 Act. Obligation to respond: Mandatory.

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. 00–28686 Filed 11–8–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Submitted to OMB for Review and Approval

October 30, 2000.

SUMMARY: The Federal Communications Commission, 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 December 8, 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:* 3060–0935.

Title: Cable Industry Survey on Channel Capacity and Retransmission Consent.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 16.

Estimate Time Per Response: 12 hours.

Frequency of Response: One time reporting requirement.

Total Annual Burden: 192 hours.

Total Annual Costs: $17,280.

Needs and Uses: The Commission will use the data collected in this survey to build a record and to determine how to proceed on the mandatory carriage issues in the pending rulemaking. The data gleaned from the survey will be incorporated in the next Report and Order in CS Docket NO. 98–120.

Federal Communications Commission

Magalie Roman Salas,

Secretary.

[FR Doc. 00–28685 Filed 11–7–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Federal-State Joint Conference on Universal Service To Hold En Banc Hearing November 13, 2000 on the Rural Task Force Recommendation for Universal Service Reform for Rural Carriers

AGENCY: Federal Communications Commission.

ACTION: Announcement of hearing.

SUMMARY: The Federal-State Joint Board on Universal Service will hold an *en banc* hearing on Monday, November 13, 2000, at the 112th NARUC Annual Convention in San Diego, California. The Joint Board will discuss the Rural Task Force's recommendation regarding reform of the universal service support mechanism for rural carriers. Panelists representing a broad range of interests will present their views on the Rural Task Force's recommendation and questions from the Joint Board members will follow.

DATES: The meeting date is November 13, 2000, 3:30 p.m. to 5:30 p.m., San Diego, CA.

ADDRESSES: The meeting location is San Diego—San Diego Marriott Hotel and Marina (Marriott Hall 2) 333 West Harbor Drive, San Diego, CA 92101.

FOR FURTHER INFORMATION CONTACT:

Federal-State Joint Board Staff: Katie King, 202–418–7400, kking@fcc.gov; Gene Fullano, 202–418–0492, *gfullano@fcc.gov.*

News Media: Michael Balmoris, 202–418–0253.

SUPPLEMENTARY INFORMATION: The Federal-State Joint Board on Universal Service (the Joint Board) will hold an *en banc* hearing on Monday, November 13, 2000, at the 112th NARUC Annual Convention in San Diego, California. The Joint Board will discuss the Rural Task Force's recommendation regarding reform of the universal service support mechanism for rural carriers. Panelists representing a broad range of interests will present their views on the Rural Task Force's recommendation and questions from the Joint Board members will follow.

In the May 1997 *Universal Service Order*, 62 FR 32862, June 17, 1997, the Commission, acting on the recommendation of the Joint Board, encouraged the Joint Board to establish a Rural Task Force to provide ''assistance in identifying the issues unique to rural carriers and analyzing the appropriateness of proxy cost models for rural carriers.'' On September 17, 1997, the Joint Board announced the creation of the Rural Task Force and directed it to present a report to the Joint Board making specific recommendations on the establishment of a new mechanism for rural telephone companies. On September 29, 2000, the Rural Task Force submitted the *Rural Task Force Recommendation To The Federal-State Joint Board On Universal Service.*

The *en banc* hearing will be held from 3:30 p.m. to 5:30 p.m. at the San Diego Marriott Hotel and Marina, 333 West Harbor Drive, in Marriot Hall 2. An agenda, including scheduled panelists, will be posted on the Joint Board's Web site next week (*http://www.fcc.gov/ccb/universal service/joint.htlm*). The hearing is open to the public and seating will be available on a first-come, first-served basis.

Internet users may listen to the real-time audio feed of the hearing by accessing the FCC Internet Audio Broadcast Home page (*http://www.fcc.gov/realaudio/*). Step-by-step instructions on how to listen to the audio broadcast, as well as information regarding the equipment and software needed, are available on the FCC Audio Broadcast Home page. Audio tapes of the hearing may be purchased from Rollin Recording, 208 River Ranch Road, Boerne, Texas 78006, by calling 1–800–798–5468.

Dated: November 3, 2000.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–28726 Filed 11–7–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2449]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

November 1, 2000.

Petitions for Reconsideration and Clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW, Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed by November 14, 2000. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions have expired.

Subject: Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Rangely, Silverton and Ridgway, Colorado) (MM Docket No. 99–151, RM–9559, RM–9932).

Number of Petitions Filed: 1.

Subject: Amendment of Part 15 of the Commission's Rules Regarding Spread Spectrum Devices (ET Docket No. 99–231).

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–28614 Filed 11–7–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, November 9, 2000, 10 a.m., meeting open to the public.

This meeting was cancelled.

DATE & TIME: Tuesday, November 14, 2000 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, November 16, 2000 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2000–24: Alaska Democratic Party by counsel, Neil Reiff.

Final Rules and Explanation and Justification on General Public Political Communications Coordinated with Candidates, and Independent Expenditures.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 00–28841 Filed 11–6–00; 2:47 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011637–003.

Title: Ampac Cooperative Working Agreement.

Parties: Mexican Line Limited, Columbus Line, Maruba S.C.A.

Synopsis: The proposed amendment changes the name of Columbus Line's corporate parent. In addition, it reflects changes in the provision of vessels to be operated under the Agreement and adds provisions in the Agreement's termination provisions to deal with possible changes in control of an Agreement party.

Dated: November 3, 2000.

By Order of the Federal Maritime Commission.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–28665 Filed 11–7–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License; Reissuance of License

Notice is hereby given that the following Ocean Transportation Intermediary license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by OSRA 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR part 515.

License No.	Name/address	Date reissued
4023N ..	Shuh-Liang Huo d/b/a Argosy International Co., 5572 Lutford Circle, Westminster, CA 92683.	September 22, 2000.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 00–28663 Filed 11–7–00; 8:45 am]

BILLING CODE 6730–01–U

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following ocean transportation intermediary licenses have been terminated pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding dates shown below:

License Number: 4023F.
Name: Shuh-Liang Huo d/b/a Argosy International Co.
Address: 5572 Lutford Circle, Westminister, CA 92683.
Date Revoked: September 22, 2000.
Reason: Surrendered license voluntarily.

License Number: 15217N.
Name: Caribbean Containers, Inc.
Address: Calle John Albert Ernd, Urb.Ind.Bechara, Puerblo Viejo Puerto Nuevo, San Juan, PR 00920.
Date Revoked: October 21, 2000.
Reason: Failed to maintain a valid bond.

License Number: 15204N.
Name: Executive Freight Services, Inc.
Address: 3848 Salem Road, P.O. Box 310195, Enterprise, AL 36301.
Date Revoked: October 11, 2000.
Reason: Failed to maintain a valid bond.

License Number: 16705NF.
Name: HR Services.
Address: TDK House, 5/7 Queensway, Redhill, Surrey RH1 1YB, United Kingdom.
Date Revoked: September 27, 2000.
Reason: Surrendered license voluntarily.

License Number: 4305F.
Name: Jeffrey Oh d/b/a Penn Int'l Co.
Address: 22533 S. Vermont Avenue, #20, Torrance, CA 90502.
Date Revoked: October 21, 2000.
Reason: Failed to maintain a valid bond.

License Number: 4376F.
Name: Paccent Express Line Co.
Address: 11099 S. La Cienega Blvd., Suite 207, Los Angeles, CA 90045.
Date Revoked: October 12, 2000.
Reason: Surrendered license voluntarily.

License Number: 15125N.
Name: Sea-Air-Land International Services, Inc.
Address: 7365 35th Street, Miami, FL 33122.
Date Revoked: October 21, 2000.
Reason: Failed to maintain a valid bond.

License Number: 13748N.
Name: United Logistics Services, Inc. d/b/a A.N.C. International.
Address: 1699 Wall Street, Suite 112, Mount Prospect, IL 60010.
Date Revoked: October 6, 2000.
Reason: Failed to maintain a valid bond.

License Number: 13495N.
Name: Wintrade Forwarding Agent, Inc.
Address: 1378 N.W. 78th Avenue, Miami, FL 33126.
Date Revoked: October 12, 2000.
Reason: Failed to maintain a valid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 00–28664 Filed 11–7–00; 8:45 am]

BILLING CODE 6730–01–U

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicant

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for licenses as Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, D.C. 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants:

Swift Freight (USA) Inc., 121 N. State College Blvd., Suite 118, Anaheim, CA 92806. Officers: Kamal S,

Vazirani, Officer (Qualifying Individual), Jayant Bharadwaj, President

General Cargo & Logistics, 4261 182nd Street, #J, Torrance, CA 90504. Officers: Kim Eric Castro-Bran, Vice President (Qualifying Individual), Rogerio O. Morais, President

American Asia Freight Corp., Cargo Bldg. 80, Room 115, JFK Int'l Airport, Jamaica, NY 11430. Officers: Edward Leung, Vice President (Qualifying Individual), Sean Jing, President

Inter-Connect Transportation, Inc., 8901 S. La Cienega Blvd., Suite 210, Inglewood, CA 90301. Officer: Sang Hoon Kong (A.K.A. Brian Kong), C.E.O. (Qualifying Individual)

Keystone Dedicated Logistics Company, LLC, 15 27th Street, Pittsburgh, PA 15222–4729. Officers: James A. Frye, Vice President (Qualifying Individual), Donald S. Varshine, President

Asian Development (NY) Int'l Transportation Corp., 168–01 Rockaway Blvd., Suite 203, Jamaica, NY 11434. Officer: Yan Li, President (Qualifying Individual)

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants:

Stuart Logistics, Incorporated, 56–58 Broad Street, 3rd Floor, Charleston, SC 29401. Officers: Lauren Emily Roos, Treasurer (Qualifying Individual), M. Bruce Burris, Principal

Speedex International, Inc., 2997 E. Maria Street, Rancho Dominguez, CA 90221. Officer: Hae Sung Park (A.K.A. Esther Park), C.E.O. (Qualifying Individual), Karl O. Krug, President

Sotby Transportation, Inc., 1630 Bath Avenue, Brooklyn, NY 11214. Officers: Bronovsky Alexander, Vice President (Qualifying Individual), Gregory Solovey, President

Mohawk Customs & Shipping (Rochester, LLC), 52 Marway Circle, Rochester, NY 14624. Officers: John Philip Tracy, Dir. Sales & Marketing (Qualifying Individual), Sherie Micklei, LCB, Dir. Import Services

Marist International Group, Inc. d/b/a MIG Cargo Services, 1212 5th Avenue, Suite K, Monrovia, CA 91016. Officers: Ismael A. Ferrer, President (Qualifying Individual), Alex Tibay, Director

Joseph Bonvissuto, Inc. d/b/a Freight Expediters, 6862 Engle Road, Suite 210A, Middleburg Heights, OH 44130. Officer: Joseph Bonvissuto, President (Qualifying Individual)

J. Powers International, 2301 So. State, Suite 100–B, Little Rock, AR 72206. Officer: Christopher D. Joshua, Sr., President (Qualifying Individual)

Aero Costa International, Inc., 460 E. Carson Plaza Drive, Suite 220, Carson, CA 90746. Officer: Kun Woo Lee, C.E.O./Secretary (Qualifying Individual)

Ocean Freight Forwarders—Ocean Transportation Intermediary Applicants:

Columbia Container Lines (USA) Inc., 175–11 148 Road, Suite 202, Jamaica, NY 11434. Officer: Simon Tung, President (Qualifying Individual)

Dated: November 3, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–28666 Filed 11–7–00; 8:45 am]

BILLING CODE 6730–01–U

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 12:00 noon, Monday, November 13, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 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: November 3, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–28704 Filed 11–3–00; 4:17 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Delegation of Authority To Disclose Certain Nonpublic Information To Foreign Law Enforcement Agencies

AGENCY: Federal Trade Commission.

ACTION: Delegation of Authority.

SUMMARY: The Commission has delegated authority to the Associate Director of Planning and Information to share certain non-public information with the United Kingdom Directorate for Trade and Industry and the United Kingdom Office of Fair Trading.

EFFECTIVE DATE: October 26, 2000.

FOR FURTHER INFORMATION CONTACT: Maneesha Mithal, Attorney, Division of Planning and Information, 202 326–2771, mmithal@ftc.gov.

SUPPLEMENTARY INFORMATION: Notice is hereby given, pursuant to Reorganization Plan No. 4 of 1961, 26 FR 6191, that the Commission has delegated to the Associate Director for Planning and Information the authority to disclose to the United Kingdom Office of Fair Trading and the United Kingdom Directorate for Trade and Industry information regarding consumer protection investigations involving U.K. businesses or consumers.

This delegation does not apply competition-related investigations. Disclosures shall be made only to the extent consistent with limitations on disclosure, including section 6(f) of the FTC Act, 15 U.S.C. 46(f), section 21 of the Act, 15 U.S.C. 57b–2, and Commission Rule 4.10(d), 16 CFR 4.10(d) and with the Commission's enforcement policies and other important interests. When the subject matter of the information to be shared raises significant policy concerns, staff shall consult with the Commission before disclosing such information.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 00–28692 Filed 11–7–00; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

National Action Plan on Oversight and Obesity: Notice of Opportunity for Public Comment; Notice of Public Meeting

AGENCY: OS/Office of Public Health and Science, DHHS.

ACTION: Opportunity to provide comments; Notice of Public Meeting.

SUMMARY: The Department of Health and Human Services (HHS) (a) solicits written comments on the key elements of a national action plan on overweight and obesity, and (b) provides notice of a public meeting.

DATES: (1) Written comments may be submitted on or before 5 p.m. E.S.T. on December 29, 2000. (2) A public meeting will be held on December 7, 2000 from 1 p.m. to 5:30 p.m. and on December 8, 2000 from 8:30 a.m. to 5:30 p.m.

ADDRESSES: (1) Written comments should be sent to Paul Ambrose, M.D., M.P.H., HHS Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Room 738–G, 200 Independence Ave., SW., Washington, DC 20201, (202) 205–4872 (telephone), 202–205–9478 (facsimile). Comments also may be submitted electronically at *www.sgobesity.niddk.nih.gov.* (2) A public meeting will be held at the Lister Hill Auditorium, Building 38A, NIH Campus, Bethesda, Maryland. The meeting is open to the public; seating is limited.

FOR FURTHER INFORMATION CONTACT: Paul Ambrose, M.D., M.P.H., or Kathryn McMurry, M.S., HHS Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Room 738–G, 200 Independence Ave., SW., Washington, DC 20201, (202) 205–4872. To register for the meeting, contact Ms. Susie Warner at (301) 897–2789 (telephone), (301) 897–9587 (facsimile), or on-line at *www.sbogesity.niddk.nih.gov.* Additional information can be obtained at this website or at *www.surgeongeneral.gov.*

SUPPLEMENTARY INFORMATION:

Background

Overweight and obesity is a significant public health problem because it increases risk for many chronic diseases and premature death. More than half of adults and 11 percent of children and adolescents in the United States are estimated to be overweight or obese. The prevalence has almost doubled among children and adolescents since 1980 and is increasing in both genders and among all population groups of adults. Total costs (medical costs and lost productivity) attributed to obesity amounted to an estimated $99 billion in 1995. Health People 2010, the nation's public health agenda, has identified overweight and obesity as one of ten Leading Health Indicators.

While the magnitude of the problem is great, the range of potential solutions is even greater. The design of successful prevention strategies will require the careful attention of many individuals and organizations working together. Prevention of overweight and obesity requires a broad array of strategies to promote healthy eating and increased physical activity. A number of activities are underway in public and private sectors related to the public health issue of obesity.

Written Comments

In preparation for the development of a national action plan to address overweight and obesity in the United States, comments are welcome from all interested stakeholders. Further opportunity for public input in development of the plan is envisioned during 2001.

Comments will be most useful if they include the following information:

(1) What you consider to be the three to five most important priorities for addressing overweight and obesity in the United States.

(2) How, as a nation, we should pursue these strategies.

(3) Your views on the most effective ways to address disparities among different segments of the population.

(4) (If applicable) A short summary of activities that your organization is engaged in or plans to engage in to address overweight and obesity. This information may become part of a publicly accessible website information center.

Comments received by November 26 will be summarized and made available at the listening session described below. Comments will be accepted through 5 p.m., E.S.T. on December 29, 2000.

Announcement of Meeting

To launch a process of developing a national action plan on overweight and obesity, Assistant Secretary for Health and Surgeon General David Satcher plans a listening session entitled Toward a National Action Plan on Overweight and Obesity: The Surgeon General's Initiative on December 7–8, 2000. The event will include invited panels of non-federal and nongovernmental organizations to discuss views on what the key elements of a national action plan on overweight and obesity should be, as well as time for discussion.

Meeting Location and Registration

The meeting will be held on December 7, 2000 from 1 p.m. to 5:30 p.m. and on December 8, 2000 from 8:30 a.m. to 5:30 p.m. at the Lister Hill Auditorium in Bethesda, Maryland. The Lister Hill auditorium is located at Lister Hill Auditorium, Building 38A, NIH Campus, Bethesda, MD. The building is located near the Medical Center metro stop (red line train). Because seating is limited, registration is required and may be limited to one representative per organization. To register, please contact Ms. Susie Warner at (301) 897–2789 (telephone), (301) 897–9587 (facsimile), or on-line at *www.sgobesity.niddk.nih.gov.* If you require a sign language interpreter, please contact Ms. Warner by 5 p.m. E.S.T. on November 30, 2000. The meeting will be webcast live at *videocast.nih.gov.*

Dated: November 1, 2000.

David Satcher,

Assistant Secretary for Health and Surgeon General.

[FR Doc. 00–28642 Filed 11–7–00; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Report on FDA Plan for Statutory Compliance; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a report entitled ''Report on FDA Plan for Statutory Compliance.'' This report satisfies provisions of the FDA Modernization Act of 1997 (FDAMA), which charged FDA to develop a plan for meeting its statutory requirements, and to report on planned versus actual performance.

ADDRESSES: Copies of the report may be obtained from the contact person at the address listed below. Persons with access to the Internet may obtain the report at http://www.fda.gov/oc/fdama/fdamaplnresponse/rptFY99.html.

FOR FURTHER INFORMATION CONTACT: Bill J. Hagan, Office of Planning (HFP–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5212, FAX 301–827–5225, or e-mail: WHagan@oc.fda.gov.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a report entitled ''Report on FDA Plan for Statutory Compliance.'' This report satisfies provisions outlined in section 406(b) of FDAMA, which charged FDA to develop a plan for meeting its

statutory requirements, and to report on planned versus actual performance. The plan was published in November 1998. This report identifies accomplishments against that plan. As this report shows, in fiscal year 1999, FDA achieved significant gains in the six FDAMA objectives by combining the agency's traditional principles and practices with new approaches. In keeping with its traditional values, FDA continued providing a broad spectrum of consumer protections based on rigorous science-based standards. To strengthen its performance, FDA developed partnerships with stakeholders and stimulated cooperation and participation by making its activities more understandable and accessible to stakeholders. FDA's accomplishments include the following:

- New drugs and biological products are being reviewed and released to the public in record time,
- A nationwide food safety surveillance network has now been established which is helping to significantly reduce food-related illnesses and deaths, and
- Millions of consumers have wider and more timely access to information about their new medications.

FDA will continue working with Congress and our stakeholders to improve performance and to work towards meeting our statutory obligations under FDAMA.

Dated: October 30, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–28616 Filed 11–7–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Universal Newborn Hearing Screening and Intervention

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that approximately $5 million in fiscal year (FY) 2001 funds is anticipated for 25 to 31 grants to States for the implementation of universal physiologic newborn hearing screening prior to hospital discharge with linkages to medical home, ongoing family-to-family support, diagnostic evaluation by three months of age, and enrollment in a program of early intervention by six months of age for those infants identified with hearing loss. All awards will be made under the program authority of Title VI of the Labor-HHS-Education Appropriations Act for FY 2000 (Pub. L. 106–113). This Universal Newborn Hearing Screening and Intervention Program (CFDA #93.251) will be administered by the Maternal and Child Health Bureau (MCHB), HRSA. Projects will be approved for a 4-year period, with awards at average yearly amounts ranging from $100,000 to $200,000. Funding for Universal Newborn Hearing Screening and Intervention grants is contingent upon the availability of FY 2001 funds.

DATES: Entities which intend to submit an application for this grant program are expected to notify MCHB's Division of Services for Children with Special Health Care Needs by November 10, 2000. The deadline for receipt of applications is December 8, 2000. Applications will be considered ''on time'' if they are either received on or before the deadline date or postmarked on or before the deadline date. The project award date is March 31, 2001.

ADDRESSES: To receive a complete application kit, applicants may telephone the HRSA Grants Application Center at 1–877–477–2123 (1–877–HRSA–123) beginning November 3, 2000, or register on-line at: *http://www.hrsa.dhhs.gov/*, or by accessing *http://www.hrsa.gov/g__order3.htm* directly. This program uses the standard Form PHS 5161–1 (rev. 7/00) for applications (approved under OMB No. 0920–0428). Applicants must use Catalog of Federal Domestic Assistance (CFDA) number 93.251 when requesting application materials. The CFDA is a Government wide compendium of enumerated Federal programs, projects, services, and activities which provide assistance. All applications should be mailed or delivered to: Grants Management Officer, MCHB; HRSA Grants Application Center, 1815 N. Fort Meyer Drive, Suite 300, Arlington, Virginia 22209; telephone: 1–877–477–2123; E-mail: *hrsagac@hrsa.gov*.

This application guidance and the required forms for the Universal Newborn Screening and Intervention program may be downloaded in either WordPerfect 6.1 or Adobe Acrobat format (.pdf) from the MCHB Home Page at *http://www.mchb.hrsa.gov/*. Please contact Joni Johns, at 301/443–2088, or *jjohns@hrsa.gov/*, if you need technical assistance in accessing the MCHB Home Page via the Internet.

This announcement will appear in the **Federal Register** and on the HRSA Home Page at: *http://www.hrsa.dhhs.gov/*. **Federal Register** notices are found by following instructions at: *http://www.access.gpo.gov/su__docs/aces/aces140.html.*

Letter of Intent: Notification of intent to apply can be made in one of three ways: telephone, 301–443–2370; email, *iforsman@hrsa.gov;* mail, MCHB, HRSA; Division of Children with Special Health Care Needs; Parklawn Building, Room 18A–18; 5600 Fishers Lane; Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Irene Forsman, M.S., R.N., 301/443–2370, email: *iforsman@hrsa.gov/* (for questions specific to project activities of the program, program objectives, or the required Letter of Intent which is further described in the application kit); Paulette Faga, 301/443–6934, email *pfagan@hrsa.gov/* (for grants policy, budgetary, and business questions).

SUPPLEMENTARY INFORMATION:

Universal Newborn Hearing Screening and Intervention Program Background and Objectives

HRSA's Maternal and Child Health Bureau has been involved in newborn screening and genetic testing for more than a decade. In 1989, Dr. C. Everett Koop, then Surgeon General, urged that all infants with significant hearing loss be identified by 12 months of age, and encouraged inclusion of this goal in the Public Health Service's *''National Healthy People Goals 2000.''* Since then, MCHB, acting in concert with the Centers for Disease Control and prevention (CDC) and the National Institutes of Health (NIH), has made substantial progress in the adoption of universal newborn hearing screening and early intervention as the standard of care in the United States. The new *''Healthy People 2010''* includes a revised newborn hearing screening goal of identifying all newborns with significant hearing loss and enrolling them in a program of early intervention by age 6 months. All relevant professional organizations, including the American Academy of Pediatrics, have endorsed the concept.

Also in 1989, MCHB's Division of Services for Children with Special Health Needs began efforts under the Special Projects of Regional and National Significance (SPRANS) authority of the Maternal and Child Health (MCH) Block Grant (Title V of the Social Security Act) to support implementation of universal newborn hearing screening prior to discharge through a series of demonstration projects to assess the effectiveness of new technologies and to provide

technical assistance to a number of hospitals and States in establishing and maintaining universal newborn hearing screening and intervention programs. Resources developed by these projects can be found on-line at: *http://www.usa.edu:8080/-ncham/consort.html,* and *http://www.colorado.edu/slhs/MDNC/index.html.* This grant program will continue to operate in conjunction with the State Title V programs.

In 1999, following more than a decade of pioneering work in universal newborn hearing screening in hospitals nationwide, MCHB released a guide for hospitals wishing to initiate newborn hearing screening and intervention programs. The publication, ''Early Identification of Hearing Loss—Implementing Universal Newborn Hearing Screening Programs,'' is available free to hospitals and birthing centers around the country through the National Maternal and Child Health Clearinghouse and on the World Wide Web at *http://www.nmchc.org.* The guide is organized into areas to be considered in setting up this type of program, such as determining protocol in the participating hospital; choosing equipment; training; financing; managing data; and talking to parents, physicians, and hospital staff.

By the year 2000, about 35 percent of newborns were being screened for hearing loss before discharge. Hundreds of hospitals operate screening programs. Evidence is clear that implementation of universal newborn hearing screening substantially lowers the age at which children with congenital permanent hearing loss are identified and that children who are identified early do better on school related measures. In addition, technology is available to conduct cost-efficient, physiological screening universally prior to hospital discharge. In 1993, less than 5 percent of all infants were screened for hearing loss prior to hospital discharge. Most established programs are now able to screen more than 95 percent of all newborns prior to discharge and parental acceptance of the screening programs is high. Typically, one to three percent of those screened require referral for diagnostic evaluation. The cost of screening is approximately $25-$30 per infant.

As of September 200, about 24 States had enacted laws regarding hearing screening for all newborns. However, the vast majority of hospitals in this country still do not screen all infants prior to discharge.

Congressional support to expand universal newborn hearing screening and intervention to all States grew throughout the 1990's. In November 1999, Congress acted through both the appropriations and authorization processes to target increased resources to encourage State efforts. New legislative authority, enacted under Title VI of the Labor-HHS-Education Appropriations Act for FY 2000 (Pub. L. 106–113), represented a milestone in the effort to give newborns a healthy start in life.

In March 2000, using $3 million in FY 2000 funds appropriated under the new authority, MCHB was able to increase support for newborn hearing screening and intervention by awarding grants, totaling $3 million, to 22 States. These four-year grants are the most recent steps toward assuring that once babies are screened and diagnosed with a hearing loss, they and their families receive appropriate services that are coordinated at the community level with early intervention programs, ongoing family-to-family support and the child's medical home, *i.e.*, regular source of primary health care. Diagnosis is recommended by 3 months of age; intervention by 6 months.

The grants to be awarded under this announcement will extend the initiative MCHB began in March 2000, to an additional 25 to 31 States in FY 2001.

Authorization

Title VI of the Departments of Labor-HHS-Education Appropriations Act for FY 2000 (Pub. L. 106–113).

Purpose

The purpose of these grants is to provide funds to States for the implementation of programs of statewide universal physiologic newborn hearing screening prior to hospital discharge with linkages to medical home, ongoing family-to-family support, diagnostic evaluation by three months of age, and enrollment in a program of early intervention by six months of age for those infants identified with hearing loss.

Eligibility

This program is open to State agencies with the capacity to implement a statewide universal newborn hearing screening and intervention program for all newborn infants in the State.

Funding Level/Project Period

The total funding level for these grants is $5 million annually over a four-year project period, from March 31, 2001 through March 30, 2005. The project period consists of one or more budget periods, each generally of one year duration.

Funding for this grant program is contingent upon the availability of FY 2001 funds. Continuation of any project from one budget period to the next is subject to satisfactory performance, availability of funds, and program priorities. The initial budget period is expected to be 12 months, with subsequent budget periods being 12 months.

An estimated 25 to 31 awards will be made annually, with average first-year awards ranging from $100,000 to $200,000.

Funding Priorities and/or Preferences

Preference will be given to States without a Universal Newborn Hearing Screening and Intervention grant from MCHB.

Review Criteria

Applications for this grant program will be reviewed on the basis of the extent to which they address the following criteria:

(1) The degree to which the applicant provides a complete description of the current status of the State with respect to full implementation of a program of universal newborn hearing screening prior to hospital discharge, linkage to the infant's medical home, audiologic diagnosis by 3 months of age, ongoing family-to-family support and enrollment in a program of early intervention by 6 months.

(2) The degree to which the applicant provides an implementation plan to achieve full implementation of a sustainable statewide universal newborn hearing screening program, defined as the screening of 95 percent of infants prior to hospital discharge or in the first month of life. Elements of such a plan include:

(a) A state level advisory committee with appropriate representation of professionals who will be involved in the screening and followup program, families, and consumers of services for infants with hearing loss;

(b) The structure of the screening program, including informed consent procedures; screening methodology, procedures and personnel; timing and responsibility for documenting and communicating results;

(c) Procedures for assuring timely linkages of identified infants and families with the infant's medical home, ongoing family-to-family support and early intervention services (consistent with Part C of the Individuals with Disabilities Education Act (IDEA) [20 U.S.C. 1431 *et seq.*]).

(d) Procedures for assuring that timely audiologic followup and diagnosis of infants suspected of hearing loss is

carried out, including the availability of appropriately trained audiology personnel;

(e) A description of the data and tracking system for infants suspected to have or identified with significant hearing loss, including a description of relationships to other databases within the States that focus on infants and children, particularly the relationship of the newborn hearing screening data to the newborn metabolic screening data and tracking system and CDC's Early Hearing, Detection and Intervention (EHDI) reporting system; and

(f) A plan for professional and public education about the state newborn hearing screening program.

(3) The extent to which the estimated cost to the Government of the project is reasonable, considering the anticipated results;

(4) The extent to which the project personnel are well qualified by training and/or experience for their roles in the project and the applicant organization has adequate facilities and personnel;

(5) The extent to which the project will be integrated with the administration of MCH Block Grant programs and other related programs in the State.

(6) The inclusion of a well developed plan for evaluation, which documents, with data support, the successes (or failures) at each stage of the screening and intervention program. Funded programs will be required to report annually throughout the life of the grant. Data reporting will include the number of infants screened, number referred for audiologic diagnosis, number and age of infants receiving audiologic diagnosis, number of infants with a medical home, referral to family-to-family support and number and age at which identified infants are enrolled in early intervention services. OMB approval for the data reporting will be sought, as required under the Paperwork Reduction Act of 1995.

Applicants should pay strict attention to addressing the above criteria as they are the basis upon which their applications will be judged.

Executive Order 12372

This program has been determined to be a program which is subject to the provisions of Executive Order 12372 concerning intergovernmental review of Federal programs by appropriate health planning agencies, as implemented by 45 CFR Part 100. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application packages to be made available under this notice will contain a listing of States which have chosen to set up such a review system and will provide a single point of contact (SPOC) in the States for review. Applicants (other than federally-recognized Indian tribal governments) should contact their State SPOCs as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. The due date for State process recommendations is 60 days after the application deadline for new and competing awards. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date. (See Part 148, Intergovernmental Review of PHS Programs under Executive Order 12372 and 45 CFR Part 100 for a description of the review process and requirements).

Dated: November 2, 2000.

Claude Earl Fox,

Administrator.

[FR Doc. 00–28617 Filed 11–7–00; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4565–N–27]

Notice of Proposed Information Collection For the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation; Comment Request

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: January 8, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Allen Fishbein, Senior Advisor for Government Sponsored Enterprises Oversight, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–3600, extension 2117, or Sandra Fostek, Office of Government Sponsored Enterprises Oversight, at (202) 708–2224, extension 2233 (these are not toll-free numbers) for copies of available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Regulation of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac).

OMB Control Number, if applicable: 2502–0514.

Description of the need for the information and proposed use: This notice requests a revision of a currently approved collection to accommodate additional data requirements necessitated by HUD's recent publication of a new implementing regulation to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA). On October 31, 2000, HUD published a rule at 24 CFR Part 81, to become effective January 1, 2001, which increased the levels of required affordable housing goal performance for Fannie Mae and Freddie Mac (the GSEs). The rule also implemented certain changes to HUD's counting rules relative to how mortgages will be credited towards the housing goals and provided special incentives whereby the GSEs could earn additional housing goals credit for certain loan purchase activities. HUD's collection of

information on the GSEs' business activities is needed to measure and monitor their compliance with statutorily mandated housing goals; to ensure the GSEs' compliance with counting rules, including the exclusion of high cost, predatory loans, from eligibility for goals credit; to foster a continuing dialogue between HUD, the GSEs, Congress, and the public on the activities of the GSEs with respect to affordable housing and underserved mortgage market issues; and to improve the operating of the housing finance market.

In accordance with HUD's regulation issued in 1995, the GSEs submit Quarterly Mortgage Reports, Annual Housing Activities Reports, Periodic Reports, and Other Information Analyses. This reporting remains unchanged in HUD's recently published regulation.

The mid-year second quarter Mortgage Report and the year-end Annual Mortgage Activities Report also must include year-to-date computerized loan level data. In order to accommodate the counting rule changes in HUD's new regulation, HUD proposes to increase its mid-year and year-end computerized loan level data collection requirement by about 36 percent over requirements imposed during the reporting period 1996–1999. The 36 percent increase includes data fields that are counted twice because the same data is collected from both single family and multifamily data sources. This action represents the first increase in HUD's data collection requirements since publication of the 1995 final rule. These new data collection requirements will enable HUD to monitor GSEs' compliance with new goals and counting conventions and will also permit HUD to make determinations relative to the effectiveness of certain incentives in promoting conventional mortgage lending activity to traditionally underserved borrowers and communities.

Agency Form Numbers, if applicable: None.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of responses: The estimated number of respondents is 2, the total annual responses are approximately 87 reports, and the total annual hours of all responses, including reports and data collection, are estimated at 5,697 hours.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: October 31, 2000.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 00–28590 Filed 11–7–00; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100–497, 25 U.S.C. § 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Amended Gaming Compact between the Sisseton-Wahpeton Sioux Tribe and the State of South Dakota, which was executed on August 24, 2000.

DATES: This action is effective November 8, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: October 25, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–28587 Filed 11–7–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of Revised Outer Continental Shelf (OCS) Official Protraction Diagram.

SUMMARY: Notice is hereby given that effective with this publication, the following NAD 27-based OCS Official Protraction Diagram last revised on the date indicated, is on file and available for information only, in the Gulf of Mexico OCS Regional Office, New Orleans, Louisiana. In accordance with Title 43, Code of Federal Regulations, this diagram is the basic record for the description of minerals and oil and gas lease sales in the geographic area it represents.

Description	Date
NG15–09, Amery Terrace	Oct. 25, 2000.

FOR FURTHER INFORMATION CONTACT: Copies of Leasing Maps and Official Protraction Diagrams are $2.00 each. These may be purchased from the Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

Dated: November 2, 2000.

Thomas A. Readinger,

Acting Associate Director for Offshore Minerals Management.

[FR Doc. 00–28600 Filed 11–7–00; 8:45 am]

BILLING CODE 4310–MR–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Committee on Court Administration and Case Management, Subcommittee on Privacy and Electronic Access to Court Files; Notice of Request for Public Comment

AGENCY: Judicial Conference of the United States, Committee on Court Administration and Case Management, Subcommittee on Privacy and Electronic Access to Court Files.

ACTION: Notice of request for public comment.

SUMMARY: The Court Administration and Case Management Committee of the Judicial Conference of the United States, through its Subcommittee on Privacy and Electronic Access to Case Files, is seeking comment on the attached document outlining policies under consideration to address issues of privacy and security concerns related to the electronic availability of court case files.

DATES: Comments will be accepted from November 13, 2000 through January 26, 2001.

ADDRESSES: All comments should be received by 5 p.m., January 26, 2001. The electronic submission of comments is highly encouraged. Electronic comments may be submitted at *www.privacy.uscourts.gov* or via e-mail at *Privacy__Policy__Comments@ao.uscourts.gov.* Comments may be submitted by regular mail to The Administrative Office of the United States Courts, Court Administration Policy Staff, Attn: Privacy Comments,

Suite 4–560, One Columbus Circle, NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Abel J. Mattos, Chief, Court Administration Policy Staff, Administrative Office of the United States Courts, One Columbus Circle, NE., Washington, DC 20544, telephone (202) 502–1560, fax (202) 502–1022.

Dated: November 1, 2000.

Abel J. Mattos,

Chief, Court Administration Policy Staff.

Request for Comment on Privacy and Public Access to Electronic Case Files

The federal judiciary is seeking comment on the privacy and security implications of providing electronic public access to court case files. The Judicial Conference of the United States is studying these issues in order to provide policy guidance to the federal courts. This request for public comment addresses several related issues:

- The judiciary's plans to provide electronic access to case files through the Internet;
- The privacy and security implications of public access to electronic case files;
- Potential policy alternatives and the appropriate scope of judicial branch action in this area.

The judiciary is interested in comments that address any of the issues raised in this document, including whether it is appropriate for the judiciary to establish policy in this area.

All comments should be received by 5 p.m. January 26, 2001 and must include the name, mailing address and phone number of the commentator. All comments should also include an e-mail address and a fax number, where available, as well as an indication of whether the commentator is interested in participating in a public hearing, if one is held. The public should be advised that it may not be possible to honor all requests to speak at any such hearing.

The electronic submission of comments is highly encouraged. Electronic comments may be submitted at *www.privacy.uscourts.gov* or via e-mail to *Privacy__Policy__Comments@ao.uscourts.gov.* Comments may be submitted by regular mail to The Administrative Office of the United States Courts, Court Administration Policy Staff, Attn: Privacy Comments, Suite 4–560, One Columbus Circle, NE., Washington, DC 20544.

Electronic Public Access to Federal Court Case Files

The federal courts are moving swiftly to create electronic case files and to provide public access to those files through the Internet. This transition from paper files to electronic files is quickly transforming the way case file documents may be used by attorneys, litigants, courts, and the public. The creation of electronic case files means that the ability to obtain documents from a court case file will no longer depend on physical presence in the courthouse where a file is maintained. Increasingly, case files may be viewed, printed, or downloaded by anyone, at any time, through the Internet.

Electronic files are being created in two ways. Many courts are creating electronic images of all paper documents that are filed, in effect converting paper files to electronic files. Other courts are receiving court filings over the Internet directly from attorneys, so that the ''original'' file is no longer a paper file but rather a collection of the electronic documents filed by the attorneys and the court. Over the next few years electronic filing, as opposed to making images of paper documents, will become more common as most federal courts begin to implement a new case management system, called Case Management/Electronic Case Files (or ''CM/ECF''). That system gives each court the option to create electronic case files by allowing lawyers and parties to file their documents over the Internet.

The courts plan to provide public access to electronic files, both at the courthouse and beyond the courthouse, through the Internet. The primary method to obtain access will be through Public Access to Court Electronic Records (or ''PACER''), which is a web-based system that will contain both the dockets (a list of the documents filed in the case) and the actual case file documents. Individuals who seek a particular document or case file will need to open a PACER account and obtain a login and password. After obtaining these, an individual may access case files—whether those files were created by imaging paper files or through CM/ECF—over the Internet. Public access through PACER will involve a fee of $.07 per page of a case file document or docket viewed, downloaded or printed. This compares favorably to the current $.50 per page photocopy charge. Electronic case files also will be available at public computer terminals at courthouses free of charge.

Potential Privacy and Security Implications of Electronic Case Files

Electronic case files promise significant benefits for the courts, litigants, attorneys, and the public. There is increasing awareness, however, of the personal privacy implications of unlimited Internet access to court case files. In the court community, some have begun to suggest that case files—long presumed to be open for public inspection and copying unless sealed by court order—contain private or sensitive information that should be protected from unlimited public disclosure and dissemination in the new electronic environment. Others maintain that electronic case files should be treated the same as paper files in terms of public access and that existing court practices are adequate to protect privacy interests.

Federal court case files contain personal and sensitive information that litigants and third parties often are compelled by law to disclose for adjudicatory purposes. Bankruptcy debtors, for example, must divulge intimate details of their financial affairs for review by the case trustee, creditors, and the judge. Civil case files may contain medical records, personnel files, proprietary information, tax returns, and other sensitive information. Criminal files may contain arrest warrants, plea agreements, and other information that raise law enforcement and security concerns.

Recognizing the need to review judiciary public access policies in the context of new technology, the Judicial Conference is considering privacy and access issues in order to provide guidance to the courts. The Judicial Conference has not reached any conclusions on these issues, and this request for public comment is intended as part of the Conference's ongoing study.

The judiciary has a long tradition—rooted in both constitutional and common law principles—of open access to public court records. Accordingly, all case file documents, unless sealed or otherwise subject to restricted access by statute or federal rule, have traditionally been available for public inspection and copying. The Supreme Court has recognized, however, that access rights are not absolute, and that technology may affect the balance between access rights and privacy and security interests. See *Nixon* v. *Warner Communications, Inc.,* 435 U.S. 589 (1978), and *United States Department of Justice* v. *Reporters Committee for Freedom of the Press,* 489 U.S. 749 (1989). These issues are discussed in more detail in an Administrative Office staff paper, ''Privacy and Access to Electronic Case Files in the Federal Courts,'' available on the Internet at *www.uscourts.gov/privacyn.pdf.*

The Role of the Federal Judiciary

The judiciary recognizes that concern about privacy and access to public records is not limited to the judicial branch. There is a broader public debate about the privacy and security implications of information technology. Congress has already responded to some of these concerns by passing laws that are designed to shield sensitive personal information from unwarranted disclosure. These laws, and numerous pending legislative proposals, address information such as banking records and other personal financial information, medical records, tax returns, and Social Security numbers. The executive branch is also concerned about implications of electronic public access to private information. Most recently, the President directed the Office of Management and Budget, the Department of Justice, and the Department of Treasury to conduct a study on privacy and security issues associated with consumer bankruptcy filings.

Accordingly, the judiciary is interested in receiving comment on the appropriate scope of judicial branch action, if any, on the broad issue of access to public court records, and the corresponding need to balance access issues against competing concerns such as personal privacy and security.

Policy Alternatives on Electronic Public Access to Federal Court Case Files

Regardless of what entity addresses the issues of privacy and electronic access to case files, the effort must be made to balance access and privacy interests in making decisions about the public disclosure and dissemination of case files. The policy options outlined below are intended to promote consistent policies and practices in the federal courts and to ensure that similar protections and electronic access presumptions apply, regardless of which federal court is the custodian of a particular case file. One or more of the policy options for each type of case file may be recommended to the Judicial Conference for its consideration. Some, but not all of the options are mutually exclusive.

Civil Case Files

1. Maintain the presumption that all filed documents that are not sealed are available both at the courthouse and electronically.

This approach would rely upon counsel and pro se litigants to protect their interests on a case-by-case basis through motions to seal specific documents or motions to exclude specific documents from electronic availability. It would also rely on judges' discretion to protect privacy and security interests on a case-by-case basis through orders to seal or to exclude certain information from remote electronic public access.

2. Define what documents should be included in the ''public file'' and, thereby, available to the public either at the courthouse or electronically.

This option would treat paper and electronic access equally and assumes that specific sensitive information would be excluded from public review or presumptively sealed. It assumes that the entire public file would be available electronically without restriction and would promote uniformity among district courts as to case file content. The challenge of this alternative is to define what information should be included in the public file and what information does not need to be in the file because it is not necessary to an understanding of the determination of the case or because it implicates privacy and security interests.

3. Establish ''levels of access'' to certain electronic case file information.

This contemplates use of software with features to restrict electronic access to certain documents either by the identity of the individual seeking access or the nature of the document to which access is sought, or both. Judges, court staff, parties and counsel would have unlimited remote access to all electronic case files.

This approach assumes that the complete electronic case file would be available for public review at the courthouse, just as the entire paper file is available for inspection in person. It is important to recognize that this approach would not limit how case files may be copied or disseminated once obtained at the courthouse.

4. Seek an amendment to one or more of the Federal Rules of Civil Procedure to account for privacy and security interests.

Criminal Case Files

1. Do not provide electronic public access to criminal case files.

This approach advocates the position that the ECF component of the new CM/ECF system should not be expanded to include criminal case files. Due to the very different nature of criminal case files, there may be much less of a legitimate need to provide electronic access to these files. The files are usually not that extensive and do not present the type of storage problems presented by civil files. Prosecution and defense attorneys are usually located near the courthouse. Those with a true need for the information can still access it at the courthouse. Further, any legitimate need for electronic access to criminal case information is outweighed by safety and security concerns. The electronic availability of criminal information would allow co-defendants to have easy access to information regarding cooperation and other activities of defendants. This information could then be used to intimidate and harass the defendant and the defendant's family. Additionally, the availability of certain preliminary criminal information, such as warrants and indictments, could severely hamper law enforcement and prosecution efforts.

2. Provide limited electronic public access to criminal case files.

This alternative would allow the general public access to some, but not all, documents routinely contained in criminal files. Access to documents such as plea agreements, unexecuted warrants, certain pre-indictment information and presentence reports would be restricted to parties, counsel, essential court employees, and the judge.

Bankruptcy Case Files

1. Seek an amendment to section 107 of the Bankruptcy Code.

Section 107 currently requires public access to all material filed with bankruptcy courts and gives judges limited sealing authority. Recognized issues in this area would be addressed by amending this provision as follows: (1) Specifying that only ''parties in interest'' may obtain access to certain types of information; and (2) enhancing the 107(b) sealing provisions to clarify that judges may provide protection from disclosures based upon privacy and security concerns.

2. Require less information on petitions or schedules and statements filed in bankruptcy cases.

3. Restrict use of Social Security, credit card, and other account numbers to only the last four digits to protect privacy and security interests.

4. Segregate certain sensitive information from the public file by collecting it on separate forms that will be protected from unlimited public access and made available only to the courts, the U.S. Trustee, and to parties in interest.

Appellate Cases

1. Apply the same access rules to appellate courts that apply at the trial court level.

2. Treat any document that is sealed or subject to public access restrictions at the trial court level with the same

protections at the appellate level unless and until a party challenges the restriction in the appellate court.

[FR Doc. 00–28671 Filed 11–7–00; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; U.S. National Administrative Office; North American Agreement on Labor Cooperation; Hearing on Submission #2000–1

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of Hearing.

SUMMARY: The purpose of this notice is to announce a hearing, open to the public, on Submission #2000–1.

Submission #2000–1, was filed with the U.S. National Administrative Office (NAO) on July 3, 2000, by the Coalition for Justice in the Maquiladoras (CJM), current and former workers at Auto Trim/Breed Mexicana, and twenty-two additional unions and non-governmental organizations, including the United Auto Workers (UAW), the United Electrical, Radio and Machine Workers of America (UE), and the AFL–CIO. The submission was accepted for review by the NAO on September 1, 2000, and a notice of acceptance for review was published in the **Federal Register** on September 7, 2000.

Article 16 (3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO in accordance with U.S. domestic procedures. Revised procedural guidelines pertaining to the submission, review, and reporting process utilized by the office were published in the **Federal Register** on April 7, 1994 (59 FR 16660). The guidelines provide for a discretionary hearing as part of the review.

DATES: The hearing will be held on December 12, 2000, commencing at 9:00 a.m. Persons desiring to present oral testimony at the hearing must submit a request in writing, along with a written statement or brief describing the information to be presented or position to be taken.

ADDRESSES: The hearing will be held at the City Council Chambers, 103 Main Plaza, Municipal Plaza Building, San Antonio, Texas 78205. Written statements or briefs and requests to present oral testimony may be mailed or hand delivered to the U.S. National Administrative Office (NAO), Department of Labor, 200 Constitution Avenue, NW., Room C–4327, Washington, DC 20210. Requests to present oral testimony and written statements or briefs must be received by the NAO no later than close of business November 28, 2000.

FOR FURTHER INFORMATION CONTACT: Lewis Karesh, Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, NW., Room C–4327, Washington, DC 20210. Telephone: (202) 501–6653 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Nature and Conduct of Hearing

As set out in the notice published in the **Federal Register** on September 7, 2000, the objective of the review will be to gather information to assist the NAO to better understand and publicly report on occupational safety and health issues and compensation in cases of occupational injuries and illnesses raised in the submission, including the Government of Mexico's compliance with the obligations agreed to under Articles 3,4,5, and 7 of the NAALC.

The hearing will be conducted by the Secretary of the NAO or the Secretary's designee. It will be open to the public. All proceedings will be conducted in English, with simultaneous translation in English and Spanish provided. The public files for the submission, including written statements, briefs, and requests to present oral testimony, will be made a part of the appropriate hearing record. The public files will also be available for inspection at the NAO prior to the hearing.

The hearing will be transcribed. A transcript of the proceeding will be made available for inspection, as provided for in Section E of the procedural guidelines, or may be purchased from the reporting company.

Disabled persons should contact the Secretary of the NAO no later than November 28, 2000 if special accommodations are needed.

II. Written Statements or Briefs and Requests To Present Oral Testimony

Written statements or briefs shall provide a description of the information to be presented or position taken and shall be legibly typed or printed. Requests to present oral testimony shall include the name, address, and telephone number of the witness, the organization represented, if any, and any other information pertinent to the request. Five copies of a statement or brief and a single copy of a request to present oral testimony shall be submitted to the NAO at the time of filing.

No request to present oral testimony will be considered unless accompanied by a written statement or brief. A request to present oral testimony may be denied if the written statement or brief suggests that the information sought to be provided is unrelated to the review of the submission or for other appropriate reasons. The NAO will notify each requester of the disposition of the request to present oral testimony.

In presenting testimony, the witness should summarize the written statement or brief, may supplement the written statement or brief with relevant information, and should be prepared to answer questions from the Secretary of the NAO or the Secretary's designee. Oral testimony will ordinarily be limited to a ten minute presentation, not including the time for questions. Persons desiring more than ten minutes for their presentation should so state in the request, setting out reasons why additional time is necessary.

The requirements relating to the submission of written statements or briefs and requests to present oral testimony may be waived by the Secretary of the NAO for reasons of equity and public interest.

Signed at Washington, D.C. on November 3, 2000.

Lewis Karesh,

Acting Secretary, U.S. National Administrative Office.

[FR Doc. 00–28656 Filed 11–7–00; 8:45 am]

BILLING CODE 4510–28–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (00–133)]

NASA Advisory Council, Minority Business Resource Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announce a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: Tuesday, December 5, 2000, 9:00 a.m. to 4:00 p.m., and Wednesday, December 6, 2000, 9:00 a.m. to 12:00 noon.

ADDRESSES: NASA Headquarters, 300 E Street, SW, Washington, DC 20546–0001. Room MIC–7.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas III, Code K, National Aeronautics and Space Administration, Room 9K70, 300 E Street, SW, Washington, DC 20546–0001, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Overview of NASA
—Small Disadvantaged Business Participation in Major NASA Contracts
—Report on Mentor-Protege Program
—Action Items
—NASA Small Disadvantaged Business (SDB) Program Update
—Report of Chair
—Public Comment
—Report from MBRAC Sub Panels
—Status of Best Practices for Teaming Agreements
—Report on SDB Participation on Agency-Wide Contract(s)

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 31, 2000.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 00–28582 Filed 11–7–00; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Notice (00–134)

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Synthecon, Inc., of Houston, TX, has applied for a partially exclusive license to practice the inventions described and claimed in U.S. Patent No. 5,153,132, entitled ''Three-Dimensional Co-Culture Process''; U.S. Patent No. 5,153,133, entitled ''Method for Culturing Mammalian Cells in a Horizontally Rotated Bioreactor''; U.S. Patent No. 5,155,034, entitled ''Three-Dimensional Cell to Tissue Assembly Process''; U.S. Patent No. 5,155,035, entitled ''Method for Culturing Mammalian Cells in a Perfused Bioreactor''; U.S. Patent No. 5,308,764, entitled ''Multi-Cellular Three-Dimensional Living Mammalian Tissue''; U.S. Patent No. 5,496,722, entitled ''Cultured Normal Mammalian Tissue and Process''; U.S. Patent No. 5,627,021, entitled ''Multi-Cellular, Three-Dimensional Living Mammalian Tissue''; U.S. Patent No. 5,846,807, entitled ''Media Compositions for Three-Dimensional Mammalian Tissue Growth Under Microgravity Culture Conditions''; U.S. Patent No. 5,858,783, entitled ''Production of Normal Mammalian Organ Culture Using a Medium Containing Mem-Alpha, Leibovitz L–15, Glucose Galactose Fructose''; U.S. Patent No. 5,851,816, entitled ''Cultured High-Fidelity Three Dimensional Human Urogenital Tract Carcinomas and Process''; and U.S. Patent No. 6,117,674, entitled ''Horizontal Rotating-Wall Vessel Propagation in Vitro Human Tissue Models.'' Each of the above U.S. Patents is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Partially exclusive license rights were also applied for in NASA's undivided interest in the U.S. Patent Application identified as NASA Case No. MSC–22859, entitled ''Production of Functional Proteins: Balance of Shear Stress and Gravity,'' and in pending PCT application, NASA Case No. MSC–22859 (PCT), entitled ''Production of Functional Proteins: Balance of Shear Stress and Gravity,'' and in foreign patents which may issue therefrom. Written objections to the prospective grant of a license should be sent to the Johnson Space Center.

DATES: Responses to this notice must be on or before January 8, 2001.

FOR FURTHER INFORMATION CONTACT: James Cate, Patent Attorney, NASA Johnson Space Center, Mail Stop HA, Houston, TX 77058–8452; telephone (281) 483–1001.

Dated: November 1, 2000.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 00–28583 Filed 11–7–00; 8:45 am]

BILLING CODE 7510–01–U

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On October 3, 2000, the National Science Foundation published notice in the **Federal Register** of a waste management permit application received. The permit was issued on October 27, 2000 to: The Bancroft Arenesen Expedition, Permit No. 2001 WM–001.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 00–28654 Filed 11–7–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issues Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On September 27, 2000, the National Science Foundation published notice in the **Federal Register** of a permit application received. The permit was issued on October 27, 2000 to: Robert A. Blanchette, Permit No. 2001–015.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 00–28655 Filed 11–7–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Agenda; Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, November 14, 2000.

PLACE: NTSB Board Room, 429 L'Enfant Plaza, S.W. Washington, D.C. 20594.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

7302 Highway Accident Report: School Bus and Dump Truck

Collision, Central Bridge, New York, on October 21, 1999.

NEWS MEDIA CONTRACT: Telephone: (202) 314–6100.

Individuals requesting specific accommodation should contact Mrs. Barbara Bush at (202) 314–6220 by Friday, November 9, 2000.

FOR MORE INFORMATION CONTACT: Rhonda Underwood (202) 314–6065.

Dated: November 3, 2000.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 00–28771 Filed 11–6–00; 10:50 am]

BILLING CODE 7533–01–M

OFFICE OF PERSONNEL MANAGEMENT

The National Partnership Council; Meeting

AGENCY: Office of Personnel Management

ACTION: Notice of meeting.

TIME AND DATE: 2:00 p.m., November 15, 2000

Place: Alan K. Campbell Auditorium, U.S. Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Washington, DC. The Campbell Auditorium is located on the ground floor.

Status: This meeting will be open to the public. Seating will be available on a first-come, first-served basis. Individuals with special access needs wishing to attend should contact OPM at the number shown below to obtain appropriate accommodations.

Matters to be considered: This meeting will consist of an awards ceremony. The 2000 John N. Sturdivant National Partnership Award will be presented to this year's winners. The John N. Sturdivant National Partnership Award is given in recognition of outstanding labor-management partnership activities.

CONTACT PERSON FOR MORE INFORMATION: Jeffrey Sumberg, Director, Office of Labor & Employee Relations, Office of Personnel Management, Theodore Roosevelt Building, 1900 E Street, NW., Room 7H28, Washington, DC 20415–0001, (202) 606–2930.

Office of Personnel Management.

Janice R. LaChance,

Director.

[FR Doc. 00–28615 Filed 11–7–00; 8:45 am]

BILLING CODE 6325–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27264]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

November 1, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 27, 2000, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After November 27, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Cinergy Corp. (70–9759)

Cinergy Corporation (''Cinergy''), 139 East Fourth Street, Cincinnati, Ohio 45202, a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and rules 42 and 54 under the Act.

By orders dated December 1, 1995 (HCAR No. 26422) (''1995 Order'') and April 17, 1996 (HCAR No. 26505) (''1996 Order''), the Commission authorized Cinergy to issue and sell, from time to time through December 31, 2000, a total of approximately 30 million shares of Cinergy's common stock, $0.01 par value per share (''Common Stock''), under various stock-based employee and director plans of Cinergy and its subsidiaries.

More specifically, the 1995 Order authorized Cinergy to issue and sell, from time to time through December 31, 2000, up to 22,386,696 shares of Common Stock under various benefit plans of Cinergy and its subsidiaries, namely, the Cinergy Corp. Dividend Reinvestment and Stock Purchase Plan, the Cinergy Corp. Employee Stock Purchase and Savings Plan, the Cinergy Corp. Performance Shares Plan, the Cinergy Corp. Stock Option Plan, the Cinergy Corp. Directors' Deferred Compensation Plan, the PSI Energy, Inc. (''PSI'') Union Employees' 401(k) Savings Plan, the PSI Employees' 401(k) Savings Plan, the Cincinnati Gas & Electric Company Deferred Compensation and Investment Plan and The Cincinnati Gas & Electric Company Savings Incentive Plan. The 1996 Order authorized Cinergy to issue and sell, from time to time through December 31, 2000, up to seven million shares of Common Stock under the Cinergy Corp. Long-Term Incentive Compensation Plan.[1]

Effective January 1, 1998: (1) the PSI Union Employees' 401(k) Savings Plan was amended, restated and renamed the Cinergy Corp. Union Employees' 401(k) Plan; (2) the Cincinnati Gas & Electric Company Savings Incentive Plan was amended, restated and renamed the Cinergy Corp. Union Employees' Savings Incentive Plan; (3) the PSI Employees' 401(k) Savings Plan was amended, restated and renamed the Cinergy Corp. Non-Union Employees' 401(k) Plan; and (4) the Cincinnati Gas & Electric Company Deferred Compensation and Investment Plan was merged into the Cinergy Corp. Non-Union Employees' 401(k) Plan. In addition, since the 1995 Order, the Cinergy Corp. Performance Shares Plan has been terminated.

As of August 31, 2000, Cinergy had 600,000,000 shares of Common Stock authorized for issuance and 158,924,941 shares were outstanding. Since registering under the Act, Cinergy has issued approximately 3.8 million shares of Common Stock under the plans referred to above.

Cinergy now requests authorization to issue and sell up to 50 million shares of Common Stock, from time to time over a 10-year period commencing with the date of the Commission's order in this file (''Authorization Period''), under the following plans (collectively ''Plans''): (1) The Cinergy Corp. Dividend Reinvestment and Stock Purchase Plan; (2) the Cinergy Corp. Employee Stock

[1] The Commission also authorized Cinergy to issue shares of Common Stock, from time to time through December 31, 2004, under certain other plans in accordance with two orders (HCAR No. 27001, Apr. 8, 1999 and HCAR No. 27028, May 19, 1999). Cinergy proposes no changes to the terms of these orders.

Purchase and Savings Plan; (3) the Cinergy Corp. Stock Option Plan; (4) the Cinergy Corp. Directors' Deferred Compensation Plan; (5) the Cinergy Corp. Long-Term Incentive Compensation Plan; (6) the Cinergy Corp. Union Employees' 401(k) Plan; (7) the Cinergy Corp. Union Employees' Savings Incentive Plan; and (8) the Cinergy Corp. Non-Union Employees' 401(k) Plan. Shares of Common Stock issued under the Plans from time to time over the Authorization Period may be authorized and previously unissued shares or previously issued shares reacquired by Cinergy in open market transactions. In addition, under the Stock Option Plan and the Long-Term Incentive Compensation Plan, plan participants may purchase shares of Common Stock under certain circumstances by, among other means, exchanging shares of Common Stock, and accordingly, Cinergy also requests authorization, to the extent required under the Act, to acquire shares of Common Stock from plan participants.

Cinergy proposes to apply proceeds of any shares sold for cash to general corporate purposes, including repayment of outstanding indebtedness and investments in subsidiaries. However, without further authorization from the Commission, Cinergy will not apply any proceeds to acquire exempt wholesale generators as defined in section 32 of the Act, or foreign utility companies as defined in section 33 of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–28592 Filed 11–7–00; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43493; File No. SR–CBOE–00–04]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change to Amend and Codify Equity Options Post Telephone Policy

October 30, 2000.

I. Introduction

On February 25, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to expand the existing CBOE policy governing the use of telephones at equity option trading posts to conform it to the CBOE's current index option trading post telephone policy by allowing for the receipt of orders over outside telephone lines, from any source, directly at equity trading posts. On August 29, 2000, the Commission published the proposed rule change in the **Federal Register**.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

In this proposed rule change, CBOE seeks to expand its existing policy governing the use of telephones at equity option trading posts[4] to make it more consistent with the CBOE's current index option trading post telephone policy by allowing for the receipt of orders over outside telephone lines, from any source, directly at equity trading posts, and to incorporate that policy into the Exchange's rules. The proposed rule change is more limited than the current telephone policy for the index option post, however, in that it would generally allow for the receipt of orders directly at the post over outside telephone lines only when the order(s) are placed during *outgoing* telephone calls. The Exchange seeks to codify and amend its current equity option post telephone policy to make clear to member and member organizations the Exchange's position with respect to the use of telephones at equity option posts. The proposed policy would supercede previous policies concerning the use of telephones at equity option trading posts set forth in CBOE Regulatory Circulars.

Regarding the history of CBOE's equity option trading post telephone policy, the CBOE first proposed a telephone policy for equity option posts in 1993.[5] That initial policy prohibited any orders from being transmitted over the outside telephone lines to the equity option posts, but allowed for orders to be transmitted via intra-floor lines from one point on the Exchange floor to another. In 1996, the Exchange modified its telephone policy at equity posts to allow orders of CBOE market makers to be received over the outside telephone lines directly at the trading posts, which remains the current policy.[6] The proposed rule change would expand this policy by permitting the receipt of off-floor orders from any source (*i.e.,* members, broker-dealers, non-broker-dealer, or public customers) over outside telephone lines directly at the equity trading posts during outgoing telephone calls, but would limit the orders to those transmitted to the equity posts pursuant to a telephone call initiated at the post (*i.e.,* an outgoing call).[7] According to CBOE, the proposed rule change would make the CBOE's telephone policy for equity option posts more consistent with the current policy at the OEX post in place since 1998.[8]

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Sections 6(b)(5) and 6(b)(8) of the Act.[9] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to facilitate

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 43194 (August 22, 2000), 65 FR 52457 (August 29, 2000).

[4] Equity trading posts are all trading posts that are under the jurisdiction of the Equity Floor Procedure Committee (all trading posts except DJX, NDX, OEX and SPX), including Designated Primary Market maker crowds.

[5] *See* Securities Exchange Act Release No. 33701 (March 2, 1994), approving SR–CBOE–93–24.

[6] RG 97–92, the latest Regulatory Circular reflecting CBOE's current equity telephone policy, was approved by the Commission in Securities Exchange Act Release No. 37876, 61 FR 56728 (November 4, 1996), and modified in Securities Exchange Act Release No, 39331, 62 FR 62650 (November 24, 1997).

[7] In adopting this change, the CBOE wants to provide more immediate access into its trading crowds to its customers. The Exchange believes that this expansion in access is necessary to allow the CBOE to continue to satisfy is customers in an increasingly competitive environment.

[8] The OEX pit telephone policy is set forth in CBOE's Regulatory Circular, RG–98–09, which was approved in Securities Exchange Act Release No. 39435, 62 FR 66157 (December 17, 1997), CBOE's current proposal for the equity option post differs somewhat from its OEX policy contained in the above-noted Regulatory Circular. RG–98–09 allows floor brokers to take telephone orders using their dedicated telephone lines at the OEX pit, while the current proposal would allow all members to receive telephone orders (with the outgoing call limitation) over the equity option post general telephone lines, with members using PIN access codes to access the lines. CBOE represents that space limitations at the equity option post would prohibit the use of dedicated lines. Further, CBOE represents that, in contract to the OEX post, order-taking at the equity option post is not limited to floor brokers, as Designated Primary Market Makers (''DPM'') can also act as floor brokers pursuant to existing CBOE rules. Telephone call from Timothy Thompson, Director, Regulatory Affairs, CBOE and Angelo Evangelou, Attorney, CBOE to Geoffrey Pemble, Attorney, Division of Market Regulation, SEC (October 26, 2000).

[9] 15 U.S.C. 78f(b)(5) and (b)(8).

transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest.[10] Section 6(b)(5) also requires that those rules not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Act requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

Under the current policy, the only orders for equity options that may be received at the post directly via telephone lines from off-floor locations are off-floor orders of CBOE market makers. The proposed rule change would expand this policy by permitting the receipt of off-floor orders from any source (*i.e.*, members, broker-dealers, non-broker-dealers, or public customers) over outside telephone lines directly at the equity trading posts during outgoing telephone calls. The proposed rule change would only allow for such orders to be transmitted to the equity posts pursuant to a telephone call initiated at the post (an outgoing call), while permitting CBOE market makers to continue to transmit orders over the telephone lines from off the floor directly to the equity trading posts (via incoming calls).

The Commission finds that the proposed rule is consist with, and furthers the objectives of, Section 6(b)(5)[11] of the Act in that it is designed to improve communication to and from the Exchange's trading floor in a manner that promotes just and equitable principles of trade, prevents fraudulent and manipulative acts and practices, and maintains fair and orderly markets. Specifically, the Commission notes that the limits on telephone use proposed by the CBOE are consistent with the goals of the Act. In this regard, the commission believes that it is reasonable for CBOE to codify its current policy permitting CBOE market makers to send orders to the trading floor via incoming calls (a benefit that is not enjoyed by other types of members and public customers). This policy allows CBOE market makers to transmit their orders more efficiently at those times when they are required to be off the floor. In the Commission's view, it is also reasonable for the Exchange to now allow orders from any other source to go directly to the post as long as those orders are placed in outgoing calls only.

The Commission further believes that the proposed rule change modifies the Exchange's communication system in a way that provides for equitable access to the Exchange floor among members, broker-dealers, non-broker-dealers, and public customers (both institutional and retail) alike. Accordingly, the Commission finds that the proposal is consistent with the requirement of Section 6(b)(8)[12] of the Act, which requires that the proposed rule change not impose any burden on competition not necessary or appropriate in furtherance of the Act's purposes.

The Exchange has indicated that it intends to police compliance with the conditions applicable to the use of telephones at the equity trading posts (including the requirement that any member or associated person receiving orders over outside telephone lines be properly qualified pursuant to CBOE rules to do so) through complaints from Exchange members at the post, as well as observations of Floor Officials and Exchange staff. The Exchange has further indicated that CBOE's Equity Floor Procedure Committee will be responsible for implementing this policy in conformity with Exchange Rules and provisions of the Act, including approving access and the phone technology, and will decide any other issues relating to this policy.[13] Finally, the CBOE Department of Financial and Sales Practice Compliance will be required to review and approve all applications relating to the policy to ensure that the applicant is intending to transact business which the applicant is authorized to transact.

The Commission believes that proper surveillance is an essential component of any policy telephone access to an exchange's trading floor. Especially important in this case is ensuring that the CBOE's surveillance efforts prevent individuals who are not properly qualified to take public orders for securities (*i.e.* non-Series 7 qualified Exchange employees) from interacting with the public. The Commission finds that the safeguards proposed above by the CBOE are consistent with the prevention of fraudulent and manipulative acts and practices, as required under Section 6(b)(5).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–CBOE–00–04) is approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–28594 Filed 11–7–00; 8:45 am]

BILLING CODE 8010–01–M

[10] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(6)(8).

[13] According to CBOE, responsibility for accepting orders from a wide range of customers will be borne by the member firms. Floor brokers accepting orders in this manner would be required to be qualified pursuant to Exchange Rule 91. As is the case with brokers accepting orders of public customers over OEX post telephones, any broker speaking directly with a public customer is required to be Series 7 qualified and registered with the Exchange by a member organization approved to conduct non-member customer business.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43499; File No. SR–CBOE–00–50]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Chicago Board Options Exchange, Inc. To Extend the Pilot Period Relating to the Processing of Live Ammo Orders Until December 15, 2000

October 31, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] Rule 19b–4[2] thereunder, notice is hereby given that on October 26, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to extend until December 15, 2000, the pilot program that allows an Order Book Official (''OBO'') or a Designated Primary Market-Maker (''DPM'') to designate certain booked orders to be electronically executed (''Live Ammo to RAES''). The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 2, 2000, the Commission approved, on a pilot basis, a system change that allows an OBO or a DPM to reroute orders on the electronic book screen that displays market orders and limit orders and improve the market (''Live Ammo'') to the Retail Automatic Execution System (''RAES'') if the orders are RAES-eligible.[3] The pilot is scheduled to expire on October 31, 2000.

The Exchange now proposes to extend the pilot until December 15, 2000. The Exchange is currently preparing a proposed rule change, which will propose to adopt the Live Ammo to RAES processing system on a permanent basis. Thus, the proposed extension of the pilot will allow the Live Ammo to RAES system to remain in place while the Commission considers the Exchange's proposal to permanently approve the system. The Exchange also believes that extending the pilot will continue to allow for the faster execution of customer orders and prevent a backlog of customer orders on the Live Ammo screen.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] in particular, because it would foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities, and would remove impediments to and perfect the mechanism of a free and open market in a manner consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)[7] thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6)[9] normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange seeks to have the proposed rule change become operative immediately in order to allow the Pilot to continue in effect on an uninterrupted basis. The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change operative immediately through December 15, 2000. The extension of the Pilot will provide the Commission with the time necessary to review and evaluate the Exchange's proposal to permanently adopt the Live Ammo to RAES system.

The Commission notes that unless the pilot is extended, the Pilot will expire on October 31, 2000, which the Commission believes could result in confusion regarding how orders on the Live Ammo screen should be handled. Therefore, the Commission believes that it is in the public interest to extend the Pilot.

Based on these reasons, the Commission believes that it is consistent with the protection of investors and the public interest that the proposed rule change become operative immediately through December 15, 2000.[11] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears 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, NW, Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File no. SR–CBOE–00–50 and should be submitted by November 29, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–28650 Filed 11–7–00; 8:45 am]

BILLING CODE 8010–01–M

[3] Securities Exchange Act Release No. 42379, 65 FR 6665 (February 10, 2000). The Exchange rule pertaining to the processing of Live Ammo orders is Rule 7.4(g).

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43507; File No. SR–NASD–98–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 by the National Association of Securities Dealers, Inc. Concerning Related Performance Information

November 2, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 1998, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its wholly owned subsidiary, NASD Regulation, Inc. (''NASD Regulation''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. On August 10, 1998, NASD Regulation filed an amendment that completely replaced and superseded the original proposed rule change.[3] On October 17, 2000, NASD Regulation again amended the proposal.[4] On October 30, 2000, NASD Regulation filed an amendment that made minor, technical changes to the proposed rule language.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing a new Interpretive Material 2210–5 and conforming amendments to existing Rule 2210 and IM–2210–2 of the NASD. Below is the text of the proposed rule change, as amended. Proposed new language is in italics. Proposed deletions are in brackets.

2200. Communications with Customers and the Public

2210. Communications With the Public

(a) and (b) No change.

(c) Filing Requirements and Review Procedures.

(1) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts and unit investment trusts) not included within the requirements of paragraph (c)(2), and public direct participation programs (as defined in Rule 2810), and advertisements concerning governments securities (as defined in Section 3(a)(42) of the Act) shall be filed with the Association's Advertising/Investment Companies Regulation Department (Department) within 10 days of first use or publication by any member. The member must provide with each filing the actual or anticipated date of first use. Filing in advance of use is recommended. Members are not required to file advertising and sales literature which have previously been filed and which are used without change. Any member filing any investment company advertisement or sales literature pursuant to this paragraph (c) that includes or incorporates rankings or comparisons of the investment company with other investment companies shall include a copy of the ranking or comparison used in the advertisement or sales literature. *Any member filing a mutual fund or variable contract advertisement or sales literature that presents Comparison Portfolio Performance (as defined by IM 2210–5) shall include a copy of the proof of independent verification required by IM 2210–5(c)(1)(B).*

(c)(2) through (f) No change.

IM 2210–2. Communications With the Public About Variable Life Insurance and Variable Annuities

(a) No change.

(b) Specific Considerations

(1) Fund Performance Predating Inclusion in the Variable Product

In order to show how an existing fund would have performed had it been an investment option within a variable life insurance policy or variable annuity, communications may contain the fund's historical performance that predates its including in the policy or annuity. Such performance may only be used provided that no significant changes occurred to the fund at the time or after it became part of the variable product. However, communications may not include the performance of an existing fund for the proposes of promoting investment in a similar, but new Investment option (i.e., clone fund or model fund) available in a variable contract. The presentation of historical performance must conform to applicable Association and SEC standards. Particular attention must be given to including all elements of return and deducting applicable charges and expenses.

(b)(2) through (5) No change.

IM–2210–5 Presentation of Mutual Fund Related Performance Information

Any advertisement or sales literature concerning an open-end management investment company (the ''Advertised Mutual Fund'') may present the following types of performance information (collectively, ''Related Performance Information'').

(a) ''Clone'' Performance

The total return of all registered open-end management investment companies, calculated in accordance with Item 21 of SEC Form N–1A, that have the same investment policies, investment objectives, investment strategies, investment adviser and sub-investment adviser as an Advertised Mutual Fund, provided that the presentation of this Related Performance Information complies with the general standards in paragraph (d).

(b) ''Predecessor'' Performance

The total return of an Advertised Mutual Fund, calculated in accordance with Item 21 of SEC Form N–1A, that includes the performance of an insurance company separate account,

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* August 7, 1998 letter from Joan C. Conley, Secretary, NASD Regulation, and attachments to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), SEC (''Amendment No. 1'')

[4] *See* October 16, 2000 letter (''October 16 Letter'' and attachments from Alden S. Adkins, General Counsel and Senior Vice President, NASD Regulation, and attachments, to Katherine A. England, Assistant Director, Division, SEC (''Amendment No. 2''). In Amendment No. 2, NASD Regulation proposes that (i) members presenting clone performance present total return information for all related clone funds; (ii) the predecessor and the advertised mutual fund share sub-investment advisers as well as investment advisers, and substantially all of the predecessor portfolio's assets must have been transferred to the advertised mutual fund, upon conversion the predecessor portfolio would have to cease to exist as a separate entity, to present predecessor performance; (iii) comparison portfolio performance reflect the total return of other investment companies as wellas other portfolios managed by the investment adviser or sub-investment adviser; (iv) several changes be made to the general standards set forth in paragraph (d) of proposed IM–2210–5; (v) no material difference may exist between the portfolio to which the related performance information refers and the advertised mutual fund, except that the portfolio may not have been registered under the Investment Company Act of 1940, and material difference may exist between the fees and expenses of a clone fund and the advertised mutual fund; and (vi) any member filing sales material that presents related performance information to maintain books and records that demonstrate the basis for and calculation of the related performance information.

The draft notice in Amendment No. 2 includes all of the changes implemented in Amendment Nos. 1 and 2. *See* October 19, 2000 telephone conversation between Sarah Williams, Assistant General Counsel, NASD Regulation and Joseph P. Morra, Special Counsel, Division of Market Regulation, SEC.

[5] *See* October 30, 2000 letter from Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation to Katherine A. England, Assistant Director, Division, SEC (''Amendment No. 3'').

common trust fund or private investment company that had been converted into, and had the same investment adviser and sub-investment adviser as, the Advertised Mutual Fund; that had investment policies, investment objectives and investment strategies that were in all material respects equivalent to those of the Advertised Mutual Fund; and that was not created in order to establish a performance record, provided that:

(1) in the conversion, substantially all of the assets of the predecessor portfolio were transferred to the Advertised Mutual Fund and upon conversion the predecessor portfolio ceased to exist as a separate entity;

(2) the performance of the predecessor portfolio is adjusted as of the conversion date only, to reflect all current fees and expenses of the Advertised Mutual Fund, as disclosed in the fee table in the Advertised Mutual Fund's current prospectus, but not reflecting any fee waiver or expense reimbursement for the Advertised Mutual Fund; and

(3) the presentation of this Related Performance Information complies with the general standards in paragraph (d).

(c) ''Comparison Portfolio'' Performance

(1) The total return of a composite of other portfolios, including other investment companies, managed by the investment adviser (or, as appropriate, the sub-investment adviser) of an Advertised Mutual Fund, provided that:

(A) The composite:

(i) Consists of all actual fee-paying, discretionary portfolios managed by the investment adviser (or sub-investment adviser) with substantially similar investment policies, investment objectives, and investment strategies to the Advertised Mutual fund, including the Advertised Mutual Fund itself;

(ii) Excludes terminated portfolios after the last full performance measurement period the portfolios were under management, but includes terminated portfolios or all periods prior termination;

(iii) Does not reflect any portfolio that has been switched into the composite or exclude any portfolio that had been switched into the composite or exclude any portfolio that had been switched from the composite, unless documented changes in guidelines communicated by the client made the switching appropriate; and

(iv) Adjusts the gross performance information of any portfolio to reflect all current fees and expenses of the Advertised Mutual Fund, as disclosed in the fee table in the Advertised Mutual Fund's current prospectus;

(B) The investment adviser (or sub-investment adviser) has obtained verification from an independent third party that the creation and maintenance of the composite complies with paragraph (1)(A) and proof of this independent verification, current as of the investment adviser's (or sub-investment adviser's) most recently ended fiscal year, has been field with the Advertising/Investment Companies Regulation Department; and

(C) The presentation of this Related Performance Information complies with the general standards in paragraph (d).

(2) No member may imply that the Association or any of its affiliates endorses or approves of any composite or the manner in which it was created or maintained.

(d) General Standards

(1) No material difference may exist between the portfolio to which the Related Performance Information refers and the Advertised Mutual Fund, except;

(A) The portfolio may not have been registered under the Investment Company Act of 1940 and therefore may not be subject to the restrictions that the Investment Company Act and the Internal Revenue Code impose; and

(B) Material differences may exist between the fees and expenses of an investment company reflected in Clone Performance and the Advertised Mutual Fund.

(2) Any Related Performance Information presented in an advertisement or sales literature:

(A) Must be, at a minimum, current to the most recent calendar quarter ended prior to submission for publication (in the case of an advertisement) or prior to use (in the case of sales literature); and

(B) Must be accompanied by Related Performance Information for one, five and ten years periods, provided that if the Related Performance Information is available for less than one, five or ten years, the time period during which the Related Performance Information is available must be substituted for the period otherwise prescribed.

(3) Any advertisement or sales literature that presents Related Performance Information:

(A) Must identify the length of, and the date of the last day in, the period used to compute the Related Performance Information:

(B) Must present, in a more prominent manner than the Related Performance Information, the total return of the Advertised Mutual Fund(excluding the performance of any predecessor portfolio) calculated and presented in accordance with the applicable SEC rules, provided that the registration statement for the Advertised Mutual Fund has been effective for at least one year;

(C) When applicable, mut prominently disclose that the Advertised Mutual Fund has been in operation for less than one year;

(D) Must disclose;

(i) Any material difference between the fees and expenses of an investment company reflected in Clone Performance and the Advertised Mutual Fund;

(ii) In the case of all Related Performance Information:

a. That the Related Performance Information is not the performance of the Advertised Mutual Fund and should not be considered indicative of or a substitute for that performance and;

b. When applicable, that some or all of the portfolios reflected in the Related Performance Information (including any predecessor portfolios) are not registered under the Investment Company Act of 1940 and therefore were not subject to certain investment restrictions that the Investment Company Act and the Internal Revenue Code impose, and that the performance of those portfolios may have been adversely affected had they been registered under the Investment Company Act; and

(iii) Any other information that may be necessary to ensure that the Related Performance Information is not presented in a misleading manner;

(E) May not refer to the Related Performance Information in any headline or other prominent statement;

(F) May not contain any ranking based on the Related Performance Information; and

(G) Must accompany any graph or illustration concerning Related Performance Information with a more prominent graph or illustration concerning the total return of the Advertised Mutual Fund, calculated and presented in accordance with applicable SEC rules, provided that the registration statement for the Advertised Fund has been effective for at least one year.

(4) No advertisement or sales literature for a money market fund may present Related Performance Information.

(5) Any member filing an advertisement or sales literature presenting Related Performance with the Department must maintain books and records that demonstrate the basis for and calculation of the Related Performance Information. Retention by the member of copies of all such records maintained by any investment advisers under Rule 204–2(16) of the Investment Advisers Act of 1940 would satisfy this requirement. Such records must be maintained for three years following the last distribution or publication of the advertisement or sales literature.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements

concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 2210 requires the filing of various forms of advertisement and sales literature with the Advertising/Investment Companies Regulation Department of NASD Regulation. NASD Regulation staff reviews these filings to determine whether they meet applicable standards in the NASD Conduct Rules, which are generally designed to ensure that sales material is fair, balanced and not misleading.

The SEC's Division of Investment Management recently issued a series of ''no-action letters'' that essentially permit mutual funds to present a range of performance information in their sales material and prospectuses, subject to specific factual circumstances and regulatory conditions. These letters generally permit the presentation of the performance of (i) a mutual fund from which the offered fund has been ''cloned''; (ii) a non-investment company account that had been converted into the advertised mutual fund; (iii) private, investment company or institutional accounts that are managed by the mutual fund's adviser; and (iv) a mutual fund that was previously managed by the offered fund's portfolio manager (''manager performance''). (Together, these types of performance information will be referred to as ''Related Performance Information.'')

The SEC's no-action letters note that the NASD Conduct Rules impose standards on mutual fund and variable product sales material separate from the Commission rules, and the Commission staff reached no conclusion concerning whether the presentation of Related Performance Information under the conditions imposed by the no-action letters would comply with the NASD Conduct Rules.

Historically, the NASD has prohibited the presentation of any Related Performance Information, except predecessor performance, in mutual fund and variable product sales material. In light of the Commission staff's recent no-action letters and apparent public interest in the potential benefits and concerns with the presentation of Related Performance Information in mutual fund and variable product sales material, NASD Regulation requested comment in August 1997 on whether the NASD should permit Related Performance Information to be included in advertisements or sale literature (*Notice to Members 97–47*).

NASD Regulation received 55 comment letters from investors, Chartered Financial Analysts, mutual funds, money managers, and trade associations. Forty-four commenters supported the presentation of some type of Related Performance Information, while 11 opposed the presentation of any Related Performance Information. Commenters disagreed about the types of Related Performance Information that NASD Regulation should permit. The highest level of opposition was raised to the presentation of manager performance information. Indeed, even some of those who otherwise supported the presentation of Related Performance Information opposed the presentation of portfolio manager performance. Of the 44 commenters who generally supported the presentation of Related Performance Information, 11 specifically discussed the presentation of manager performance. Of these 11, six opposed any presentation of manager performance information.

The proposed rule change would permit the presentation of Related Performance Information (other than manager performance information) in mutual fund and variable product sales material, subject to certain conditions designed to make the presentation fair, balanced and not misleading. The proposed rule change would generally permit, subject to certain conditions, the presentation of the performance of (i) a mutual fund from which the offered fund had been ''cloned''; (ii) a non-investment company account that had been converted into the advertised mutual fund; and (iii) private, investment company or institutional accounts that are managed by the mutual fund's adviser. The proposed rule change thus represents a significant liberalization of the types of performance information that members may present in mutual fund and variable product sales material, subject to conditions designed to protect investors.

At the same time, the NASD Board of Directors reaffirmed the NASD's longstanding policy of prohibiting the presentation of manager performance in mutual fund advertisements and sales literature. The NASD believes that the presentation of manager performance could mislead or confuse investors about the contributions of other personnel of the investment adviser to the mutual fund's performance, such as research analysts who recommend securities to the portfolio manager and traders who obtain best execution. The efforts of these personnel and the resources of the investment adviser are, in most cases, critical to the mutual fund's performance. Moreover, a relatively long time period may elapse between the departure of a portfolio manager from the previous mutual fund and the advertisement of the new mutual fund's performance, thus rendering the manager performance information stale.[6]

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[7] in that the proposed rule change is designed to prevent fraudulent acts and practices, and to promote just and equitable principles of trade. In particular, NASD Regulation believes the proposal would establish conditions designed to ensure that the presentation of Related Performance Information is fair, balanced, and not misleading.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

See discussion of comment letters in Item II(A)(1) above.

[6] The position of the Commission's staff continues to be that manager performance information in a mutual fund's prospectus, advertisements or sales literature is not *per se* misleading under the federal securities laws, provided that the performance is not presented in a misleading manner and is not presented as a substitute for the advertised mutual fund's performance. *See* Bramwell Growth Fund (pub. avail. August 7, 1996); ITT Hartford Mutual Funds (pub. avail. February 7, 1997). The Commission's staff believes that whether manager performance information is misleading depends on the totality of the circumstances, including the manner in which it is presented. *Id.*

[7] 15 U.S.C. 78o–3(b)(6).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which NASD Regulation consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

NASD Regulation has requested that the Commission provide the public with at least 45 days in which to comment on the proposed rule change.[8] The Commission agrees to allow a 45-day comment period on the proposed rule change.

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. Additionally, as previously noted, the Commission's staff disagrees with the NASD's decision to *per se* exclude manager performance information from the rule. Interested persons are specifically invited to comment on this issue.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–98–11 and should be submitted by December 26, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

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[8] *See* October 16, 2000 Letter at page 1. NASD Regulation also consents to an extension of the time period for Commission action to 30 days after the expiration of the 45-day comment period. The Commission notes that a further extension of the time period for Commission action may be needed to allow for Commission analysis of comment letters, and to allow NASD Regulation to provide a response to comment letters.

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43488; File No. SR–NYSE–00–41]

Self-Regulatory Organization's; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Approval Procedures for Exchange Employee Securities Accounts

October 27, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder[2] notice is hereby given that on October 6, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 407.10 to make the Exchange's Ethics Officer the party to whom employees of the Exchange or any of its affiliates must apply for permission to open a securities or commodities account. The Exchange also proposes to clarify that the Rule's provisions are not applicable to any affiliated company (as that term is defined by the Rule) which administers a corporate employee securities account disclosure program.

The text of the proposed rule change is available at the NYSE and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Rule 407.10 directs Exchange employees, and employees of Exchange affiliates, who wish to open a securities or commodities account to apply to the Secretary of the Exchange for permission. The purpose of the proposed rule change is to require those employees to submit those applications for approval to the Exchange's Ethics Officer rather than the Exchange's Secretary.

The Exchange's ethics functions are performed by the office of the Exchange's senior Human Resources officer, who is also the Exchange's Ethics Officer. The Human Resources Division, as part of its traditional function and as part of its ethics function, maintains a database on Exchange employees. The Exchange Secretary also maintains a database on Exchange employees for the purpose of authorizing securities and commodities accounts.

The Exchange believes that shifting the account-approval function to the Ethics Officer will eliminate duplicative record-keeping and will place the function with the officer most appropriate for making account-approval decisions.

The Exchange also proposes to amend NYSE Rule 407.10 to clarify that the Rule's provisions are not applicable to any affiliated company (as that term is defined by the Rule) which administers a corporate employee securities account disclosure program. This will avoid duplicative approval processes.[3]

[3] Currently, the Securities Industry Automation Corporation (''SIAC'') is the only NYSE affiliated company that administers its own corporate employee disclosure program. In this regard, SIAC has a rule similar to NYSE Rule 407.10 requiring SIAC employees to apply to SIAC for permission to open a securities or commodities account. SIAC

2. Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5)[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is concerned solely with the administration of the Exchange. Therefore, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(3) thereunder.[7] At any time within 60 days of the filing of such 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. 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. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR–NYSE–00–41 and should be submitted by November 29, 2000.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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employees are not required to also seek permission from the NYSE. Telephone call between Steve Abrams, NYSE, and Jennifer Colihan, Attorney, Division of Market Regulation, Commission, October 25, 2000.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b-4(f)(3).

[8] 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43496; File No. SR–NYSE–00–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Regarding the Extension of the Pilot Programs for Mediation and Administrative Conferences

October 31, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 27, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to extend its pilot programs for mediation and administrative conferences (NYSE Rules 638 and 639) that expire on November 20, 2000. The Exchange has separately requested that the pilot programs, as amended, (''the amended pilots'') be extended for two years.[3] An extension of the present pilots is needed pending the Commission's approval or disapproval of the amended pilots.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On November 19, 1998, the Commission approved a two-year pilot program for mediation and administrative conferences in the Exchange's arbitration facility.[4] The pilot mediation program is intended to allow parties to settle cases earlier with lower costs. The administrative conference allows arbitrators to intervene early in the case to set deadlines and resolve preliminary procedural issues. On September 27, 2000, the Exchange requested Commission approval to amend and extend the pilot programs for mediation and administrative conferences.[5] The Exchange is requesting an extension of the present pilot programs pending the Commission's decision to approve or disapprove its request to amend and extend the pilot programs. The Exchange believes that the pilot programs are operating successfully, and on that basis, the Exchange believes that a six-month extension of the pilots is warranted. By this filing, the Exchange is not seeking to modify the present pilot programs.

2. Statutory Basis

The Exchange believes that proposed changes are consistent with Section 6(b)(5) of the Act in that they promote just and equitable principles of trade by insuring that members and member organizations and the public have a fair and impartial forum for the resolution of their disputes.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* File No. SR–NYSE–00–39.

[4] *See* Securities Exchange Act Release No. 40695 (November 19, 1998), 63 FR 65834 (November 30, 1998).

[5] *See supra* note 3.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 10(b)(3)(A) of the Act [6] and subparagraph (f)(6) of Rule 19b–4 thereunder. [7]

The Commission notes that under Rule 19b–4(f)(6)(iii), the proposal does not become operative for 30 days after date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange requested a waiver of this 30-day period to extend the pilot programs before they are due to expire on November 20, 2000. The Commission believes that the waiver of the 30-day period is consistent with the protection of investors and the public interest. [8]

Any time within 60 days of the filing of the proposed rule change, as amended, 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 there of with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–00–44 and should be submitted by November 29, 2000.

For the Commission, by the Division of Market Regulation, Pursuant to delegated authority. [9]

Margaret H. McFarland,

Deputy Secretary.

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[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.196b–4(F)(6)

[8] For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation 15 U.S.C.78c(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43505; File No. SR–PCX–00–27]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the Pacific Exchange, Inc., Relating to Options Trade Reporting

November 1, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 2000, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend Exchange Rule 6.69 to require Exchange options transactions to be reported immediately upon execution and no later than 90 seconds following execution of the trade. The PCX also proposes to amend Exchange Rule 10.13 to include Exchange Rule 6.69 in the Exchange's Minor Violation Plan (''Plan'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections, A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to require options transactions to be reported within 90 seconds to the Options Price Reporting Authority (''OPRA''), which disseminates trade information to the investing public through vendors. Specifically, proposed Rule 6.69(a) would require all Exchange members and member organization's who are required to report trades either directly to OPRA or to another party responsible for reporting trades to OPRA, to immediately report all trades to the Exchange for disseminations to OPRA within the required 90 second time frame.

Currently, Commentary .01 to Exchange Rule 6.69 states that trade must be immediately reported at the time of execution. The Exchange proposes to require immediate trade reporting, and in any event, no later than 90 seconds following execution. This would serve as a specific time limit for trade participants and should enable the Exchange's Market Surveillance Department and Enforcement Department to monitor for violations of the rule. The Exchange also believes that the proposed rule change should facilitate transparency and help to create an accurate picture of market activity and enable the Exchange to better monitor compliance with the order handling and transparency rules, including limit order protection, priority, and best execution.

The Exchange also proposes to amend Rule 10.13 to include violations of proposed Rule 6.69(a) in the Plan. The Exchange believes that the proposed rule is consistent with and furthers the goals and objectives of the Plan. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Exchange believes that the proposed fine schedule of $100.00, $250.00 and $500.00 for the first, second, and third violations, respectively, is reasonable and will serve as an effective deterrent of future violations.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [3] in general, and furthers the objectives of Section 6(b)(5) [4] in particular, in that it is designed to promote just and equitable principles of trade. The Exchange believes that the proposed rule also furthers the objectives of Section 6(b)(6),[5] in that it is designed to appropriately discipline members who violate the rules of the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not solicit or receive written comments on the proposed rule change.

III. Date of Effectiveness of the of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to the File No. SR–PCX–00–27 and should be submitted by November 29, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

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[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(6).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43489; File No. SR–Phlx–00–64]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Late Charges and Penalties for Non-Payment

October 27, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 18, 2000, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its By-Law Article XIV, Section 14–5, ''Penalty for Non-Payment,'' and Phlx Rule 50, ''Late Charge,'' to clarify and provide consistent time periods for reporting delinquent accounts to the Phlx's Finance Committee and the Phlx's Board of Governors (''Board''). Specifically, the Phlx proposes to amend Phlx Rule 50 to (1) Impose a late charge on accounts unpaid 30 days after the date of the original invoice, rather than accounts unpaid 40 days after the date of the original invoice; (2) reduce the amount of the late charge from 2% simple interest to 1% simple interest for each 30-day period or fraction thereof, calculated on a daily basis, during which the accounts payable to the Phlx remain outstanding; and (3) provide that the Phlx's Finance Committee may waive the amount of the late charge, or a portion thereof, if the amount falls within guidelines established by the Board. The Phlx also proposes to eliminate from Phlx Rule 50 the requirements that the Phlx's Controller notify the Board when an amount due to the Exchange remains outstanding for 90 days. Instead, Phlx Rule 50, as amended, requires the Phlx's controller to notify the Finance Committee when an amount due to the Phlx remains unpaid 50 days after the date of the original invoice. The Finance Committee will refer the matter to the Board if the amount due exceeds $10,000.

For amounts in excess of $10,000, Phlx By-Law Article XIV, Section 14–5, as amended, requires the Phlx's Controller, rather than the Secretary, to report to the Board: (1) a fine and/or other monetary sanction unpaid 20 days after the amount becomes payable; and (2) a due, FCO user's fee, fee, other charge or other amount due to the Phlx that is unpaid 50 days from the date of the original invoice. The proposed amendments to Phlx By-Law Section 14–5 replace current provisions requiring the Secretary of the Phlx to report to the Board a due or fee not paid within three months and a fine not paid within 20 days.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed amendments provide consistent time periods for reporting delinquent accounts to the Finance Committee and the Board. The proposed amendments specify that the Controller, rather than the Secretary, will report delinquent unpaid accounts in excess of $10,000 to the Board and establish a $10,000 threshold for reporting delinquent accounts to the Board. The Controller will report delinquent accounts under $10,000 to the Finance Committee for appropriate action.

No new remedies to achieve payment more rapidly are proposed; only the administrative business process has been amended. The proposed amendments to Phlx Rule 50 provide that late charges will be imposed on unpaid accounts outstanding after 30 days, rather than 40 days, and that the Controller will report all outstanding accounts unpaid after 50 days, rather than 90 days, to the Finance Committee for outstanding accounts with outstanding balances of less than $10,000. The proposed amendments also allow the Finance Committee or its designee to waive the imposition of late fees or a portion thereof if the amount falls within guidelines to be established by the Board.

The purpose of the proposed amendment to By-Law XIV, Section 14–5 is to change the reporting of unpaid outstanding delinquent accounts less than $10,000 to the Finance Committee 50 days after original invoice to relieve the Board from having to deal with such matters. The Finance Committee may take appropriate action under amended Phlx Rule 50, such as contacting the member organization to pursue payment or referring the matter to the Business Conduct Committee pursuant to Phlx Rule 708 Commentary .01(c), which prohibits members, member organizations, and associated persons from engaging in acts detrimental to the interest or welfare of the Phlx, including the failure to make a good faith effort to pay fees, dues and fines or other monies due and owing the Exchange. The Phlx believes that the proposed accelerated imposition of the late charge for accounts unpaid after 30 days and the reporting provisions to the Finance Committee and the Board provide an appropriate business process for collection of unpaid charges and fees and are administrative in nature. The specification of the late charge rate and its calculations are delineated in the amended Phlx Rule 50 and the current supplementary material to Phlx 50 is being deleted.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[3] in general, and with Section 6(b)(5)[4] in particular, in that the proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest by providing the Exchange with the ability to provide a more responsive administrative process to pursue collection of monies due and owing the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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 Member, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve the proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to file No. SR–Phlx–00–64 and should be submitted by November 29, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00–28593 Filed 11–7–00; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f.

[4] 15 U.S.C. 78f(b)(5).

[5] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice No. 3449]

Renewal of the Overseas Schools Advisory Council

The Department of State is renewing the Overseas Schools Advisory Council to provide a formal channel for regular consultation and advice from U.S. corporations and foundations regarding American-sponsored overseas schools. The Under Secretary for Management has determined that the committee is necessary and in the public interest.

The Assistant Secretary for Administration will appoint members of the committee. The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA Section 10(d) and 5 U.S.C. 552b(c) (1) and (4) that a meeting or a portion of the meeting should be closed to the public. Notice of each meeting will be provided in the **Federal Register** at least 15 days prior to the meeting date.

FOR FURTHER INFORMATION CONTACT: Dr. Keith D. Miller, Executive Secretary of the committee at 202–261–8200.

Dated: November 2, 2000.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 00–28672 Filed 11–7–00; 8:45 am]

BILLING CODE 4710–24–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as amended by P.L. 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB Review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR Section 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than December 8, 2000.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission, proposal to reinstate with change a previously approved collection for which approval has expired (OMB control number 3316–0062).

Title of Information Collection: TVA Procurement Documents, including Invitation to Bid, Request for Proposal, Request for Quotation, and other related Procurement or Sales Documents.

Frequency of Use: On Occasion.

Type of Affected Public: Individuals or households, businesses or other for-profit, non-profit institutions, small businesses or organizations.

Small Business or Organizations Affected: Yes.

Federal Budget Functional Category Code: 999.

Estimated Number of Annual Responses: 24,500.

Estimated Total Annual Burden Hours: 50,000.

Estimated Average Burden Hours Per Request: 0.49.

Need For and Use of Information: TVA procures goods and services to fulfill its statutory obligations and sells surplus items to recover a portion of its investment costs. This activity must be conducted in compliance with a variety of applicable laws, regulations, and Executive Orders. Vendors and purchasers who voluntarily seek to contract with TVA are affected.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations, Information Services.

[FR Doc. 00–28667 Filed 11–7–00; 8:45 am]

BILLING CODE 8120–08–P

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by P.L. 104–13; Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Submission for OMB review; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR Section 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than December 8, 2000.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission, proposal to extend a currently approved collection of information (OMB control number 3316–0019).

Type of Information Collection: energy right® Residential Program.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Business or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 20,000.

Estimated Total Annual Burden Hours: 6,000.

Estimated Average Burden Hours Per Response: .3.

This information is used by distributors of TVA power to assist in identifying and financing energy improvements for their electrical energy customers.

Jacklyn J. Stephenson,

Senior Manager, Enterprise Operations, Information Services.

[FR Doc. 00–28668 Filed 11–7–00; 8:45 am]

BILLING CODE 8120–08–P

TENNESSEE VALLEY AUTHORITY

Tims Ford Reservoir Land Management and Disposition Plan, Franklin and Moore Counties, Tennessee

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Issuance of Record of Decision.

SUMMARY: This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. TVA and the Tennessee Department of Environment and Conservation (TDEC) have jointly prepared a comprehensive Land Management and Disposition Plan involving both state and federally-owned properties on Tims Ford Reservoir. On August 29, 2000, the TVA Board of Directors decided to adopt the preferred alternative (Balanced Land Development with Conservation Partnership) identified in the Final Environmental Impact Statement (EIS), Tims Ford Reservoir Land Management and Disposition Plan. A Notice of Availability of the Final EIS was published in the **Federal Register** on July 7, 2000. Under the adopted land plan, TVA seeks to balance regional development needs with resource conservation on shoreline property. Of the 6,453 acres of federal and state lands on the reservoir which are available for allocation, 5,532 acres would be allocated to resource conservation, sensitive resource management, TVA project operation, or recreation uses; 888 acres would be allocated for residential development or commercial development uses, and 33 acres would be allocated for a Conservation Partnership approach which would seek to create a wider shoreline buffer in exchange for limited community water use facility access.

FOR FURTHER INFORMATION CONTACT: Harold M. Draper, NEPA Specialist, Environmental Policy & Planning, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902–1499; telephone (865) 632–6889 or e-mail hmdraper@tva.gov.

SUPPLEMENTARY INFORMATION: Tims Ford Reservoir was completed in 1970 by TVA for the purposes of flood control, hydroelectric generation, recreation, and economic development. The reservoir is 34 miles long at full pool. There are approximately 250 miles of shoreline at normal summer pool (NSP). Following completion of the reservoir, the Tennessee Elk River Development Agency (TERDA), a state agency, developed subdivisions and recreational facilities on reservoir properties between 1970 and 1996. In 1996, the Tennessee General Assembly passed Public Chapter 816, which terminated TERDA and transferred all powers, duties, contractual obligations, functions and remaining land interests of the agency to TDEC. TDEC and TVA agreed by contract in 1998 to develop a comprehensive land management and disposition plan to determine specific uses of reservoir lands. This EIS and land management plan are in fulfillment of that contract. Originally, 21,863 acres of land were acquired for the Tims Ford Project. Reservoir acreage above NSP was 11,183. Subsequent transfers and sales of land for various commercial, industrial, residential, and recreational uses have resulted in a current balance of 6,453 acres of project lands above NSP. These lands are divided in ownership between TVA (1,854 acres) and TDEC (4,599 acres).

TVA and TDEC announced their proposal to prepare a Tims Ford Land Management Plan in October 1998 and held public scoping meetings on November 9, 1998 in Winchester, Tennessee and November 10, 1998 in Fayetteville, Tennessee. Written comments also were requested through publication of a notice in a newspaper and a website. As land allocation and scoping for the land plan developed, it became evident that increased levels of residential development would result from some of the alternatives. Accordingly, the agencies determined that an EIS would allow better understanding of the impacts of the various alternatives. On July 22, 1999, TVA issued a Notice of Intent to prepare an EIS on alternatives for a land management plan at Tims Ford Reservoir. The Notice of Intent indicated that additional comments on the scope of issues to be addressed could be submitted in writing or through a website. These comments and previous comments from the 1998 scoping period were analyzed to determine the issues and alternatives to be considered in the EIS. A Notice of Availability for the Draft EIS was published in the **Federal Register** on November 12, 1999. TVA and TDEC subsequently held public meetings in Winchester, Tennessee on November 30, 1999 and Tullahoma, Tennessee on December 2, 1999 to discuss the draft EIS and solicit comments on the draft. Comments were received at public meetings and by written responses thereafter from 268 people, agencies, and organizations. After considering all comments, the Final EIS was completed and distributed to commenting agencies and the public. A Notice of Availability for the Final EIS was published on July 7, 2000.

Alternatives Considered

TVA initially considered four alternatives, including no action, for allocation of Tims Ford lands. The action alternatives were characterized as ''Balanced Land Development and Conservation,'' ''Maximum Land Development,'' and ''Maximum Land Conservation.''

The alternatives were designed to vary in the amount of land allocated for residential development and for residential shoreline access. In response to public comments on the Draft EIS, TVA developed a fifth alternative, designated ''Balanced Land Development with Conservation Partnership.'' This alternative was designed to allow increased reservoir access while providing additional shoreline protection.

Under *Alternative A, the No Action Alternative,* TVA and TDEC would not adopt a jointly prepared plan. In the absence of a plan, TVA and TDEC would proceed with disposition or management of properties on a case-by-case basis. Because no joint plan would exist, the project lands could be considered for a variety of uses. More than likely, some amount of shoreline property (up to 45 percent of project lands) could eventually be considered for residential or commercial uses. About 22 percent already has been transferred to the state and local governments for recreational usage or are currently being used for recreational purposes such as parks and marinas. Those tracts (9 percent of project lands) identified during the planning process as containing rare species, wetlands, cultural resources, or unique natural features would likely be maintained in a protective category to facilitate TVA's and TDEC's compliance with laws relating to protection of sensitive resources. Approximately 20 percent of project lands would likely be managed for natural resource conservation because it has been deemed in the current planning process as not suitable or capable for development. The remaining 4 percent would be retained for use as TVA dam reservation (TVA project operation).

Under *Alternative B, Balanced Land Development and Conservation,* parcels totaling 938 acres would be available for residential development or residential access, with the rest of project lands allocated to natural resource-oriented and recreational uses. Cumulatively, 25 percent of project lands would be allocated to residential uses, 25 percent to recreation uses, and 36 percent to natural resource-oriented uses. As in Alternative A, approximately 9 percent of project lands would be allocated to sensitive resource management, and 4 percent to TVA project operations. Alternative B was identified as the agencies' preferred alternative in the Draft EIS.

Under *Alternative B1, Balanced Land Development with Conservation Partnership,* TVA modified Alternative B to respond to comments received on the draft EIS and plan. One parcel of 128 acres, which was previously allocated to residential development, was changed to a natural resource management allocation. In addition, a new zone was created, designated ''conservation partnership,'' for certain narrow shoreline strips of public land. On Tims Ford Reservoir, the agencies found numerous locations where the public land was narrow and does not provide sufficient conservation buffer to preserve water quality, conserve shoreline habitat, protect shorelines from long-term erosion, or retain shoreline aesthetics. It has also been TVA's experience that due to the close proximity of private lands to the lake, these narrow public land strips present unique management problems. Many of those who commented on the draft EIS stated that because of the close proximity of their property to the water's edge, they had an expectation of gaining water access under previous management policies. In the new zone, TVA would consider granting water access in the form of limited community water use facilities in exchange for a wider shoreline buffer zone. Cumulatively, Alternative B1 would result in 24 percent of project lands being allocated to residential uses, 25 percent to recreation, 37 percent to natural resource management, 9 percent to sensitive resource management, and 4 percent to project operations. Although the acreage difference between Alternative B and B1 is small, approximately 9 additional shoreline miles would be open for consideration of requests for community docks under Alternative B1. Alternative B1 was

identified as the agencies' preferred alternative in the Final EIS.

Under *Alternative C, Maximum Land Development,* all parcels would be allocated for development except those that do not meet suitability and capability criteria, contain sensitive resources, or are less than 20 acres. This would result in 1,764 more acres of residential development than alternative B1. Cumulatively, residential development would encompass 41 percent of project lands, recreational development 25 percent, natural resource management 20 percent, sensitive resource management 9 percent, and TVA project operations 4 percent.

Under *Alternative D, Maximum Land Conservation,* no new development would occur outside of existing areas. All undeveloped lands would be considered unsuitable for development and would be allocated for natural resource conservation. This would result in 1,087 more acres allocated to natural resource conservation than alternative B1. Cumulatively, 17 percent of project lands would be allocated to residential development, 22 percent to recreation, 48 percent to natural resource management uses, 9 percent to sensitive resource management, and 4 percent to TVA project operations.

The EIS considered the environmental consequences of the alternatives on a wide variety of environmental resources. Under any alternative, sensitive resources such as endangered and threatened federal and state-listed species, cultural resources, and wetlands would be protected. Adoption of Alternative B1 would balance the competing demands of development and conservation. Development activities would cause the potential for adverse environmental impacts. However, through the inclusion of environmental safeguards to address water quality, ground water, riparian wildlife habitat, and parcel-specific protection measures, these impacts would be minimized.

During the EIS process, TVA also consulted with the Tennessee State Historic Preservation Officer (SHPO), The Eastern Band of Cherokee Indians (EB), the United Keetoowah Band, the Cherokee Nation of Oklahoma, the Tennessee Commission of Indian Affairs, the Muscogee (Creek) Nation of Oklahoma, and the Poarch Band of Creek Indians on the identification and evaluation of historic properties within the Area of Potential Effect for the Tims Ford Land Plan. Following release of the Final EIS, TVA, TDEC, SHPO, and EB executed a Memorandum of Agreement stipulating measures that will be carried out by TVA and TDEC prior to the commencement of ground-disturbing activities. This agreement allows phased identification, evaluation, and treatment of historic properties, and requires that prior to the transfer of the lands to third parties, TVA and TDEC will ensure that a preservation covenant to protect historic properties is included. These measures ensure that the effects of the Tims Ford Reservoir Land Management and Disposition Plan on historic properties have been taken into account.

Response to Comments on Final EIS

Appendix B of the Final EIS contains summaries of and responses to the comments TVA received during the Draft EIS process. TVA received comments from 268 individuals and organizations. TVA gave the public the opportunity to provide comments on the Final EIS, which included the Conservation Partnership approach.

A total of 7 individuals commented on the Final EIS. Most of these comments were from property owners seeking to clarify whether they had access to the water, or seeking to appeal allocation decisions in the final EIS. TVA plans to consider those requests that are consistent with the land plan.

EPA also commented on the final EIS. Based on their review of the document, they stated that their ordered preferences for alternatives would be D, B1, B, and C. EPA stated that they would not oppose B1 as long as all development is consistent with the TVA Shoreline Management Initiative EIS/ROD, state water quality and other regulations as well as federal statutes associated with delegated programs, and as long as plan implementation is monitored for environmental impacts. EPA also commented on the environmental impacts of residential development for water quality, recreation, and TVA's grandfathering approach to existing docks. TVA agrees that residential development would need to be carefully monitored for compliance with existing regulations to avoid adverse water and air quality impacts.

Decision

The TVA Board decided to adopt the Tims Ford Land Management and Disposition Plan as described in Alternative B1 on August 29, 2000. The Tennessee State Building Commission decided to adopt the plan as described in Alternative B1 on September 14, 2000. TVA believes that Alternative B1 appropriately balances residential shoreline development, recreation use, and resource conservation needs in a way that maintains the quality of life and other important values associated with Tims Ford Reservoir. It recognizes the reality that previous decisions have already allowed residential development on portions of the shoreline, and previous management has created ''expectations'' for water access among those with shoreline property. It uses logical criteria for determining which stretches of shoreline could have water access, based on past decisions made by the agencies or on distance between the private property line and NSP. It provides a new zone involving partnerships for conservation that would result in the creation of wider shoreline buffers and more protection for water quality and riparian habitats. Finally, it makes an allocation change that would result in additional lands at the lower end of the reservoir being dedicated to natural resource conservation.

Like the other alternatives considered, Alternative B1 sets aside parcels containing sensitive resources and habitats in the Sensitive Resource Protection and Natural Resource Conservation categories. Even for lands that were considered suitable for and capable of development, Alternative B1 adopts commitments that would further minimize the potential for adverse impacts to the environment. These commitments are listed below, under Environmental Commitments.

Environmentally Preferable Alternative

TVA has concluded that Alternative D, which would allow no new land development outside of existing areas, is the environmentally preferable alternative. However, the authorizing legislation for Tims Ford Reservoir, the state legislation transferring lands to TDEC, and the local governments encourage the use of portions of the reservoir lands to foster the economic development of the area. TVA believes that Alternative B1 helps to meet the multiple objectives of the Tims Ford project, and would result in substantially better environmental protection than previous shoreline development practices.

Environmental Commitments

The land plan envisioned in Alternative B1 advances TVA's commitment to resource stewardship and habitat protection through strong conservation approaches, including a new conservation partnership zone to increase shoreline buffers from a minimum of 50 feet to a maximum of 100 feet. Alternative B1 was formulated using environmentally protective measures. Some of these measures

include use of a sensitive resource protection zone and retention of a public shoreline strip between the 888 and 895 foot contours. New proposals for access would be allowed using community docks rather than through individual docks, thus minimizing the area of shoreline that will be disturbed. For certain categories of access proposals, TVA would obtain additional shoreline buffers above the 895-foot contour. In addition, TVA is adopting the following measures to minimize environmental impacts:

- New residential development will be required to have groundwater protection plans submitted by the developer for approval prior to development.
- Throughout the construction phase of new subdivisions, periodic site checks will be conducted to ensure that BMPs are used to minimize erosion problems.
- Shoreline fringe wetlands will be avoided during any future development or permitting activities.
- Parcels containing uncommon terrestrial habitats or plants will be protected by avoidance during any future developmental activities. Sale deeds related to disposition will include conditions that require avoidance of the resource on the parcel.
- Livestock grazing on TVA property will be phased out as alternative water sources and pasture are obtained.
- The measures relating to identification, evaluation, and treatment of historic properties contained in the Memorandum of Agreement between TVA, Tennessee State Historic Preservation Officer, Tennessee Department of Environment and Conservation, and the Eastern Band of Cherokee Indians, dated September 21, 2000, will be followed.

With the implementation of the above environmental protection measures, TVA has determined that adverse environmental impacts of future residential shoreline uses would be substantially reduced. These protective measures represent all of the practicable measures to avoid or minimize environmental harm that are associated with this alternative.

As TVA and TDEC implement the Tims Ford Land Management and Disposition Plan, the agencies will continue to work with all affected interests to promote environmentally sound stewardship of public lands.

Dated: October 26, 2000.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment.

[FR Doc. 00–28670 Filed 11–7–00; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds—Termination: Empire Fire and Marine Insurance Company

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 4 to the Treasury Department Circular 570; 2000 Revision, published June 30, 2000, at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6696.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective immediately.

The Company was last listed as an acceptable surety on Federal bonds at 65 FR 40879, June 30, 2000.

With respect to any bonds currently in force with above listed Company, bond-approving officers may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Company. In addition, bonds that are continuous in nature should not be renewed.

The Circular may be viewed and downloaded through the Internet at http://www.fms.tres.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO), Subscription Service, Washington, DC, telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: October 30, 2000.

Wanda J. Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 00–28588 Filed 11–7–00; 8:45 am]

BILLING CODE 4810–35–M

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Lexington National Insurance Corporation

AGENCY: Financial Management Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 5 to the Treasury Department Circular 570: 1998 Revision, published June 30, 2000, at 65 FR 40868.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6765.

SUPPLEMENTARY INFORMATION: A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following Company under 31 U.S.C. 9304 to 9308. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 2000 Revision, on page 40889 to reflect this addition:

Company Name: Lexington National Insurance Corporation.

Business Address: 214 East Lexington Street, Baltimore, Maryland, 21202.

Phone: (410) 625–0800. Underwriting Limitation b/: $423,000.

Surety Licenses: c/: CA, CO, DE, FL, IN, MD, MS, NJ, PA.

Incorporated In: Maryland.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

The Circular may be viewed and downloaded through the Internet at http://www.fms.treas.gov/c570/index.html. A hard copy may be purchased from the Government Printing Office (GPO) Subscription Service, Washington, DC, Telephone (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 048–000–00536–5.

Questions concerning this Notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Service Division, Surety Bond Branch, 3700 East-West Highway, Room 6A04, Hyattsville, MD 20782.

Dated: October 30, 2000.

Wanda Rogers,

Director, Financial Accounting and Services Division, Financial Management Service.

[FR Doc. 00–28589 Filed 11–7–00; 8:45 am]

BILLING CODE 4810–35–M

Federal Register

Wednesday,
November 8, 2000

Part II

Department of Energy

Federal Energy Regulatory Commission

Order Proposing Remedies for California Wholesale Electric Markets and Order Specifying Time of Conference and Procedure for Seeking Participation; Notices

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket Nos. EL00–95–000, EL00–98–000, EL00–107–000, ER00–3461–000, ER00–3673–000]

San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents; Investigation of Practices of the California Independent System Operator and the California Power Exchange; Public Meeting in San Diego, California; California Power Exchange Corporation; California Independent System Operator Corporation; Order Proposing Remedies for California Wholesale Electric Markets

Issued November 1, 2000.

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Introduction and Summary

On August 23, 2000, the Commission issued an order in Docket Nos. EL00–95–000 and EL00–98–000, initiating hearing proceedings under section 206 of the Federal Power Act (FPA) to address matters affecting bulk power markets and wholesale energy prices in California.[1] The Commission held the hearing in abeyance, however, pending the results of a separate staff fact-finding investigation, ordered by the Commission on July 26, 2000, of the conditions in electric bulk power markets (including volatile price fluctuations) in various regions of the country.[2] The Commission has now had the opportunity to analyze the staff investigation report (Staff Report) as it pertains to California and the Western region, and has placed that report in the record of this proceeding. Based on that report, as well as other submissions in these dockets [3] and the Commission's experience in dealing with evolving California market issues in over 85 Commission orders since the time the restructured California markets began operation in 1998, and based on the seriousness of market dysfunctions and recent pricing abnormalities in California, in this order the Commission is proposing specific remedies to address dysfunctions in California's wholesale bulk power markets and to ensure just and reasonable wholesale power rates by public utility sellers in California.

The Commission finds in this order that the electric market structure and market rules for wholesale sales of electric energy in California are seriously flawed and that these structures and rules, in conjunction with an imbalance of supply and demand in California, have caused, and continue to have the potential to cause, unjust and unreasonable rates for short-term energy (Day-Ahead, Day-of, Ancillary Services and real-time energy sales) under certain conditions. While this record does not support findings of specific exercises of market power, and while we are not able to reach definite conclusions about the actions of individual sellers, there is clear evidence that the California market structure and rules provide the opportunity for sellers to exercise market power when supply is tight and can result in unjust and unreasonable rates under the FPA. Under such conditions, the Commission is obligated under FPA section 206 to take action to establish market rules, regulations and practices that will ensure just and reasonable rates in the future.[4] Accordingly, we herein propose fundamental modifications to the wholesale market structure and rules currently in place in California; we also propose price mitigation measures to ensure that wholesale rates remain just and reasonable during the period it will take to effectuate the market structure and market rule changes being proposed. Rates charged by public utilities for sales into the ISO's markets and into the PX's day-ahead and hour-ahead markets will remain subject to the refund conditions set forth in the August 23 order, as discussed more fully below.[5]

In developing the proposed remedies in this order, the Commission's goal has been to balance, on the one hand, holding overall rates to levels that approximate competitive market levels for the benefit of consumers, with, on the other hand, inducing sufficient investment in capacity to ensure adequate service for the benefit of consumers. We believe that a well functioning competitive wholesale power market in California, which includes a well functioning regional transmission grid, is a fundamental part of the solution to the supply problems and price volatility in California. The interstate, wholesale nature of electric markets in California and adjoining states makes it incumbent that we take whatever steps we can to make markets in the region work for the ultimate benefit of consumers—assuring a reliable supply of energy at the lowest reasonable rate.

The Commission has also had to grapple with a number of issues that involve the line between State-Federal

[1] San Diego Gas & Electric Company, *et al.,* 92 FERC ¶ 61,172 (2000), *reh'g pending* (August 23 Order).

[2] *See* Order Directing Staff Investigation, 92 FERC ¶ 61,160 (2000) (July 26, 2000 Order).

[3] In addition to the Staff Report to the Federal Energy Regulatory Commission on Western Markets and the Causes of the Summer 2000 Price Abnormalities—Part 1, November 1, 2000 (Staff Report), the Commission has placed in the record the transcript of the Commission's September 12, 2000 public meeting in San Diego, California, written submissions in response to that public conference, and all reports prepared by the ISO and PX and their market surveillance committees.

[4] Under section 206(a) of the FPA, if the Commission finds, after hearing, that any rate, charge, or classification for jurisdictional services, or any rule, regulation, practice, or contract affecting such rate, charge or classification ''is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order.''

[5] Because the market structure and market design remedies ordered herein may take up to 24 months to effectuate, and the refund period permitted by FPA section 206 is limited to 15 months, the Commission proposes to condition its market rate authorizations for public utility sellers to the ISO and PX on continuing the refund obligation through December 31, 2002.

jurisdiction. There are two aspects to this. First, many, but not all, of the defects in the California markets are within this Commission's jurisdiction. However, certain matters significantly affecting the operation of the wholesale as well as the retail markets in California are within the jurisdiction of the State of California. We therefore include in this order a discussion of matters that need to be corrected by State regulators if there are to be competitive, well functioning markets in California, and if California consumers, are to be protected in the future. We urge the State to continue working to address these matters within its jurisdiction as expeditiously as possible. Second, during the past several years this Commission has struggled to accommodate, and where possible defer to, the State's initial decisions on restructuring, including its decisions directly impacting matters within our exclusive jurisdiction under the FPA. However, we have reached a point where we must make some difficult choices with respect to matters within our exclusive jurisdiction, and we conclude that certain defects in wholesale markets must be remedied even if our decisions preempt certain decisions previously made by the State in its initial restructuring legislation and orders. Unless we take these steps, we believe we will be abdicating our responsibility under the Federal Power Act to ensure just and reasonable rates and service by public utility sellers of wholesale energy in California.

The immediate remedies proposed in this order include:

- The elimination of the requirement that the three investor-owned utilities (IOUs)—Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SoCal Edison), and San Diego Gas & Electric Company (SDG&E)—must sell into and buy from the PX;
- The addition of a penalty charge for deviations in scheduling in excess of five percent of an entity's hourly load requirements and the disbursement of penalty revenues to the loads that scheduled accurately;
- The establishment of independent, non-stakeholder Governing Boards for the PX and the ISO; and
- The establishment of generation interconnection procedures.

We also identify a number of structural reforms that must be addressed, including:

- The submission of a congestion management redesign proposal;
- Possible changes to the auction mechanisms;
- Improved market monitoring and market mitigation strategies;
- Demand response programs by the ISO and Scheduling Coordinators;
- Elimination of the requirement for balanced schedules; and
- New approach to reserve requirements.

To ensure fair prices while these market reforms are being put in place, the order proposes additional temporary measures to mitigate prices, including modification of the single price auction so that bids above $150/MWh cannot set the market clearing price that is paid to all bidders; imposition of comprehensive reporting and monitoring requirements for sellers bidding above $150/MWh; and retention of a refund remedy for sales from October 2000 through December 2002.

The order also recognizes that, to resolve the problems facing California consumers, the Public Utilities Commission of the State of California (California Commission) and others must address the following issues:

- Delays in siting additions of generation and transmission capacity;
- Implementation of additional demand response programs at the retail level; and
- Elimination of impediments on Load Serving Entities pursuing power supplies on a forward basis.

The Commission has concluded that the hearing we ordered on August 23 does not need to be a trial-type hearing. Rather, the issues raised in this proceeding can be resolved based on written comments and evidence and oral presentation directly to the Commission. The Commission will permit all interested persons that have not already intervened in these dockets to intervene, and allow all interested persons to file comments on the proposed remedies and any additional information or evidence, by November 22, 2000. We also will hold a public conference on November 9, 2000, which will provide interested persons the opportunity to discuss the proposed remedies before the Commission.

Background

A. California Restructuring

Efforts to restructure the California electric industry began in 1994 in response to high electricity prices.[6] Extensive hearings and negotiations in proceedings before the California Commission resulted in a final restructuring order issued in December 1995[7] and led to the unanimous enactment of Assembly Bill 1890 by the California legislature in September 1996.[8] The main points of AB 1890 included (1) creation of an ISO and PX by January 1998 and simultaneous initiation of direct access; (2) creation of the California Electricity Oversight Board (Oversight Board) with members appointed by the Governor and legislature;[9] (3) a competitive transition charge (CTC) for the recovery of the IOUs' stranded costs; and (4) a 10 percent rate reduction for residential and small customers, and a rate freeze for all retail customers.

PG&E, SoCal Edison, and SDG&E submitted filings to this Commission in April 1996 seeking approval for those aspects of the restructuring subject to FERC's jurisdiction, namely, the conveyance of operational control of transmission facilities to the ISO,[10] the authority to sell energy at market-based rates through the PX, and approval of the overall framework for establishment of the ISO and PX, and for the jurisdictional split between the transmission and local distribution facilities of the utilities. In a series of orders issued that Fall, the Commission largely accepted the filings, and provided a preliminary assessment of the adequacy of the utilities' market power analyses.[11]

[6] As of January 1995, retail rates in California were 10 to 11 cents per kilowatt-hour, approaching twice the national average, and rising. *See California Rides the Tiger,* Public Utilities Fortnightly, January 1, 1995, p. 20.

[7] *See* California Commission Decision D.95–12–063 (Dec. 20, 1995), *modified by* D.96–01–009 (Jan. 10, 1996) and D.96–03–022, 166 P.U.R. 4th 1 (California Commission Restructuring Decision).

[8] AB 1890, signed by Governor Wilson on September 23, 1996, California Statutes 1996, Chapter 854 (Restructuring Legislation or AB 1890).

[9] As discussed later in this order, the Commission rejected elements of the proposal dealing with the Oversight Board, and the Board subsequently filed a petition for declaratory order requesting that the Commission declare that a bill pending in the California Senate (SB 96), modifying the Board's duties under the Restructuring Legislation, if enacted, would resolve the Commission's concerns about the Board's role.

[10] The Commission established the principles for ISOs in Order No. 888, and three other ISOs are in operation today: PJM Interconnection, New York ISO, and ISO New England.

In December of 1999, the Commission issued its Order on Regional Transmission Organizations, Order No. 2000. Regional Transmission Organizations (RTOs) can be formed as ISOs or may take another organization form, such as a transco. The Commission's RTO requirements build upon the ISO principles of Order No. 888 and reflect, in large measure, the Commission's experience with the pioneering efforts of ISOs such as the California ISO. The California ISO and its public utility members are required to make a filing in compliance with Order No. 2000 on January 17, 2001.

[11] *See* Pacific Gas and Electric Co., *et al.,* 77 FERC ¶ 61,077 (1996) (*PG&E I*); Pacific Gas and Electric Co., *et al.,* 77 FERC ¶ 61,204 (1996) (*PG&E II*); Pacific Gas and Electric Co., *et al.,* 77 FERC ¶ 61,265 (1996) (*PG&E III*). One area of particular concern for

Continued

In March 1997, the ISO and PX submitted filings constituting Phase II of the restructuring proposal, consisting of organizational and governance documents and an Operating Agreement and Tariff for each, a Transmission Control Agreement, and other materials and explanations required by the Commission in earlier orders. In response to a July 30, 1997 order by the Commission directing the ISO and PX to file restated Tariffs, Agreements and Appendices, they submitted on August 15, 1997 filings with numerous additional materials. The Commission addressed these filings in an order dated October 30, 1997, conditionally authorizing limited operation of the ISO and PX.[12] Since the ISO and PX have commenced commercial operations, the Commission has devoted significant resources to many proceedings involving the ISO and PX, including 30 separate amendments to the ISO's tariffs to address, in large measure, the difficulties faced by the ISO in implementing the requirements imposed by AB 1890 and the California Commission.[13]

Shortly after the ISO and PX commenced operations on March 31, 1998, the ISO witnessed dramatic spikes in the price for certain ancillary services, and did not receive sufficient bids for others, events that were inconsistent with the operation of efficient markets.[14] After analyzing reports prepared by market monitoring committees and comments from numerous parties, the Commission, among other things, directed the ISO to file a comprehensive proposal to redesign its Ancillary Services markets.[15] This redesign has been implemented over a period of 24 months, and certain elements have yet to be proposed to the Commission for approval.[16]

The ISO sought price caps as a solution for the volatility and thinness in its Ancillary Services markets. In the July 17, 1998 Order, we authorized the ISO to reject bids in excess of whatever price levels it believed were appropriate for the ancillary services it procures. On rehearing, we explained that, as the procurer of ancillary services, the ISO had the discretion to reject excessive bids. We also stated that a purchase price cap is not an ideal approach to operating a market and that we did not expect the cap to remain in place on a long-term basis.[17] In order to make the Imbalance Energy market similarly situated to the Ancillary Services markets, we later authorized the ISO to adopt a purchase price cap for its Imbalance Energy market at whatever level it deemed necessary and appropriate.[18]

In our order approving the ISO's Ancillary Services market redesign proposal, we allowed the ISO to retain its authority to specify purchase price caps for Ancillary Services and Imbalance Energy until November 15, 1999.[19] The ISO had proposed to raise and eventually eliminate existing price caps on Ancillary Services and Imbalance Energy upon the implementation of several redesign elements, but in the interim, it planned to maintain the current $250 price caps. The ISO had also proposed a safety net in which it would continue to monitor the markets, and if it identified market failures or supply insufficiencies, it would lower price caps in the affected markets. We directed the ISO to eliminate the price caps by November 15, 1999, with the caveat that the ISO could file for an extension of its price cap authority if its experience with the market reforms over the summer indicated serious market design flaws still existed.

On September 17, 1999, the ISO filed proposed tariff revisions to extend for one year, until November 15, 2000, its authority to cap Ancillary Services and Imbalance Energy prices. By direction of the ISO's Governing Board, the price caps were raised from $250 to $750, effective September 30, 1999. The proposal gave the ISO the discretion to lower the price caps to $500 effective June 1, 2000, if the ISO Governing Board determined that any of three specific conditions were met. The proposal also gave the ISO discretion to lower the price caps by an unspecified amount in the event that it determined that the markets were not workably competitive. The Commission accepted the proposed tariff provisions.[20]

B. Events of Summer 2000

Wholesale electricity prices in California jumped dramatically higher this summer with particularly high peaks during the periods May 21–24, June 12–16, and June 26–30. The price spikes affected all markets run by the PX and the ISO. The monthly average unconstrained market-clearing price (UMCP) for May in the PX's day-ahead market represented a 100 percent increase over May 1999.[21] The PX's constrained day-ahead price (NP15) peaked at $1,099/MWh on June 28, 2000.[22] Prices in the ISO's real-time market neared or reached its $750 cap twice in May and on 8 occasions in June. The ISO lowered the price cap from $750 to $500 on July 1, 2000. Subsequently, on August 7, 2000, the ISO further reduced the purchase price cap to $250 per MWh.

High temperatures and generation outages led the ISO to declare system emergencies 39 times between May and August. PG&E had to effect rolling black-outs in San Francisco area on June 14. Notably high prices were also experienced at trading hubs throughout the Western Interconnection. During this summer period, costs of electricity inputs began to increase, particularly gas costs at the California border which rose from $2/MMBtu in the spring to about $6/MMBtu this summer. At the same time, existing gas fired units[23] were operated at unprecedented levels, driving up the price of NO_X emission allowances from around $6/lb to over $40/lb at the end of August.[24]

Because the retail rate freeze imposed in SDG&E's service area by AB 1890 ended in 1999, the very high wholesale prices were passed through directly to the utility's retail customers, resulting in monthly bills that were up to 200 to 300 percent higher than the prior year. PG&E and SoCal Edison, still subject to retail rate freezes, report that their cost for wholesale power has exceeded the

the Commission was the scope of the Oversight Board's functions. Specifically, the Commission noted that it could not ''accept a permanent role for the Oversight Board in the governance or operation of the ISO, or appellate review of ISO Board decisions, because these matters are within our exclusive jurisdiction.'' *See PG&E II* at 61,818.

[12] Pacific Gas and Electric Co. *et al.,* 81 FERC ¶ 61,122 (1997) (October 30, 1997 Order).

[13] Among the four jurisdictional ISOs that are in operation, the Commission has devoted, by far, the most resources to the California ISO, and most of the attention required by the California ISO reflected the difficulties in implementing the requirements of AB 1890 and the impact of those requirements on transmission grid operations and market performance.

[14] *See* AES Redondo Beach, L.L.C., *et al.,* 84 FERC ¶ 61,046 (1998), *order on reh'g,* 85 FERC ¶ 61,123 (1998) (October 28 1998 Order), *order on further reh'g,* 87 FERC ¶ 61,208 (1999) (May 26, 1999 Order), *order on further reh'g,* 88 FERC ¶ 61,096 (1999), *order on further reh'g,* 90 FERC ¶ 61,148 (2000). *See also* California Independent System Operator Corporation, 84 FERC ¶ 61,309 (1998).

[15] October 28, 1998 Order, 85 FERC at 61,462.

[16] *See* May 26, 1999 Order, 87 FERC at 61,801–02 (explaining that the ISO developed a phased approach to the redesign).

[17] 85 FERC at 61,463.

[18] California Independent System Operator Corporation, 86 FERC ¶ 61,059 (1999).

[19] 87 FERC at 61,817–19.

[20] California Independent System Operator Corporation, 89 FERC ¶ 61,169 (1999), *reh'g pending.*

[21] Price Movements in California Electricity Markets: Analysis of May–June 2000 Price Activity, PX Compliance Unit, September 29, 2000 at 10.

[22] Report of California Energy Market Issues and Performance: May–June 2000, ISO Department of Market Analysis, August 10, 2000 at 13.

[23] Natural gas comprises about 55 percent of California's fuel mix.

[24] Staff Report at 3–21.

amount recovered in retail rates by billions of dollars.[25]

These events have created an environment of distress in the State. Probes have been initiated by the California Commission, the Oversight Board, and California's Attorney General, in addition to the investigation by this Commission discussed below. In August, the California Commission put in place a temporary retail rate cap for certain small customers of SDG&E, limiting the amount that they must pay per month. Subsequently, the California legislature enacted AB–265, a retroactive retail cap which expands on the California Commission's action. The legislation limits San Diego residential customers' rates to 6.5 cents per kWh, and requires the California Commission to investigate the purchasing practices of SDG&E. Both retail rate caps defer payment of the total amount due to the utility, requiring customers to pay the balance of costs paid into the wholesale market with interest in the year 2003.

California's Governor also signed SB 970 into law in early September, which will streamline regulatory approval for new power plants.[26] A number of other bills encouraging energy efficiency, distributed generation technologies and approval of new generation were also enacted.[27]

The ISO and PX and the ISO's Market Surveillance Committee (MSC) analyzed the pricing anomalies experienced during the summer and came to similar conclusions. A preliminary report prepared by the PX dated September 29, 2000, found that price spikes were caused by flawed market structures and an insufficient supply of power, rather than gaming by market participants. Although market conditions created the potential for abuses of market power, the PX Report indicated that no one group of participants was setting prices. The ISO, similarly, reported that during certain operating conditions, suppliers can have significant market power, although the underlying causes of high prices were structural and operational in nature.

C. Commission Actions in Response

On July 26, 2000, the Commission issued an order directing a staff fact-finding investigation of the conditions in electric bulk power markets (including volatile price fluctuations) in various regions of the country.[28] The order asked staff to determine any technical or operational factors, regulatory prohibitions or rules (Federal or State), market or behavioral rules, or other factors affecting the competitive pricing of electric energy or the reliability of service, and to report its findings to the Commission by November 1, 2000. Later, staff was asked to expedite the investigation as it related to California and markets in the Western Interconnection.

On July 28, 2000, the Commission issued an order in Docket No. EL00–91–000 in response to a complaint filed by Morgan Stanley Capital Group Inc. against the ISO, asking the Commission to invalidate the ISO's decision to lower the maximum price it was willing to pay to sellers of imbalance energy and ancillary services. At the time the Morgan Stanley request was filed, the ISO Governing Board had voted to lower the ISO's maximum purchase price for these services from $750 to $500. Morgan Stanley wanted the Commission to reinstate the $750 purchase price cap and prevent the ISO Board from further reducing the cap. The Commission denied Morgan Stanley's request, finding that the ISO's maximum purchase price authority remained acceptable because the ISO did not have the authority to require sellers to bid into its markets, and thus, could not dictate sellers' prices.[29]

On August 2, 2000, SDG&E filed a complaint in Docket No. EL00–95–000 against all sellers of energy and ancillary services into the ISO and PX markets requested, among other things, that the Commission impose a $250 price cap. The August 23 Order denied SDG&E's request because the company had not provided sufficient evidence to support an immediate seller's price cap.[30] However, the Commission instituted formal hearing proceedings under section 206 of the Federal Power Act to investigate the justness and reasonableness of the rates of public utility sellers in the California ISO and PX markets, and also to investigate whether the tariffs, contracts, institutional structures and bylaws of the ISO and PX are adversely affecting the efficient operation of competitive wholesale power markets in California and need to be modified.

On September 12, 2000, the Commission conducted a public meeting in San Diego to allow interested persons to give the Commission their views on recent events in California's wholesale markets; written comments were accepted in Docket No. EL00–107–000. In addition, members of the Commission and staff participated in a number of Congressional hearings and proceedings conducted by California State authorities throughout the summer.

The staff fact-finding investigation is now completed, and the Staff Report has been placed in the official record of this proceeding. The Staff Report is generally consistent with the findings of the PX and ISO reports. A detailed summary of the Staff Report is attached to this order as Appendix D.

Briefly, the Staff Report identifies three factors that contributed to the high prices experienced in California this summer. First, competitive market forces played a major role in the run-up of prices through significantly increased power production costs combined with increased demand due to unusually high temperatures and a scarcity of available generation resources throughout the West and California in particular.

In addition, the Staff Report concludes that existing market rules along with some flawed retail regulatory policies exacerbated the situation. The Staff Report notes that the requirement placed upon the three IOUs by the California Commission to buy and sell all their energy needs through the PX, coupled with the California Commission's restrictions on their ability to forward contract, exposed the three IOUs to the volatility of the spot market without the ability to mitigate this summer's price volatility. The Staff Report also notes that a lack of demand responsiveness on the part of retail load allows prices to rise well above competitive levels when demand is high and supplies are scarce. Finally, the Staff Report finds that the ISO's policies relating to replacement reserves increased the amount of demand and supply that appears in the ISO's real-time market (underscheduling in the PX), which results in operational and reliability problems for the ISO and increased costs. The Staff Report recommends that the Commission eliminate these flawed market rules.

Lastly, the Staff Report notes that there is evidence suggesting that sellers

[25] The two utilities have reported about $4.6 billion in unrecovered wholesale costs of which about $2 billion reflects sales of electricity sold from generation which they still own.

[26] On September 7, 2000, the California Assembly passed SB 970, to address the immediate need for certain additional generating capacity in the State. SB 970 created an interagency task force appointed by the Governor from various California regulatory agencies, related federal agencies, and local governments.

[27] *See* Electric Utility Week, Oct. 9, 2000, pp. 5–6.

[28] *See infra*, note 2.

[29] *Morgan Stanley Capital Group Inc.* v. *California Independent System Operator Corporation*, 92 FERC ¶ 61,112 (2000) (*Morgan Stanley*).

[30] 92 FERC at 61,606. (Commissioner Massey dissented on this point).

had the potential to exercise market power (where market power is defined as prices above short-run marginal cost) this summer; however, the data analyzed in the Staff Report and the limited time available were not sufficient to make determinations regarding the exercise of market power by individual sellers.[31] One of the Staff Report's proposed changes to the market rules would eliminate the single price auction rule.[32]

D. Docket No. ER00–3461–000

On August 22, 2000, the PX filed Tariff Amendment No. 19 in Docket No. ER00–3461–000, proposing to impose maximum prices on Demand and Supply Bids in its Day-Ahead and Day-of Markets of $350/MWh. The PX states that the $350/MWh limit represents the sum of the $250/MWh price limitation on ISO purchases of Imbalance Energy plus the $100/MW amount the ISO pays for Replacement Reserves. The PX also states that the establishment of equivalent maximum prices in both the ISO and PX markets will remove any possible uncertainty that might potentially encumber the operation of either of these markets. The PX requests that Amendment No. 19 be granted the earliest possible effective date but no later than sixty days after filing. By letter dated October 5, 2000, Commission staff requested, within fifteen days, additional information from the PX to support the need for their proposed caps. On October 19, 2000, the PX filed additional information (PX Deficiency Report) analyzing six months of recent PX market data demonstrating that the ISO's real-time market serves as a *de facto* price cap in the PX day-of markets. Two exceptions occurred on June 27 and June 28.

Notice of the PX's filing was published in the **Federal Register**, 65 FR 57,599 (2000), with motions to intervene and protests due on or before September 12, 2000. The California Commission filed a notice of intervention. Timely motions to intervene, comments, and protests were filed by the entities listed in Appendix A. In addition, Williams Energy Marketing & Trading Company (Williams) and the Oversight Board filed untimely motions to intervene.

The California Commission, the Oversight Board, PG&E, and SoCal Edison support the filing and request its approval as an interim measure until additional steps are taken to restore prices to just and reasonable levels. Other intervenors argue that the filing should be rejected because: (1) The PX has provided virtually no justification for its proposed price cap; (2) the proposal would further intrude into the competitive energy markets and should be deferred; and (3) the PX's proposal is inconsistent with the Commission's findings in *Morgan Stanley.* Power marketers also argue that price caps are unnecessary and harmful to the development of a competitive electric market by jeopardizing investment in generation and creating an atmosphere of extreme uncertainty.

E. Docket No. ER00–3673–000

On September 14, 2000, the ISO filed Tariff Amendment No. 31 in Docket No. ER00–3673–000, proposing to remove the November 15, 2000 termination date of the ISO's purchase price cap authority. The ISO states that the proposed Amendment No. 31 would remove the existing termination date of the ISO's authority to disqualify Ancillary Service and Imbalance Energy bids that exceed levels specified by the ISO and would confirm the ISO's authority to establish bid caps for all of its markets. The proposed amendment does not specify the particular level of the purchase price caps; instead, it preserves the discretion of the ISO to adjust the bid cap levels as appropriate. The ISO requests that Amendment No. 31 become effective as of the date the existing provision for bid cap authority expires on November 15, 2000.

Notice of the ISO's filing was published in the **Federal Register**, 65 Fed. Reg. 57,599 (2000), with motions to intervene and protests due on or before October 5, 2000. The California Commission filed a notice of intervention. Timely motions to intervene, comments, and protests were filed by the entities listed in Appendix B. In addition, the City of San Diego (San Diego) filed an untimely motion to intervene.

Eight intervenors filed comments supporting the amendment to extend the ISO's bid cap authority, stating that because the market is not currently workably competitive, purchase caps are necessary. Twelve intervenors protest Amendment No. 31, stating that purchase price caps and the indiscriminate lowering of such caps threatens reliability, creates massive instability, and discourages investment in and development of new generation resources. In addition, these intervenors object to the ISO's proposal to set bid caps and as a corollary reject bids above the cap, instead of setting a purchase price at which they are willing to buy. Intervenors maintain that such an ability to reject bids would lead to the unilateral ability of the ISO to reduce the generator's bid to the price it is willing to pay, and amounts to setting the seller's price in violation of our precedents. Finally, intervenors state that the ISO has not developed specific criteria for the application and level of purchase price caps.

On October 20, 2000, the ISO filed an answer arguing that the protests lack merit.

Interventions and Other Pleadings

As noted in the August 23 Order, any party that intervened in Docket No. EL00–95–000 is considered to be a party in this consolidated hearing proceeding.[33] The following filed motions to intervene out-of-time in Docket Nos. EL00–95–000 and/or EL00–98–000: the Cogeneration Association of California jointly with the Energy Producers and Users Coalition (CAC/EPUC); the Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (Southern Cities); the City of Vernon, California, (Vernon); San Diego; the California Large Energy Consumers Association (CLECA); and Puget Sound Energy, Inc. (Puget Sound).

On October 16, 2000, PG&E, SoCal Edison, and The Utility Reform Network (TURN) (collectively, Joint Movants) filed a joint motion for emergency relief and further proceedings. Joint Movants request that the Commission: (1) Make an immediate finding that California's electricity markets are not producing just and reasonable rates, (2) put in place an interim $100/MWH price cap, (3) direct public utility sellers to provide cost-of-service information for the purpose of implementing market power mitigation measures, and (4) institute expedited procedures to develop long-term market power mitigation measures and to determine refund responsibility. SDG&E filed comments in support of the motion, but urging that fundamental reforms proceed expeditiously.

The California Commission also filed a motion for interim relief, on October 19, 2000, proposing that FERC require certain generators and marketers to offer specified amounts of capacity under forward contracts at FERC-approved

[31] The Staff Report concluded that: ''Further study of high-priced bidding by individual firms or periods when individual generators were not running would be needed to substantiate any charges of market power abuse.'' Staff Report at 5–19. The Commission will evaluate any information it receives as part of its review of these markets.

[32] A single price auction pays all bidders the price paid to the last seller whose output is needed to clear the market (balance supply and demand); often referred to as the market clearing price. Another auction mechanism, often referred to as the ''as bid'' auction, pays bidders their own bid price if they are selected.

[33] August 23 Order at 61,606.

cost-based rates. The following day, the ISO submitted a proposed offer of settlement to impose: (1) A $100/MWh price cap with a list of exceptions; (2) requirements for load-serving entities to forward contract; and (3) charges against load and generation not adhering to forward scheduling requirements.

Various entities have filed motions and pleadings proposing their own preferred remedies and mitigation such as a $100 bid cap, reintroduction of cost-based rates, and tiered bid caps.[34] Our decision is informed by these requests and proposals and we incorporate into our actions the aspects of those proposals which achieve our objectives. We inform these parties that they should renew in their November 22 comments any concerns stemming from our decision to propose these remedies.

Procedural Matters

In view of the early stage of the consolidated hearing proceedings and the absence of any undue prejudice or delay, we find good cause to grant the untimely, unopposed motions to intervene of CAC/EPUC, Southern Cities, San Diego, Vernon, CLECA, and Puget Sound. Appendix C lists all parties to this proceeding. In addition, the Commission will permit all interested persons that have not already intervened in these dockets to intervene and file comments by November 22, 2000.

Also, in view of the early stage of the proceeding and the absence of any undue prejudice or delay, we find good cause to grant Williams' and the Oversight Board's late interventions in Docket No. ER00–3461–000, and San Diego's late intervention in Docket No. ER00–3673–000.

We will reject the ISO's answer in Docket No. ER00–3673–000 to the extent that it represents an impermissible answer to protests. *See* 18 CFR 385.213(a)(2) (2000).

Discussion

The Commission is obligated under the FPA to ensure that the rates, terms and conditions of wholesale sales and transmission in interstate commerce by public utilities are just, reasonable and not unduly discriminatory or preferential. Under section 206 of the FPA, if the Commission finds that rates, charges or classifications for jurisdictional services, or rules, regulations, practices or contracts affecting such rates or charges, are not just and reasonable, or are unduly discriminatory or preferential, the Commission must determine the just and reasonable rate, charge, classification, rule, regulation or practice to be in effect. In exercising this responsibility in today's electric industry environment, the Commission is faced with electric markets that are increasingly interstate in nature and increasingly dependent upon one another, and with markets that are in varying stages of transition to competition at the wholesale and, in numerous states, the retail level. With respect to California, we are faced with a complex transition from one regulatory regime to another and efforts to establish competitive markets at both the wholesale and retail levels. In this particular proceeding, our responsibility is to determine whether public utility sellers to the ISO and PX are charging unjust and unreasonable rates, and whether the market structures and market rules governing public utility wholesale sellers in California, and affecting the wholesale rates of such public utility sellers, are resulting in, or have the potential to result in, wholesale rates that are unjust, unreasonable, unduly discriminatory, or preferential. In particular, we are concerned about whether these market structures and rules, particularly in conjunction with an imbalance of supply and demand, may give public utilities the ability to exercise market power and thereby charge unjust and unreasonable rates.

Before discussing the specific aspects of market structure and rules that may be adversely affecting wholesale rates, we believe it is important to provide an overview of the historical context in which we address these issues. In 1996, when California decided to embark on its bold and innovative restructuring initiative, it did so because it recognized the problems inherent in its existing regulatory model. Prices paid by retail consumers were among the highest in the nation. California was becoming increasingly dependent on out-of-state generating resources to meet the needs of its citizens. It was against this backdrop of existing problems that California decided to pursue a more market-oriented approach to the provision of retail electricity service—ordering its three IOUs to divest ownership of their generation assets, requiring that they turn over operational control of their transmission facilities to the ISO, establishing the centralized power exchange, and adopting a market design with elaborate rules to govern the behavior of participants in this newly created electricity market.

Although well intentioned, and in some ways visionary, California's pioneering of retail electricity restructuring has not always produced a result that its architects intended—electricity prices lower than historical levels for retail consumers. Indeed, the deregulatory approach adopted by California not only failed to address many of the existing problems which were plaguing the State, but in many ways it exacerbated and magnified those problems. This is not meant to cast blame, but to recognize and try to learn from some of the mistakes that were made. At the Federal level, we remain convinced that competitive markets will provide efficiencies and lower electricity prices to consumers—both retail and wholesale. But such markets need to be properly designed and administered in an independent and non-discriminatory fashion, and they must recognize and accommodate the regional, interstate nature of electricity trade.

The events of this summer provide dramatic evidence of the interstate nature of electric systems and markets in the Western Interconnection. California is not an electrical island. Operationally, the transmission facilities currently controlled by the ISO are part of the much larger Western Interconnection.[35] The reliability of California's electric system depends on access to generating resources located throughout the Western Interconnection.[36] Decades ago, western utilities made large investments in high voltage interstate transmission lines to support the market efficiencies resulting from seasonal diversities between the northern and southern markets. Over time, California utilities have increasingly relied on imports from generation located in neighboring states to meet their load requirements and have constructed significant transmission interties to import electricity for California consumers.[37] This summer, exports from California to others increased. Therefore, the

[34] On October 26, 2000, the ISO Board voted to change the ISO bid cap from the current $250 level to a load differentiated cap, effective on November 3, 2000 or as soon thereafter as can be implemented. Our action in this order freezing the ISO bid cap at the current $250 level for 60 days, renders the ISOo board vote null and void.

[35] As early as the 1970's, Western utilities began to face the problem of significant regional loop flows resulting from the interstate use of the Western grid and, in the 1990's, Western utilities agreed on a regional response. *See* Southern california Edison Co., *et. al.,* 70 FERC ¶ 61,078 and 73 FERC ¶ 61,219 (1995).

[36] California's import capability is approximately 8,000 MW.

[37] Two of the first trading hubs for wholesale electricity futures were founded at the California Oregon Border (COB) and at Palo Verde, in Arizona, because of the significant amounts of interstate market activity that occurs at these points.

operation of the California electricity market can affect prices throughout the entire Western Interconnection. The Staff Report demonstrates that during the summer of 2000 correlations between PX prices and Western market bilateral prices were quite strong.[38]

We make these observations to provide some context for the actions we are proposing in this order. We commend and continue to support California's efforts at restructuring its electricity markets to try and bring lower prices to consumers in California. Although California's restructuring initiatives directly implicated matters subject to our jurisdiction, in order after order, we have deferred wherever possible to the restructuring decisions made by the State. We have devoted unprecedented resources to try and make the California initiative a success. Ultimately, however, the Commission must ensure that wholesale market rules and institutions—even those created by state action—result in just and reasonable wholesale rates for electricity. This summer's events in California and our subsequent investigation have convinced us that we must take decisive action under section 206 of the Federal Power Act to remedy fundamental problems that have been identified in the California market design. The California experience has highlighted the dangers of hard-wiring a market design that is inflexible and cannot adapt to needed changes.

It is important to get the fundamentals right and to devise a roadmap that takes into account the needs of the market and the regional implications of electricity trade. In many ways, this is the approach that Order No. 2000 has taken with regard to the formation of Regional Transmission Organizations. But Order No. 2000 avoided being overly prescriptive and even went so far as to adopt a requirement of open architecture to ensure that RTOs could adapt and evolve to meet the changing needs of the marketplace. Market rules and institutions need to be flexible so that they support the natural evolution of the marketplace. In California, we are confronted with a situation where market participants have to work around overly prescriptive market institutions and requirements which have become an impediment to the efficient operation of the marketplace and which have harmed consumers. The existing market has not lowered prices to consumers this summer nor stimulated needed investment in new generation and transmission facilities.

The specific reforms we are proposing in this order are limited to fixing the fundamental problems which have been identified. As we move forward, we will need input from California and other Western State policymakers to help shape and further develop this new market design. But such input should recognize the regional, interstate character of the western marketplace. We expect the new non-stakeholder boards which we are ordering below to consider further refinements and to help guide the continued evolution of the market. But the Commission must take action at this juncture under section 206 of the Federal Power Act to remedy the problems that have been found to exist in the California market structure. This action must be taken to ensure that the high and volatile prices experienced this past summer do not recur to the detriment of consumers in California and in the West generally. In this order, we focus on proposing changes to certain rules and policies of the PX and the ISO that we believe contributed to the high prices which California experienced last summer.[39]

A. Overview

One of the primary Congressional goals in enacting Part II of the Federal Power Act was to protect electric ratepayers from exercises of market power. Ratepayer interests generally centered on ensuring that rates were not excessive or unduly discriminatory. The need to ensure an adequate supply of generation usually was met through requirements imposed by states on franchise utilities to build or buy adequate power resources to meet demand consistently. Today, however, in states such as California, the adequacy of local power resources depends, not just on state requirements, but also on whether market prices are sufficient to elicit adequate supplies, through construction or otherwise. In other words, when supply is driven by market price instead of regulatory requirements, ratepayer interests may no longer depend solely on whether current prices are deemed too high, but also on whether prices are too low to elicit new supplies over time.

As indicated by the Staff Report and by reports prepared by California State agencies and others, this summer's wholesale markets exhibited certain market fundamentals that would be expected to cause prices to rise. Input costs increased as the cost of fuel, emission credits and O&M expenses increased.[40] Sustained demand increased, requiring increased reliance on generating resources that would have been more expensive to operate even if input prices had not increased.[41] Conditions in the Northwest decreased amounts of hydropower supply usually available to the market which, combined with a failure to bring new generation into service over the last decade, resulted in a true scarcity of generation.[42] In circumstances like this, prices are expected to rise—and indeed they must rise to induce the investment in new capacity that is needed to serve customers adequately.

The issue raised in this proceeding is whether dysfunctional market rules or the exercise of market power allows prices to rise above just and reasonable levels. We conclude that certain market rules do interfere with the functioning of the market and, taken together, may permit sellers to exercise market power. Accordingly, these market rules must be revised. Many of the market dysfunctions in California and the exposure of California consumers to high prices can be traced directly to an over reliance on spot markets. Industries that are either capital intensive or that have a lack of demand response do not rely solely on spot markets where volatility is to be expected. Because the price risks inherent in spot markets are too great for both suppliers and consumers, these market sectors will prefer to manage their risk profiles through forward contracts. However, in California, certain market rules imposed by AB 1890 and its implementation by the California Commission (*e.g.,* mandatory buy-sell through the PX) prevented the IOUs from engaging in forward contracts to any significant degree. And other retail suppliers who would have been free to implement appropriate risk management strategies could not be induced to participate in California's market because the low retail rate, frozen at 10 percent below historical levels, thwarted competitive opportunities for new participants to enter the market.[43] Even so, until the market was stressed this summer by extreme events, pricing volatility was

[38] *See* Staff Report at 1–3, 3–15—3–17.

[39] There are a number of fixes that must be made that are beyond the statutory authority of this Commission. Thus, we also highlight several initiatives that the State of California must undertake to ensure that the high and volatile price scenario of this past summer is not repeated.

[40] Staff Report at 3–20—3–22.

[41] *Id.* at 5–2, 5–3, and 5–6.

[42] Due to reduced water flows in the West, the output of hydropower generation was reduced. For example, hydro output in June 1999 was 16,685 GWh and in June 2000 was 12,808 GWh, a reduction of 3,880 GWh. Staff Report at 2–26.

[43] An Analysis of the June 2000 Price Spikes in the California ISO's Energy and Ancillary Services Markets, ISO Market Surveillance Committee, September 6, 2000 at 13.

isolated and short-lived and wholesale prices were so low that stranded costs were paid off more quickly than expected. The significant failings of this market design became apparent only as peak demand outstripped supply.

An essential remedy is the elimination of rules that prevent market participants from managing their risks. Moving significant amounts of wholesale transactions into forward markets will (1) reduce reliance on spot markets, thereby directly reducing both the likelihood and the adverse economic consequences of pricing volatility;[44] (2) eliminate the adverse reliability impacts that the ISO faces each day as its obligation to operate a real-time balance market has become transformed into operating the major commodity exchange at the last minute; (3) increase the likelihood of new generation entry because the uncertain revenue stream from spot markets will not attract the necessary capital investments; and (4) limit the ability of sellers to exercise market power in spot markets. To address this critical problem and ensure that market participants have access to forward markets, this order proposes certain remedies intended to facilitate forward contracting.

A second critical issue we address is the ability of the ISO and PX to operate and implement wholesale markets and the ability of the ISO to operate a transmission system reliably and efficiently under the governance of its stakeholder board of directors. The functioning of wholesale markets and the reliability and efficiency of the interstate transmission grid cannot be compromised by a decision-making process that is overly complex, mired in controversy, or prone to excessive influence by special interest groups. Boards, whether comprised of stakeholders or non-stakeholders, must be able to respond decisively to conditions necessary to maintain system integrity and operation. Most importantly, because the markets operated by the PX and the ISO are interstate markets and the transmission system operated by the ISO is part of an interstate transmission grid, the ISO's decision-making process must be responsive to the operations and the welfare of the regional marketplace, and not be restricted to the concerns of one geographic location or one segment of the market. Based on past performance, the ISO and PX boards no longer meet these standards. For these reasons, we propose to disband the stakeholder boards and direct the establishment of independent boards.

We propose several other immediate market reforms. We also identify certain other longer-term measures which need to be addressed.

Finally, because the changes we are requiring here will take time to implement and the addition of new supply is not imminent, we propose price mitigation measures through December 31, 2002. As noted earlier, a number of the changes that are required to ensure proper market functioning are within the control of state agencies. We have identified those critical issues here as well. It is imperative that these matters also be addressed during the period when price mitigation is in effect.

B. Proposed Immediate Measures

1. Requirement to Sell Into and Buy From the PX

The California Commission Restructuring Decision required that the three IOUs sell all of their generation into and purchase all of the energy requirement for their retail load from the PX.[45] In so doing, the California Commission established a mechanism to ensure that the IOUs could not withhold generation from the market prior to the completion of divestiture and to value in a systematic way the above market generation assets which the IOUs had not divested. Sales at frozen retail rates in conjunction with purchases at lower market prices created a revenue surplus from which to write off stranded costs and to transition to a regime of fully competitive prices. The requirement, in fact, was to end on the earlier of March 31, 2002, or the date when the IOUs had written off all of their stranded costs.[46]

During the first three years of operation, a confluence of favorable temperatures and hydro conditions resulted in such low spot market prices that the IOUs were able to write off substantial amounts of stranded costs. Because of these conditions and the valuation of their divested generation assets, the IOUs have either written off or valued virtually all of their stranded costs. However, this past summer's experience and the Staff Report make clear that these favorable market conditions have evaporated. A robust economy with little investment in capacity additions, high temperatures throughout the West and little supply response have now resulted in power costs above the frozen retail, rate levels.[47] The IOUs' reliance on the PX, and, in particular, the California Commission's requirement that they bid the majority (upwards of 80 percent) of their load into the PX's day-ahead and hour-ahead spot markets[48] created substantial short-term cost exposure and price spikes of such a magnitude that market confidence became virtually nonexistent. The details of the Staff Report paint a bleak picture of an over reliance on a spot market in a circumstance of inadequate supply. Moreover, because the IOUs have now divested substantially all of their thermal generation they are substantial purchasers of energy.[49] Therefore, forced sales into the PX by the IOUs to prevent withholding are no longer necessary.

As a result, we conclude that the requirement for the IOUs to sell all of their generation into and buy all of their requirements from the PX, whether in its spot or forward markets, is a significant factor contributing to rates that are unjust and unreasonable,[50] and we propose to declare it null and void effective 60 days from the date of this order. Under this proposal, the IOUs may elect to be their own Scheduling Coordinator rather than maintaining the current structure where the PX is the Scheduling Coordinator for the three IOUs. Without this buy/sell restriction on wholesale trade, the IOUs are free to pursue a portfolio of long- and short-term resources and access whatever wholesale markets are suited to meeting the needs of their retail customers

[44] We do not seek to eliminate pricing volatility in spot markets. These markets will, as a matter of course, swing in reaction to changes in short-run market conditions that are difficult to predict. What is important is that market participants have the ability to protect themselves from the economic consequences of pricing volatility. In simplest terms, if California IOUs had the option to use forward markets last summer and had chosen to exercise those options to purchase most of their needs, the high spot market prices experienced this summer would have affected only a small portion of the wholesale power costs. We do not mean to suggest that spot prices are always higher than forward market prices. Indeed, because of cooler than expected weather in the east, buyers in PJM that may have locked in prices in forward markets, based on the best information at the time of their decision, ultimately paid more for energy than the price that was available in the spot markets. The crucial issue is choice and providing market participants with the tools to access the market in the ways that best serve their needs.

[45] Initially, the PX administered only a Day-ahead and an hour-ahead (Day-of) spot Market. Later, it added limited forward marketproducts.

[46] Section 368 of AB 1890.

[47] The Staff Report indicates that over the past five years load in California has risen by 5,522 MW while resources have increased only 672 MW. Staff Report at 5–8.

[48] While the IOUs have recently been authorized by the California Commission to use either the PX's forward markets or the bilateral market, the overall restrictions on the total amount of forward purchases remain.

[49] PG&E, SoCal Edison, and SDG&E still control 26 percent, 20 percent, and 1 percent, respectively, of in-state generation and purchase power contracts.

[50] The Staff Report reached a similar conclusion. Staff Report at 5–9 and 5–11.

(including bilateral markets, the PX, and others such as Automated Power Exchange, Inc.) or by providing power from their own resources to serve their own load and self provide the necessary ancillary services.[51] As an independent exchange, the PX will be free to design and offer the services needed by market participants.

While we are proposing to remove an encumbrance on wholesale trades, we note that, currently, the California Commission restricts the IOUs' ability to procure forward products. These restrictions prohibit the IOUs from creating mutually beneficial long-term financial contracts with generators and marketers, and these prohibitions can result in an increase in overall prices, and the volatility of prices, to consumers.

2. Underscheduling of Load and Resources

Reliable and orderly system operations require that load and resource schedules be substantially finalized on a day-ahead or day-of basis[52] subject to only minor adjustments to reflect more accurate information of actual system conditions as real time approaches. As a result, the ISO operates a real-time energy imbalance market to supply unanticipated changes in load and resources. This balancing market was designed to accommodate approximately 5 percent of the total anticipated load.

The record indicates that there is a chronic pattern of underscheduling[53] load and generation in the PX's Day-Ahead and Day-of market.[54] As a result, large amounts of load are not being scheduled with the ISO and the ISO is often in the position of procuring a substantial amount of energy to meet these needs in real time. In some hours the ISO has been faced with acquiring upwards of 6,000 MW of system energy needs, in real time.[55] The ISO has reported that underscheduling was 50 percent higher this summer than the previous two summers. The cost of out-of-market purchases needed to balance load at the last minute rose to $100 million this summer compared to about $1 million last summer. Underscheduling has caused the ISO's operating personnel to call upon energy from capacity that had been procured for Operating Reserves. As a result, this reserve capacity has been diverted from its intended purpose—protecting against the loss of a component of the system. In addition, the underscheduling resulted in 39 stage-one and stage-two emergencies between June and August 2000, and 13,500 MWhs of load was curtailed.[56] The combination of these problems places even more pressure on system operators.

As a practical matter, the ISO is often not simply providing the real-time services needed to operate a transmission system and balance the market, but is actually forced to operate an energy market and to become a market participant in order to make last minute purchases as a supplier of last resort. The PX Day-Ahead and Day-of Markets were designed as spot market exchanges; the ISO's real time market was not intended to provide this function. Underscheduling puts system reliability at risk and creates a stronger sellers' market and higher prices as real time approaches. In an attempt to address this problem, we directed the ISO in the August 23 Order to use a more forward approach in procuring these energy needs.[57]

As discussed above, the elimination of the buy/sell requirement in the PX will allow for greater discretion for the IOUs to self supply or to procure resources in bilateral or other markets for their energy requirements as well as necessary ancillary services. We believe that the existing underscheduling problem is addressed in part by this revision to the market. We propose to temporarily correct the current situation by limiting the ISO to only the functions needed to reliably operate the transmission system, *i.e.,* provide a balancing service rather than running an energy market. To address this reliability problem and to ensure that loads do not rely excessively on the ISO as the provider of last resort, we propose to establish a penalty charge for deviations in excess of five (5) percent of an entity's hourly load requirements.[58] Loads in excess of this deviation band that are not scheduled in the Day-Ahead or Day-of Markets will be assessed a penalty charge of two times the ISO's real time energy cost for any purchase of balancing energy during the hour. The penalty will not exceed $100/MWh (*i.e.,* the actual imbalance cost plus $100), which approximates the current charge assessed to underscheduled load for replacement reserves. As to the penalty, we have long set disincentive rates for emergency service at twice the standard rate, and we will apply that policy here.[59] As a further incentive to encourage accurate scheduling in the Day-Ahead or Day-of Markets, we propose to direct the ISO to disburse at the end of the billing period all penalty revenues (revenues above costs) *pro rata* to the loads that scheduled accurately and that did not exceed the 5 percent deviation band for that hour. In addition, later in this order we propose to remove one of the financial incentives for sellers to favor the real-time market by providing that suppliers in the real-time market receive either a capacity payment for replacement reserves or energy payments, but not both. We also describe later in this order auction modifications that should eliminate the need for the ISO to go out of market to procure energy needed for the balancing market. As a result, loads when properly scheduled will be better able to access required supply. We believe that this more orderly process for system operations in conjunction with the ISO's use of forward contracts will better enable the ISO to reliably operate the transmission system.

Underscheduling is a symptom of many of the other market flaws.[60] Because our order addresses many of these problems we expect the underscheduling problem to subside. The ISO should consider other market design changes that would address underscheduling.

3. Governance of the PX and ISO

The Commission conditionally authorized the establishment of the ISO and PX in November 1996.[61] In that order, the Commission noted the accelerated schedule for commencement of operations and committed to dedicate the necessary resources to accomplish that schedule. The Commission also expressed its intent to give great weight to the views expressed in the California Restructuring Legislation. The Commission's deference is most apparent with respect to the governance of the ISO and PX. The parties had proposed that the ISO and PX would be

[51] The IOUs own nuclear and hydro generation whose variable operating cost are approximately $16/MWh (for a nuclear unit operating at 88 percent capacity factor) and no fuel costs for hydro. Dynegy letter dated October 27, 2000.

[52] The PX Day-of Market is the hourly energy market that is scheduled with the ISO at least 2 hours in advance of real time.

[53] Underscheduling occurs when an entity schedules significantly less energy than its expected actual consumption.

[54] Staff Report at 5–14 and 5–16.

[55] *See* ____ FERC at .

[56] August 25, 2000 Memorandum from Mr. Winter to ISO Board of Governors.

[57] 92 FERC at 61,108.

[58] We propose 5 percent because this is the maximum amount that the ISO intended to balance in the real-time market for operating the transmission system.

[59] *See, e.g.,* Indiana Michigan Power Company, *et al.,* 44 FERC ¶ 61,313 at 62,078 (1988).

[60] See also Section C3. Balanced Schedules below.

[61] *PG&E II.*

governed by boards composed of individuals residing in California who were chosen to represent various stakeholder classes (*i.e.,* transmission owners, municipal entities, sellers, end-users, etc.), with each class having a specified number of voting representatives. The Governing Boards would be responsible for broad operating criteria, rather than daily decisions and functions, and members were to vote individually, not as a class. As initially proposed, the Oversight Board was intended to perform two primary functions: (1) Establish nominating/qualification procedures for the ISO and PX Governing Boards, determine the composition of Board representation, and select Board members both initially (Start-Up Function) and in the future; and (2) serve as a permanent appeal board for reviewing ISO Governing Board decisions.

The Commission accepted the proposed Governing Boards (as modified by the Restructuring Legislation) except for the proposed California residency requirement, finding them to be consistent with the ISO Principles of Order No. 888.[62] The Commission relied on the fact that no one voting class would be able to block or veto actions and that no two classes together would be able to form a sufficient majority to make decisions, and on the codes of conduct that would govern board members' behavior. In an effort to assist in the advancement of the California restructuring process, the Commission granted limited authorization to the Oversight Board's Start-Up Function, subject to all determinations made by the Oversight Board being filed with the Commission for final review.[63] The Commission, however, was troubled by the role for the Oversight Board in the governance and operation of the ISO and PX and the appellate review of ISO Board decisions, because these matters were—and remain—within our exclusive jurisdiction.[64] Consequently, the Commission stated that the continuing functions of the Oversight Board established by the Restructuring Legislation would conflict with our statutory duties under the Federal Power Act and could not remain a part of the proposal.[65]

The Commission recognized, however, that states have a legitimate oversight role with respect to traditional retail matters such as: protecting the welfare of the state's retail consumers and citizens; protecting the reliability of electric service to California retail consumers; ensuring the adequacy of the generating and transmission resources necessary to achieve designated planning and operating reserve criteria to ensure adequate service to end-use consumers; monitoring whether the California retail electricity market is a well-functioning market and delivers the public benefits for which it was developed; and ensuring that the ISO and PX keep retail consumers adequately informed of matters affecting retail electric consumers. The Commission further stated that this role would not conflict with its jurisdiction and would address state-jurisdictional matters.[66]

The Oversight Board subsequently filed a petition for declaratory order requesting that the Commission declare that a bill pending in the California Senate (SB 96), modifying the Board's duties under the Restructuring Legislation, if enacted, would resolve the Commission's concerns about its role.[67] Rather than giving the Oversight Board confirmation power over all members of the ISO and PX Boards, SB 96 afforded the Oversight Board confirmation rights over a limited number of members representing primarily end-users, and addressed the residency requirement. In addition, the structural composition of the Governing Boards was to be modified as soon as another state was to participate in the ISO and PX. SB 96 provided that California could change the ISO and PX Governing Boards into non-stakeholder boards, subject to filing revised Bylaws with the Commission. SB 96 also limited the function of the Oversight Board as an appeal board to ISO decisions regarding eight distinctly state-retail matters.[68] In the *Oversight Board* decision, we accepted, as consistent with the FPA, the Oversight Board's limited interim appointment function and limited appellate review rights set forth in SB 96.

Events over the past two years increasingly have made clear that the ISO Governing Board has such difficulty reaching decisions on the complex and divisive issues confronting it that it has become ineffective. The Staff Report comments on this deficiency.[69] For example, from this Commission's perspective, ancillary services are a critical part of a competitive market. However, the ISO's redesign of its Ancillary Services markets, which was intended to be a global, comprehensive effort to be implemented within perhaps nine to twelve months, has been approved and implemented in piecemeal fashion over a very long term. Similarly, the ISO's reform of its congestion management program has been embroiled in dissension and postponed beyond a reasonable length of time.[70] Most recently, the ISO's efforts to address this summer's price abnormalities could not be resolved by its Governing Board. The ISO's October 20, 2000 submission in this proceeding was not submitted to the Governing Board for its consideration. A news report quotes the ISO's President and CEO explaining that no consensus regarding market mitigation proposals could be developed "'since everyone had a different concern or a different idea for how to change the market.'' [71]

In addition, over the course of this summer, it has become apparent that the Governing Boards are not functioning as they were intended to. Members of the ISO Board, in particular, have come under undue pressure from various sources, notably regarding votes to change the purchase price cap level. One member even felt compelled to resign, and her parting words encouraged her colleagues ''to find the determination to stand for the principle that the ISO must be independent of manipulation by any market participant.'' [72] Several other members also noted pressure ''from people that

[62] *See* Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities and Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, 61 Fed. Reg. 21,540 (1996), FERC Stats. & Regs. ¶ 31,036 (1996) (*Order No. 888*), *order on reh'g*, Order No. 888–A, 62 Fed. Reg. 12,274 (1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888–B, 62 Fed. Reg. 64,688, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom.* Transmission Access Policy Study Group, *et al.* v. Federal Energy Regulatory Commission, 225 F.3d 667 (D.C. Cir. 2000).

[63] 77 FERC at 61,817–17; 81 FERC at 61,453.

[64] *See* 77 FERC at 61,818.

[65] 81 FERC at 61,451–53; *see also* California Power Exchange Corp., *et al.,* 85 FERC ¶ 61,263 (1998).

[66] 85 FERC ¶ 61,264 at 62,068.

[67] *See* California Electricity Oversight Board, 88 FERC ¶ 61,172 (1999), *reh'g denied,* 89 FERC ¶ 61,134 (1999), *appeal docketed,* Western Power Trading Forum, *et al.,* v. FERC, No. 99–1532 (D.C. Cir.) (*Oversight Board).*

[68] These state-retail matters included, *e.g.* state functions assigned to the ISO and PX under the state law, matters pertaining to retail electric service or retail sales of electric energy, and open meeting standards and meeting notice requirements.

[69] Staff Report at 6–17.

[70] September 12, 2000 Meeting, Transcript at 107, 108 and 127.

[71] ''Cal–ISO Asks FERC for Forward-Looking Market Fix,'' *The Energy Daily,* October 23, 2000, p. 2. *See also* ''Divided Cal ISO Postpones Action on Fixes,'' *Power Markets Week,* Oct. 9, 2000, pp. 1, 18–19.

[72] Letter of resignation of Camden Collins, dated July 3, 2000.

are very powerful.'' [73] The Staff Report found indications that the Boards have been susceptible to influence by market participants, particularly by the interest that they represent.[74] Even California authorities have concerns about the Boards' independence. A joint Report to the Governor authored by the California Commission and the Oversight Board notes that the ISO and PX ''are governed by boards whose members can have serious conflicts of interest.'' [75]

On this record, we have no choice but to conclude that the existing California ISO stakeholder board is ineffective and must be modified. The ISO is an institution that is central to the functioning of wholesale power markets in the West and, unless it is able to resolve matters in a timely manner and is independent from market participants, we cannot be assured that rates, terms or conditions of its jurisdictional services will be just, reasonable and not unduly discriminatory or preferential. The transmission assets that the ISO operates are a critical part of the interstate transmission grid located in the Western Interconnection which provide essential support to the electric market. Any failings by the ISO in its obligation to ensure reliable operation of the transmission grid would have grave consequences for the residents and business in the Western states. Operation of this interstate transmission grid must be controlled by an expert board which is free from the influence of any market participant or market segment.[76]

We have similar concerns about the independence and effectiveness of the PX Board. The PX was created to accommodate California's retail access program. However, as discussed in detail below, effective 60 days from the date of this order, we propose to lift the requirement that the IOUs sell into and buy from the PX. Consequently, there is no longer any need for a stakeholder body to govern the PX; it may be operated as any other power exchange by independent directors.

While we are proposing to require the removal of the current boards, we recognize that the management of both the ISO and PX have performed admirably working under extreme circumstances and within the system dictated to them both during the initial start-up phase and more recently through the extreme conditions of the summer. We also recognize their tireless work with the stakeholder boards, a situation that was also dictated to them. In order to ensure a successful transition, it is vital that continuity of management be maintained.

We propose in this order that the current stakeholder boards be replaced with non-stakeholder boards effective 90 days after the date of this order. Under this proposal, in order to accommodate this schedule we will require that each new independent non-stakeholder board consist of seven voting members with the President (or CEO) as a voting member. The six other voting members will be selected by the current boards of the ISO and the PX, from a separate slate of candidates for each entity prepared by an independent consultant. The consultants are to be selected by the CEOs of the ISO and PX. The Boards should include members with experience in corporate leadership (at the director or board level) or professional expertise in either finance, accounting, engineering or utility law and regulation. The PX board should include members with expertise in areas of commercial markets and trading. The ISO board should include members with experience in the operation and planning of transmission systems. To allow sufficient time for this transition to occur, we propose to require the current ISO and PX Governing Boards to vote in new independent, non-stakeholder board members selected from the consultant's slate of candidates and disband the existing stakeholder boards within 90 days from the date of this order. We emphasize that the sole responsibility of the existing boards in the selection process is to pick from the slate of qualified candidates identified by the independent consultant.

The ISO and PX have well-established market monitoring units and independent surveillance committees that monitor their respective markets. This monitoring function focuses on trading activities and structural factors. In the October 30, 1997 Order, we accepted the ISO and PX proposal allowing market reports to be filed directly to regulatory agencies.[77] While these entities currently have the discretion to file their reports directly with the Commission, we propose that effective 60 days after the date of this order that all ISO and PX market reports be filed by the ISO and PX with the Commission at the same time that they are released to their respective boards.[78] This requirement will allow the Commission more timely information on market behavior.

4. Interconnection Procedures

While siting issues are not within this Commission's jurisdiction, we note that tariff interconnection policies are. Further, we note that standard procedures to facilitate the interconnection of new generators or existing generators seeking to increase the rated capacity of their facilities are needed in California. In this regard, we find that the ISO tariff lacks any such procedures and we direct the ISO to file generation interconnection procedures no later than sixty (60) days after the Independent Board is seated. This will ensure that the Commission may facilitate the matters under its control in a timely manner.

C. Longer-Term Measures

We believe that current structure in California also requires a number of longer-term reforms. While the Commission is not dictating any particular revision we propose to direct that the following issues be addressed.

1. Reserve Requirement

Adequate reserves to ensure system reliability is closely related to establishing a price that elicits a supply response. Matters of planning reserve and reliability are ill-suited to the lag inherent in a market response to short supplies. Attracting sufficient supply to maintain proper reserve requirements may well benefit from the imposition of planning reserve requirements to be met from forward markets. Suppliers would be able to build capacity with the financial assurance of long-term contracts and would be less tempted to wait until spot prices were driven up by low reserve levels. We direct the ISO and the Load Serving Entities in California to consider what market rules are needed to ensure that sufficient supply is available to meet loads and reserve requirements.

2. Alternative Auction Mechanisms

In times of adequate supply the single price auction disciplines prices by encouraging suppliers to bid their marginal costs so that they can be selected for dispatch and be paid the clearing price. However, in times of scarcity the single price auction can exacerbate the effect of supply shortages by allowing sellers who have small market shares to set the clearing price.

[73] California ISO Board of Governors Meeting minutes, 28 June 2000, p. 89.

[74] Staff Report at 6–17, 6–18.

[75] California's Electricity Options and Challenges: Report to the Governor, Executive Summary at 3–4 (Joint Report).

[76] As noted in Order No. 2000, which expanded on our Order No. 888 ISO principles and experience with ISOs, independence is the bedrock principle of RTO formation.

[77] 81 FERC at 61,552.

[78] This requirement is consistent with the recommendation in the Staff Report at 6–18.

Not only is the seller transformed into a price setter rather than a price taker, but the resulting price is ascribed to the entire market. We are concerned that given the current market in California, the single price auction may place little or no discipline on sellers during times of shortages by minimizing the risk of strategically bidding a small amount of supply for the purpose of raising the price of the entire market. It is for these reasons that we propose to mitigate prices by eliminating the use of a single price auction at prices above $150. While our proposed market reforms will mitigate some of the effects of the single price auction, we believe that further study of this issue is desirable and direct the PX and the ISO to consider, during the 24 month window, whether alternatives to the single price auction which minimize the ability of sellers to bid for the purpose of setting the clearing price may be appropriate.

3. Balanced Schedules

We are also concerned that some of the underscheduling problems may be a result of the existence of many individual scheduling coordinators that are required to submit balanced schedules to the ISO. We therefore direct the ISO and the PX to pursue establishing an integrated day ahead market in which all demand and supply bids are addressed in one venue.

4. Enhanced Market Mitigation

We direct the ISO and the PX to consider less intrusive, narrowly tailored market protection mechanisms. Such mechanisms could take the form of the ex ante identification of conditions or behavior that would trigger specific market mitigation actions.

5. Congestion Management Redesign

In *California Independent System Operator Corp.,* 90 FERC ¶ 61,006 (2000), the Commission found the ISO's existing congestion management structure to be flawed, and, on that basis, we directed the ISO to develop and submit to the Commission a comprehensive congestion management redesign. Moreover, we stated that such a redesign should be pursued with input from *all* stakeholder groups, as well as from the ISO's Market Surveillance Committee. The reform efforts have been the subject of extensive public review and comment which are nearing completion, and a submission is due to be filed in the near future.

More recently, in the August 23 Order, we stated that we would defer any consideration on the merit of the ISO's congestion management structure until the earlier of the ISO's filing of its reform proposal or the date which the Commission issues a supplemental order in this proceeding. While we consider the ISO's congestion management reform efforts to be crucial, we now believe that this particular aspect of the California market is not a significant source of this summer's high prices and volatility.[79]

We are however concerned about the delay caused by the existing ISO Board on this matter. Therefore we direct the new Independent ISO Board to file its redesign proposal no later than sixty (60) days after the Independent ISO Board is seated with an implementation date as soon as possible. The current congestion management system is fundamentally flawed and needs to be overhauled or replaced. This market redesign is crucial for providing transmission schedules that are based on physical reality and accurate price signals for the siting of new generation. Therefore we will require that the proposal, at a minimum, include a meaningful number of zones that significantly address congestion on the system. In this regard, we also require that the proposal provide a comparison with a nodal energy price proposal (*i.e.* locational marginal prices for each bus or node on the grid). We also expect the ISO to conduct a periodic (annual) review to evaluate the accuracy of the zones for congestion management. We will take any requisite action on that proposal at the time it is filed in a separate proceeding.

6. Demand Response Program

As the Staff Report observed, the difficulty with current demand response in California is that it is driven by administrative directive, not market prices. (Staff report at 5–21). We direct the ISO and Scheduling Coordinators to consider demand bidding programs in which loads can bid offers of demand reduction directly into the market to compete with offers of supply.

7. Importance of RTO Development and Compliance

As discussed earlier in this order, California is physically integrated into an extensive interstate transmission grid and has therefore been part of a western electricity market for a long time. California's markets will never realize optimal performance until the impediments to efficient utilization of the regional transmission grid are eliminated and the regional interstate transmission system is designed in such a way that it supports transparent, competitive Western bulk power markets—-markets that support all of the wholesale products that California requires, markets that remove impediments to efficient imports and exports, markets that eliminate rate pancaking and allow California to access more distant markets at a lower cost, markets that undertake regional transmission planning to ensure that the needs of California are considered when transmission expansions in other states are considered, and markets that allow regional market hubs like Palo Verde to develop where new generation can be located to serve multi-state markets. The Commission's RTO initiative is a response to fundamental changes in the electricity industry over the last 20 years. When fully implemented, RTOs will provide for operation and planning that will ensure consumer benefits for Californians and the citizens of other Western states. The problems being confronted in California can, in many ways, be traced to the continued balkanization of the Western grid and the absence of a true RTO with regional scope. The actions we have taken in this order are fully consistent with Order No. 2000, and nothing in this order relieves the ISO, PG&E, SOCal Edison or SDG&E from their obligation to make a filing in compliance with Order No. 2000 on January 17, 2001. We expect that the matters addressed in this order will move the California market toward meeting the significant objectives of Order No. 2000 and that these long-term market reforms will facilitate California's transformation into a properly sized and functioning RTO.

D. Price Mitigation and Refunds

The Commission has found in this proceeding that the existing market structure and market rules, in conjunction with an imbalance of supply and demand in California, have caused and, until remedied, will continue to have the potential to cause, unjust and unreasonable rates for short-term energy during certain time periods. While the Staff Report lists a number of factors that legitimately led to higher prices last summer,[80] it also recites

[79] In this regard we note that none of the recent reports or analyses of the events of the summer cite to the current congestion management structure as contributing to the high prices.

[80] The Staff Report cites, for example, to increases in natural gas costs ($2 per MMBtu to $6 per MMBtu January 2000 to September 2000); increases in the price of NO_X credits ($5 per pound to over $40 per pound January 200 to September 2000); factors contributing to scarcity of power to meet demand such as lower than expected hydroelectric output and unplanned power plant outages; unusually high temperatures; tight reserve margins; increased demand for energy; reduced imports from

Continued

market design problems that contributed to high prices and that may have provided incentives for the exercise of market power or otherwise led to higher than competitive prices.[81] As long as a flawed market design remains in effect, the possibility for non-competitive prices will continue to exist. Accordingly, pursuant to our statutory responsibility under FPA section 206, the Commission not only must ''fix'' those areas of market design that are within its jurisdiction and that are causing the potential for unjust and unreasonable rates (*i.e.,* require modifications of existing wholesale market structures and market rules that are impeding a competitive price), we must also provide measures to assure that rates remain just and reasonable until such time as the proposed longer term market remedies can be effectuated.

Below we address two components of protecting ratepayers against unjust and unreasonable rates. First, we address price mitigation measures that will remain in effect for 24 months, which is the time necessary to effectuate all the longer term market structure and market rule changes being required. Second, we address the refund liability of public utility wholesale sellers in the ISO and PX markets who may have the ability to charge unjust and unreasonable rates during certain time periods.

1. Price Mitigation Measures

Between 1996 and 1999 California added about 700 MW of generation while its peak load grew by some 5,500 MW fueled by an annual population growth of 600,000 people and a robust economy. As a result, California's recent peak load and its available installed capacity (*i.e.*, in-state capacity not down for maintenance) are effectively equal at about 45,000 MW; *i.e.*, there is often barely enough supply to meet demand. This leaves California vulnerable to price spikes caused by even small suppliers who, under tight supply conditions, can affect the PX and ISO market clearing prices. These conditions can allow the exercise of market power.[82] These higher spot market prices in turn affect the prices in forward markets. While California has 8,000 MW of import capability, WSCC reserves during peak hours in May and June dropped to about 5 percent, compared to forecasted planning reserves of 17–20 percent issued earlier this year, and therefore less energy was available for purchase from out of state.[83] In addition, as virtually all reports on this market conclude, there is at present little demand responsiveness to price. Accordingly, we propose price mitigation in order to allow sufficient time for the implementation of the remedial measures we are proposing to order herein as well as the development of additional supply and demand response measures. As discussed, *infra,* the price mitigation measures will be in effect for a period of 24 months.

First, we have proposed to free the IOUs of the trade restriction of selling all of their generation into and buying all of their supply from the PX. This permits the IOUs to avail themselves of the bilateral market and forward markets and the ability to self-supply. In so doing, the IOUs now have the ability to mitigate their own prices, and minimize their exposure in the spot market. Second, requiring California market participants to preschedule all resources and loads with the ISO coupled with a penalty on all energy transactions of greater than 5 percent of the prescheduled amount should greatly reduce the amount of supply traded in the real-time market and, thus, will shelter Californians from the huge exposure to spot prices experienced this summer.

We propose to implement a temporary modification to the single price auctions of the PX and the ISO. A significant factor causing high prices in California was the fact that every MW in the market is priced at the market clearing price. We propose that, effective 60 days from the date of this order, for all short-term markets operated by the PX and the ISO (including the Replacement Reserve Market), the single price auctions be used for all sale offers at or below $150.[84] This auction modification imposes no limits on a seller's bid and only limits which bids can set the clearing price. The single market clearing price will be used for the amount of load which clears at or below this amount in the auctions. To the extent an auction does not clear at or below the $150 bid level, suppliers who choose to bid above $150 will be paid their as-bid price.[85] These prices will be averaged and billed to all the load which was supplied in the auction.[86] Allowing generators to receive their as-bid price should permit generators whose costs exceed $150 to participate in the market and continue to attract new supply by reflecting in prices the true cost of scarcity.[87] This pricing method takes care to mitigate prices by reflecting a price to sellers at the margin which signals the supply and demand conditions rather than reverting to a traditional cost of service basis (*i.e.*, a

outside California. See Staff Report at pp. 5–2 to 5–7.

[81] The Staff Report cites market design problems including lack of forward contracting, inadequate demand response; underscheduling; and use of a single-price auction to establish price. See Staff Report at 5–9 to 5–18. The report shows that design problems may have provided incentives for the exercise of market power. See Staff Report at 5–9 to 5–26. While findings of specific exercises of market power are not in the record, the Staff Report refers at p. 5–20 to the analysis of the Market Surveillance Committee (MSC) of the ISO, which estimated a significant degree of market power being exercised in California markets for the period October 1, 1999 to June 30, 2000. The MSC estimated prices for must-take energy over the entire period were 36.3% higher than they would have been under competitive conditions. For the last month of the sample, June 2000, they estimated that prices were 64.6% higher than they would have been under competitive conditions. The highest previous monthly market power index was in June 1998, when prices were estimated to be 39.9% higher than they would have been under competitive conditions. Average prices in August were higher than in June. While costs such as gas and NO_X emissions rose, the report states that the numbers suggest that market power may have been exercised in June. With respect to all of the references in this footnote, the standard used to evaluate market power was bids above short-run marginal cost.

[82] Staff Report at 5–19.

[83] Price movements in California Electricity Markets, Analysis of Price Activity: May–July 2000, California Power Exchange, p. 17 and 25. Cambridge Energy Research Associates (CERA) has concluded that a significant rise in spot prices can be expected when reserve margins decline below the 15 to 20 percent range. The Summer 2000 Spot Electricity Markets Outlook; Divergent Trends in Price Volatility, CERA, Lawrence J. Makovich and Joseph Sannicandro, July 2000.

[84] In order to encourage the expansion of Demand Response programs, we will not extend this market reform to bids for load response.

[85] For example, if the highest bid selected in the ISO real-time market is $75/MWh, this will set the market clearing price and all sellers will receive $75. This is the same pricing algorithm that is used now. However, if the highest bid selected is $160/MWh and the second highest bid selected is $75/MWh, the supplier bidding $160 would be paid $160/MWh for the amount it supplied, and the market clearing price for all other sellers would be set at $75/MWh. In addition, as discussed below, the supplier receiving $160/MWh would be required to report that bid to the Commission and provide certain cost information to the Commission.

[86] This proposed market redesign will also apply to the ISO's Replacement Reserve Capacity Market with one modification. In certain instances, a supplier may potentially receive both a capacity and energy payment. Therefore, the capacity payment for replacement reserves will be contingent on whether the supplier is called on to produce energy. In that event, the supplier will receive only the energy payment.

[87] The IOUs have divested most of their fossil generation and, as a result, now own mostly hydro and nuclear generation with running costs of less than $20/MWh. However, gas is the marginal fuel in California and, therefore, we expect to see bids above $150 under some market conditions. We intend here to monitor these bids, not to prohibit them. We also fully appreciate that high cost suppliers will bid a margin above their variable costs as a needed contribution to their fixed costs. The Staff Report concludes that at times of peak demand running costs can be in the range of $160 to $200/MWh for some units. Staff Report at 3–21 and 5–3. In addition, the PX report (at page 30) on price activity May/July 2000 indicates that variable costs during peak periods can approach $500/MWh for some units.

regulated price which reflects the cost of all assets without any regard to market conditions). This is crucial in order to induce new supply. Bids using this modified single price auction will continue to be disciplined by low and moderate cost suppliers bidding their marginal costs at times other than shortages to ensure that they are chosen for dispatch and can receive the clearing price. At times of shortage, we will discipline prices through reporting requirements and monitoring as discussed below.

We propose to require the PX and the ISO to report confidentially to the Commission on a monthly basis all bids (both for public utilities and non-public utilities) in excess of $150, including the name of the seller, the price and amount of MWs covered by the offer, the hour(s) covered by the offer, the bid sufficiency in the market (*i.e.*, the total amount bid compared to the amount needed), and the load at the time of the offer. The ISO also must report unit availability data for all Participating Generators. The first report must be filed no later than February 15, 2001 for the period January 1, 2001 through January 31, 2001, and subsequent reports must be filed no later than 15 days after the end of each month. This will permit the Commission to monitor the effectiveness of the $150 breakpoint and any attempted exercise of market power by the market participants.

In addition, to adequately monitor the competitiveness of markets during the 24-month period and ensure just and reasonable rates during the time it takes to effectuate the longer term structural and market rule remedies, we propose to condition the public utility sellers' market-based rate authority by requiring each seller to file on a weekly basis each transaction in the ISO and PX spot markets that exceeds $150 effective sixty (60) days after this order. We propose to require all transactions for the prior week to be filed on a confidential basis to the Commission's Division of Energy Markets in a single report submitted on the Wednesday following the end of the transaction week (ending midnight Sunday). These market data should include the name of the seller, the price and amount of MWs covered by the transaction, the hour(s) covered by the transaction and the incremental generation cost. The filing may also identify legitimate opportunity costs that are known and verifiable that the seller considered in developing its bid, *i.e.,* prior to the transaction. These data will be used to monitor prices on a more current basis, in order to detect potential exercises of market power or otherwise non-competitive market prices and to adjust transaction prices, if necessary, to establish just and reasonable rates.

We recognize that some parties have offered alternative price mitigation measures and our decision here is informed by those alternative proposals. We believe that a comparison of the major attributes of some alternatives that have been proffered shows that the option we have selected is appropriate. For example, some parties propose that bids into the single price auction be capped at a specific level. Recognizing that the single price auction magnifies the impact when the maximum bid does not reflect the competitive outcome, by paying that same price to all sellers in the market, proponents of these measures seek lower and lower ceilings to reduce the economic consequences. However, ceilings set too low can also have severe short-term and long-term consequences on the market. Recognizing these concerns, some alternative proposals would include load-differentiated price caps that are indexed to estimated load and changes in input costs. These proposals, however, introduce significant complexity into a market that is already in dire need of simplification. We believe that our approach addresses the concerns that underlie these alternatives.

We select $150 as the level above which we will require reporting and increased monitoring because this level is indicative of high demand. Our review of the bids that cleared in the PX's Day Ahead market in August tells us that bids exceeded $150 in about 45% of the hours in the month. All these bids were in the peak hours of about 10 AM to 10 PM. The PX Deficiency Report also shows that during the hours of 11 PM to 6 AM prices exceeded $100 nearly 75 times or about 10% of the hours of the month and about 30% of the off-peak hours. We intend to rely on the single price auction to discipline prices in off-peak hours when supply should be adequate.

We must also take care not to place our breakpoint so high as to provide little or no mitigation other than in periods of extreme weather conditions such as California faced in August. Our review of the bids which cleared in the PX Day Ahead market for September, when the heat wave subsided, indicates the use of a higher break point of $200 would have reduced price mitigation to 9% of the hours.

Our selection of the $150 breakpoint is also informed by the running costs of the gas-fired generation which is and which we expect to be on the margin in California. Selecting a breakpoint which is below or barely exceeds the running costs of new entrants is not in the interest of consumers. In this critical regard, we have also selected $150 because the Staff Report indicates that the running costs alone of gas-fired generation often exceeded $100 during the Summer, and our review indicates that they have not substantially abated.

We have also decided not to propose indexing the $150 to gas and NO_X cost changes in the future. We believe that market entry is promoted by simplicity, transparency and stability in pricing rules and, therefore, intend to avoid the uncertainty inherent in varying this figure. To the extent these costs abate to some degree, we expect to see a favorable supply response. There is little sense in increasing our reporting requirements at the very time the market is self correcting. Conversely, the $150 breakpoint is some $60 above current gas and NO_X costs for a combined-cycle plant. Accordingly suppliers should be able to absorb some rise in gas and NO_X costs and still have the option of bidding at the $150 level which does not trigger reporting and monitoring.

We also select $150 as a reasonable benchmark for the cost consequences of a tight supply. Existing gas fired units [88] were operated at unprecedented levels, driving up the price of NO_X emission allowances from around $6/lb. to over $40/lb. at the end of August.[89] In addition, gas prices have risen from $2/MMBtu in the spring to about $5/MMBtu now.[90] The $150 figure will accommodate these marginal running costs for a combined cycle generating unit and permits some contribution to fixed costs.[91] As a result, existing suppliers and new entrants whose marginal costs allow them to bid within these parameters will not be burdened by reporting requirements. This will minimize our intrusion in these markets and should attract new suppliers. Those suppliers who cannot accommodate their financial needs at or below this

[88] Natural gas comprises about 55 percent of California's fuel mix.

[89] Staff Report at 3–21.

[90] Average California regional gas prices peaked at about $6/MMBtu in September and are trending down toward $5/MMBtu. Natural Gas Intelligence weekly Gas Price Index, Vol. 13, No. 24. NO_X costs for the San Diego area have remained above $40/lb. Cantor Fitzgerald Market Index, October 25, 2000.

[91] A combined-cycle generating unit with a heat rate of 10,000 BTU/KWh will incur fuel costs of $50/MWh, and NO_X emission costs of $40/MWh. The remaining $60/MWh will permit an investment payback of 5 years if the unit is selected for dispatch at the $150 level about one-third of the time (*i.e.* 8 hours per day). Selection for one-fourth of the hours would permit a ten year payback and selection for one-fifth of the hours would permit thirty (30) year payback.

breakpoint will be paid the as-bid price, but will be required to report so that we can monitor their bids.

Prices based on traditional cost of service are incompatible with fostering a competitive market because the cost of the assets will not reflect supply or demand conditions. In choosing our price mitigation approach, it is our intent to guide these markets to self-correct, not to reintroduce command and control price regulation. Monitoring bids above the $150 breakpoint will allow the market to respond over the next 24 months by ensuring that prices reflect the cost of scarcity while allowing us to mitigate potential market power.

Above we established monthly reporting requirements for the ISO and PX and weekly reporting requirements for certain sellers effective upon issuance of our final order. We are also concerned about the market performance between the refund effective date and when our final order becomes effective. Therefore, for this period we propose to establish the same reporting requirement on the ISO and PX with respect to bids that exceed $150. The ISO and PX reports will be due no later than January 30, 2001.

We expect that standardized electronic filing of these reports would facilitate processing of this information and we will finalize our guidance on this point in our final order.

2. Refund Liability of Public Utility Sellers in the ISO and PX Markets

a. Refund Liability for the Period October 2, 2000 Through December 31, 2002

The Commission has specific authority in section 206 to order refunds, if it deems them appropriate, from the refund effective date to a period 15 months following the refund effective date. In our August 23 order, we noted that refunds were discretionary and that refunds may be an inferior remedy from a market perspective and not the fundamental solution to any problems occurring in California markets. We further stated that while we must protect ratepayers, we do not intend to undermine the financial stability of public utility sellers and that any decision on whether to impose refund obligations would be based on our findings regarding just and reasonable rates and a balancing of consumer and investor interests.

In our August 23 Order, pursuant to section 206 of the FPA, the Commission established a refund effective date 60 days from the date of our order instituting an investigation on our own motion into the practices of the ISO and PX. On September 22, 2000, SoCal Edison and PG&E filed for rehearing of this date, seeking a refund effective date beginning 60 days after the filing of SDG&E's complaint in Docket No. EL00–95–000. The Commission will grant SDG&E's request to establish the earliest refund effective date permitted under section 206, which will be October 2, 2000.

We are not now proposing to order any refunds. However, having now reviewed the price volatility that has occurred in California and the flaws in the market design that can lead to unjust and unreasonable rates during certain time periods, we propose that sellers remain subject to potential refund liability during the period it takes to effectuate the longer term remedies proposed herein. We must be vigilant that market manipulation or other anticompetitive behavior does not occur and that the combination of market rules and supply shortage does not otherwise produce unjust and unreasonable rates while the flawed market design remains in effect. Thus, we conclude that not only is the market monitoring through increased reporting, discussed previously, appropriate, but circumscribed refund liability also is appropriate. Therefore, if the Commission finds that the wholesale markets in California are unable to produce competitive, just and reasonable prices, or that market power or other individual seller conduct is exercised to produce an unjust and unreasonable rate, we may require refunds for sales made during the refund effective period. However, should we find it necessary to order refunds, we will limit refund liability to no lower than the seller's marginal costs or legitimate and verifiable opportunity costs. This will achieve an appropriate balance between ratepayer protection and the seller's ability to have an opportunity to recover its costs.

Finally, because the refund protection under section 206 will end 15 months following the October 2, 2000 refund effective date, and because we cannot be assured that rates will remain just and reasonable until longer term remedies are effectuated, we propose to condition the market-based rate authorizations of public utility sellers in the ISO and PX markets on continuing a refund obligation until such time as the longer term remedies are in place (as discussed herein, a period ending December 31, 2002). Such potential refund liability, as discussed above, would be no lower than the seller's marginal costs or legitimate and verifiable opportunity costs.

b. Refund Liability for Period Prior to October 2, 2000

The Commission has proposed in this order to remedy the structural inadequacies of the California bulk power market as quickly and as comprehensively as possible. Nevertheless, the most persistent request made of the Commission by California officials is to return the ratepayers in the SDG&E service territory to the financial circumstances they would have experienced this past summer but for the series of problems in California's retail, and by implication its wholesale, electricity markets. Such equitable relief would take the form of a retroactive refund of amounts in excess of just and reasonable wholesale rates. During the September 11, 2000 Congressional hearing in San Diego, members of Congress stressed the need for relief for the citizens of that city. Consequently, the Chairman of the Commission, at that hearing, agreed to have staff throughly review the state of federal law as it pertains to ordering retroactive refunds of wholesale rates.

The Staff Report, our own San Diego hearing, and all the facts collected about this summer's market dysfunctions attest to the unanticipated hardship imposed on California ratepayers. The rate shocks were severe and unanticipated by consumers. We understand the distress of San Diegans, the concerns of their public representatives, and the adverse impacts on certain sectors of the local economy, but these factors cannot alter the limitations on the Commission's authority to change rates that were previously approved, even if subsequently found to be unjust and unreasonable. The FPA and the weight of court precedent strongly suggest that retroactive refunds are impermissible in these circumstances. See Appendix E. The Congress has refrained during the 65-year history of the FPA from granting such authority in part because of the uncertainty it would create in regulated wholesale markets for power. The FPA itself was created, not to redress traumatic and inequitable circumstances like this, but to provide rate certainty in a relatively static monopoly environment. It may be argued that the dynamic power markets of today may warrant changes in the Commission's refund authority, at least for extreme circumstances, but that does not help the Commission today as it considers rate relief to the citizens of San Diego for the summer just past.[92]

[92] However, given the new and dynamic environment, the Commission is willing to explore any proposal for equitable relief, provided that it

The economic distress of high rates is an immediate concern. However, the Commission believes that real rate relief for California electricity consumers will be fully realized in the State when sufficient new generation and transmission resources can be attracted and built and better demand-side responses can be prompted. Only competitive markets will do these things. We believe it would be a mistake to revert to the kind of rate regulation that contributed to the decline in investment that clouds California's energy future today. On the other hand, the Commission recognizes that market-based rates will only achieve just and reasonable rates where competition works effectively and market rules are effective and fair. The Commission can, and must, focus its efforts in this area.

E. Docket Nos. ER00–3461–000 and ER00–3673–000

Consistent with the above discussion, we will reject the price cap proposed by the PX and the purchase cap amendment filed by the ISO. While the ISO purchase price cap has served to mitigate price volatility in both the ISO and PX markets, nonetheless it has served to disrupt the market by encouraging sellers to stay out of the PX's auction and wait for the ISO to make the needed purchases on an out-of-market basis at the last minute. As we noted in the August 23 Order,[93] all the PX and ISO markets are interrelated such that any significant modification to one market will affect the other markets. Our proposed modification to the single price auctions is intended to establish uniform pricing and remove incentives for the load and resources to participate in one market over another. For this reason we will not allow, at this time, either the PX or ISO to implement changes that will disrupt this uniformity or to introduce new incentives in the markets. Moreover, we are attempting to provide a period of stability in the market in order to encourage supply to enter the market. Therefore we will reject the PX and ISO proposals. In the interest of maintaining stability in the markets during the transition prior to imposing the instant market reforms, we hereby order that the current $250 ISO purchase cap remain in place at that level until sixty (60) days after the date of this order.[94]

We will sunset all price mitigation on December 31, 2002. We conclude that 24 months is sufficient to restore order to these markets. We discuss below several critical market corrections which must be addressed during the 24-month window and we discuss further the removal of the auction reform after this 24-month window.

F. Actions Others Should Take

In well functioning markets which exhibit ease of supply entry and demand response to price, consumers react to scarcity by either demanding more supply or reducing demand. The current situation in California leaves us faced with little supply entry and essentially no demand response. The Staff Report documents that this phenomenon contributed to high prices in a sellers' market which were not sufficiently disciplined by supply and demand responses which consumers usually make in setting a scarcity price. It is for this very reason that we have adopted a price mitigation which reflects a measure of scarcity costs without allowing sellers to systematically set the clearing price for the entire market.

In setting a 24-month window to remedy market problems, we are mindful of the fact that the structural defects in the California market have been created over many years in an environment which relied on regulatory rather than market responses to consumer needs. We have intervened not to shelter Californians from the consequences of their choices, but to allow a two-year period of transition during which the California Commission and other interested parties can make an informed decision of whether these are the decisions they wish to make for the future in a considered and deliberative environment without the distraction of destabilizing price spikes and an increase in overall power costs. At the end of our 24-month window, we intend to lift the $150 auction modification. At that time, prices will be the product of the informed choices Californians have made on supply and demand and will reflect the true scarcity cost which they place on electric generation.

1. Offering a Full Menu of Forward Products

As noted, many of the remedies we are proposing are intended to move loads into forward markets. Success in this objective is, of course, contingent on the availability of supply in forward markets. While we understand that the pricing offered for each type of forward product may vary to reflect the terms offered (*e.g.,* length of contract, risk apportionment, peak vs off-peak), we fully expect that California suppliers will welcome the opportunity to offer a full range of forward products to meet the needs of their customers. To the extent that a full range of forward products (*e.g.,* short-term, intermediate term and long-term products) do not become available in California, we expect that load-serving entities will bring that to our attention. Whether the Commission should require sellers to provide a certain percentage of product offerings in the forward market is one issue that the Commission will consider in this proceeding.

2. Additions of Generation and Transmission Capacity

There is little doubt that the most crucial task ahead is to ensure that a robust supply enters this market, both now and in response to any future price signals. The Staff Report underscores inadequate siting of generation and transmission as a key structural defect in California. We have made every effort in this order to eliminate market design flaws in a manner that promotes efficient markets in order to reduce consumers prices to the extent possible given the current inadequate supply. However, prompt access to new generation is needed to ensure full consumer benefits are realized. For that reason, we have also carefully crafted our proposed remedies so as to avoid circumstances that may deter new entry, *e.g.,* prices set too low can prevent new entry, indecisiveness about the specifics of market reforms and price mitigation can deter new entry, and market rules that place restrictions on the operation of efficient markets can deter new entry.[95]

However, the Commission's authority does not extend to siting, and without appropriate siting support, consumers in California will continue to pay higher prices due to inadequate generation supply. The 24-month price mitigation we have ordered herein will afford the state and local agencies a window to streamline, facilitate and accelerate the siting of needed generation and transmission, including the specific projects identified in the Staff Report as furthest along in the planning and siting

would ensure that California's electric markets remain capable of attracting investment while also mitigating the severe financial consequences of last summer's high prices.

[93] 92 FERC at 61,606.

[94] We leave undisturbed the ISO's $100 purchase price cap for Replacement Reserves during this time period.

[95] We note that one of the major costs of scarcity in California is the cost of NO_X allowances which were trading in August for $40/pound or approximately $80,000/ton. By comparison, NO_X allowances were trading in the Northeast for about $400/ton.

process and, therefore, most likely to be completed in the shortest time [96].

Finally, this Commission will commit to expeditiously process any energy facility applications (hydroelectric or gas pipeline) within its jurisdiction, within the constraints of the law and the need for multi-agency coordination.

3. Demand Response

Another matter that lies primarily within the control of state policymakers is the development of demand side response. Demand side is a critical element of the market. When consumers can receive price signals and have the ability to respond to those price signals by reducing demand, it reduces the overall cost of electricity in the market and reduces the electric bills of all consumers, not just those that responded with a load reduction. Also, a viable demand response program provides an alternative to resource expansion. The price mitigation period proposed in this order provides state policymakers with a 24–month window to develop demand response programs, and an important opportunity to take measures that can help reduce prices to California consumers.

4. Elimination of Impediments to Forward Contracting

As noted the use of forward products to hedge against spot prices is crucial to the development of a well functioning market. We encourage the California Commission to eliminate restrictions on the IOUs availing themselves of long term products.

Hearing Based on Written Submissions and Oral Presentations to the Commission

In our August 23 Order, we did not determine the type of hearing that would be needed in this proceeding. Based on the information provided in the Staff Report and the submissions in the record thus far, and the nature of the issues presented, we conclude that a trial-type hearing is not necessary to resolve the matters before us. [97] Further, the need for expeditious resolution of the problems inherent in California markets call for as expeditious a hearing as possible, consistent with due process and the development of an adequate record. Accordingly, the Commission will provide the parties an opportunity to file comments, containing all arguments and all supporting evidence that they wish to present. All such comments must be filed by November 22, 2000, which is three weeks from the date of this order. Reply comments will not be entertained. In addition, the Commission will convene a public conference on November 9, 2000 for interested persons to discuss the proposed remedies. A transcript of this conference will be placed in the public record of this proceeding.

Based on the record developed in this proceeding, including comments and additional information placed in the record in Docket Nos. EL00–95–000, EL00–98–000, and EL00–107–000, and the Staff Report, the Commission will issue by the end of this calendar year, a final order adopting and directing remedies to address the identified problems adversely affecting competitive power markets in California, and if necessary, ordering any further procedures to develop remedies to other identified problems.

The Commission Orders

(A) The parties may submit to the Commission additional arguments and evidence as outlined in the body of this order, by November 22, 2000. A party's presentation should separately state the facts and arguments advanced by the party and include any and all exhibits, affidavits, and/or prepared testimony upon which the party relies. The statement of facts must include citations to the supporting exhibits, affidavits and/or prepared testimony. All materials must be verified and subscribed as set forth in 18 CFR 385.2005 (2000).

(B) The PX's proposed tariff revisions filed in Docket No. ER00–3461–000 are hereby rejected.

(C) The ISO's proposed tariff revisions filed in Docket No. ER00–3673–000 are hereby rejected.

(D) The ISO is directed to implement a $250 purchase price cap, without disturbing the ISO's $100 price cap for replacement reserves, for 60 days, commencing on the date of this order, as discussed in the body of this order.

By the Commission. Commissioners Massey and Hebert concurred with separate statements attached.

David P. Boergers,

Secretary.

Appendix A—Timely Intervenors in ER00–3461–000

California Department of Water Resources
California Electricity Oversight Board
Duke Energy North America L.L.C., Duke Energy Trading and Marketing, L.L.C., and Duke Energy Merchants, L.L.C. (jointly)
Dynegy Power Marketing, Inc.
El Paso Merchant Energy, L.P.
Enron Power Marketing, Inc. and Enron Energy Services, Inc. (jointly)
Independent Energy Producers Association
Morgan Stanley Capital Group, Inc.
Pacific Gas and Electric Company
Public Utilities Commission of the State of California
Reliant Energy Power Generation, Inc.
Southern California Edison Company
Southern Energy California, L.L.C., Southern Energy Potrero, L.L.C. and Southern Energy Delta, L.L.C. (jointly)
Western Power Trading Forum
Williams Energy Marketing & Trading Company

Appendix B—Timely Intervenors in ER00–3673–000

California Department of Water Resources
California Electricity Oversight Board
California Power Exchange
Cities of Redding, Santa Clara, and Palo Alto, California, and the M–S–R Public Power Agency (jointly)
City of San Diego, California
Duke Energy North America L.L.C., Duke Energy Trading and Marketing, L.L.C., and Duke Energy Merchants, L.L.C. (jointly)
Dynegy Power Marketing, Inc.
Enron Power Marketing, Inc., and Enron Energy Services, Inc. (jointly)
Independent Energy Producers Association
Merrill Lynch Capital Services, Inc.
Metropolitan Water District of Southern California
Modesto Irrigation District
Morgan Stanley Capital Group, Inc.
Northern California Power Agency
Pacific Gas and Electric Company
PPL EnergyPlus, LLC and PPL Montana, LLC (jointly)
Reliant Energy Power Generation, Inc.
Sacramento Municipal Utility District
Southern California Edison Company
Southern Energy California, L.L.C., Southern Energy Delta, L.L.C., and Southern Energy Potrero, L.L.C. (jointly)
Transmission Agency of Northern California
Turlock Irrigation District
Western Power Trading Forum
Williams Energy Marketing & Trading Company

Appendix C—Parties to the Consolidated Hearing Proceeding

AES Pacific, Inc.
Arizona Districts

[96] *See* Staff Report at 5–7—5–8, citing California Energy Commission's reports on their website which has a listing of the proposed generation. The website is www.energy.ca.gov/sitingcases/projects_since_1979.html.

[97] The use of a ''paper'' hearing rather than a trial-type evidentiary hearing has been addressed in several cases. *See, e.g., Public Service Company of Indiana,* 49 FERC ¶ 61,346 (1989), *order on reh'g,* 50 FERC ¶ 61,186, *opinion issued,* Opinion 349, 51 FERC ¶ 61,367, *order on reh'g,* Opinion 349–A, 52 FERC ¶ 61,260, *clarified,* 53 FERC ¶ 61,131 (1990), *dismissed, Northern Indiana Public Service Company* v. *FERC,* 954 F.2d 736 (D.C. Cir. 1992). As the Commission noted in Opinion No. 349, 51 FERC at 62,218–19 & n.67, while the FPA and the case law require that the Commission provide the parties with a meaningful opportunity for a hearing, the Commission is required to reach decisions on the basis of an oral, trial-type evidentiary record only if the material facts in dispute cannot be resolved on the basis of the written record, *i.e.,* where the written submissions do not provide an adequate basis for resolving disputes about material facts.

Automated Power Exchange, Inc.
California Department of Water Resources
California Electricity Oversight Board
California Independent System Operator Corporation
California Large Energy Consumers Association
California Manufacturers and Technology Association
California Power Exchange
Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California (jointly)
Cities of Redding, Santa Clara, and Palo Alto, California, and the M–S–R Public Power Agency (jointly)
City of Dana Point, California
City of Escondido, California
City of Poway, California
City of San Diego, California
City of Vernon, California
City of Vista, California
Cogeneration Association of California and Energy Producers and Users Coalition (jointly)
Duke Energy North America LLC (together with Duke Energy Trading and Marketing, LLC and Duke Energy Merchants, LLC)
Dynegy Power Marketing, Inc.; El Segundo Power, LLC; Long Beach Generation, LLC; Cabrillo Power I LLC; and Cabrillo Power II LLC (jointly)
El Paso Merchant Energy, L.P.
Electric Power Supply Association
Enron Power Marketing, Inc., and Enron Energy Services, Inc. (jointly)
Independent Energy Producers Association
Merrill Lynch Capital Services, Inc.
Metropolitan Water District of Southern California
Modesto Irrigation District
Morgan Stanley Capital Group, Inc.
New York Mercantile Exchange
Northern California Power Agency
Public Utilities Commission of California (California Commission)
Pacific Gas and Electric Company
Pinnacle West Companies
Portland General Electric Company
PPL EnergyPlus, LLC and PPL Montana, LLC (jointly)
Reliant Energy Power Generation, Inc.
Sacramento Municipal Utility District
Southern California Edison Company
Southern Energy California, L.L.C., Southern Energy Delta, L.L.C., and Southern Energy Potrero, L.L.C. (jointly)
The Utility Reform Network
Transmission Agency of Northern California
Western Power Trading Forum
Williams Energy Marketing & Trading Company

Appendix D—Staff Report to the Federal Energy Regulatory Commission on Western Markets and the Causes of the Summer 2000 Price Abnormalities; Brief Overview of Conclusions (pp. 1–2 to 1–4)

The report is organized to provide a factual framework for the Commission's use, a section discussing major issues evaluated during the investigation and, finally, a section with options for consideration by the Commission to remedy immediate and longer term problems.

Section 2 of the report finds tight supply and demand conditions existed throughout the west during most of this summer, with emergency conditions concentrated in California. Broadly speaking,

• Overall demand across the WSCC increased significantly driven by hot weather and load increases that were heat sensitive and that were also driven by increased economic activity. Average summer loads were 11 percent higher in May and 13 percent higher in June from the previous year. Energy consumption also increased across the WSCC by 5 percent in May and approximately 10 percent in June from the previous year. Off-peak demands in the ISO increased significantly during the summer, in large part to meet increased pumping demands for hydro power facilities, needed for peaking purposes both inside and outside of California. However, peak demand in the ISO area fell slightly, partially reflecting response to emergency declarations and actions.

• Exports increased significantly, with little overall change in the level of imports. As a result, net imports decreased by approximately 3,000 megawatts (MW) from May through August. The ability to increase imports was limited by hydro conditions in the Northwest, which actually declined in July and August, and tight load conditions in other Western subregions. Weather conditions led to increased exports in July and August, corresponding to the decreases in the ISO price cap from $750 to $500 in July and then to $250 in August.

• Outages increased significantly compared with 1999. This was especially true with regard to unplanned outages.

• Increased quantities of demand and supply were left unscheduled in day ahead and hour ahead markets. When loads increased above 35,000 MW in June and at lower levels in July and August, the ISO was forced to buy substantial amounts of power in the form of replacement reserves or out of market purchases.

• Non-hydro generation resources throughout the West were more heavily utilized in 2000 over 1999. Generation from non-hydro resources in 2000 increased by 15.1 percent in May and 24.9 percent in July over 1999 levels. Based on a shapshot of WSCC capacity during a selected high load period, little additional capacity appears to have been available at peak times.

Section 3 of the report finds that wholesale power prices were high throughout the West in the summer of 2000, but their implications were most acutely felt in California. The principal findings of the report on western prices and costs in the summer of 2000 are:

• Prices in the ISO spiked in May and June and average June prices reached record high levels. While an ISO price cap of $750 existed during the early part of the Summer, prices became highly volatile and the hourly price hit the cap of 3 days in June. Average June prices reached record levels of $120 in the PX.

• Average prices were lower in July and June, but total costs paid by purchasers in August were higher than June. Caps of $500 in July and $250 in August had a dampening effect on high hourly prices, but average prices in August rose to $166 in the PX after falling below June levels to $106 in July. The lower caps may have played a role in increasing exports in July and August.

• Prices at other trading hubs in the West generally correlated with California prices suggesting that opportunities to sell at high prices existed in these regions when California prices were high. However, it is not yet clear how scarce supplies were in these regions or to what extent prices outside California were from California imports rather then consumption in other regions. While information for certain weeks in the West indicated supply was scarce, it was not possible to make an overall assessment on scarcity throughout the West without additional information.

• Cost for fuel and environmental compliance (NO_X credits) increased significantly in July and August. Gas prices rose from approximately $2 per MMBtu early in the year to approximately $5 per MMBtu in August. Credits to comply with NO_X standards rose from $6 per pound in May to $35 in August and $45 in September. Lower caps in July and August reduced the ceiling for market prices while these fuel and environmental costs raised the ''floor''. As a result, prices traded over a narrow range.

• Prices in some hours appear to be above those that would have prevailed in a competitive short-term market, if prices were determined from short-term marginal costs.

• Examination of bid patterns in the PX and ISO replacement reserve markets and a review of ISO out of market purchase activity does not suggest substantial or sustained attempts to manipulate prices in these markets. Supply curves bid into the PX show higher bids, on average, when the price caps are lower. However, the increases are not correlated with particular classes of bidders, suggesting that the pattern may reflect increased costs for most participants rather than a pattern of individual bidders or classes of bidders attempting to raise prices intentionally.

Section 4 outlines the statutory and regulatory framework related to energy markets in the West. The report describes the role and policies of the Federal and state economic and environmental agencies in regulating electric utilities in California and the establishment of the ISO and PX, as well as the creation of the Oversight Board. Additionally, this section outlines requirements imposed on the California utilities by the California Commission.

Section 5 discusses the issues that were raised as possibly causing the high prices of this summer. These fall into three general categories: (a) Competitive market forces, (b) market design problems and (c) market power. The data clearly show that a general scarcity of power in the West and increased costs to produce power were factors causing these high prices. It is also clear that existing market rules exacerbated the situation and contributed to the high prices. The data also indicate some attempted exercise of market power, if the standard of bidding above marginal cost is used, and some actual market power effects, to the extent that prices, at least in June, were significantly above competitive levels. The prices, at least

in June, were significantly above competitive levels. However, the data do not isolate specific exercises of market power or suggest that the exercise of market power was more important than other primary explanatory factors.

Section 6 provides a range of options to address the problems identified in this report. Staff also attempts in this section to provide the possible benefits and drawbacks of various options.

The investigation was conducted on an expedited basis so there was not enough time to address all issues in depth. This report is intended to provide the Commission with ''the big picture.''

Appendix E—Analysis of the Commission's Retroactive Refund Authority Under the Federal Power Act

I. Executive Summary

Section 206 of the Federal Power Act authorizes refunds if the Commission finds existing rates to be unjust or unreasonable. However, that authority is limited to the period from the refund effective date through 15 months thereafter. The Commission has the discretion to determine that such refunds would not be in the public interest in individual circumstances.

The issue of retroactive refunds was expressly considered by Congress in 1935 and again in 1988. In 1935, Congress rejected a provision that would have given the Commission authority to order refunds for any amounts found to be unreasonable or excessive. Instead, the 1935 Act authorized the Commission to change existing rates (as distinct from section 205 authority to suspend proposed rate increases) prospectively only—*i.e.*, refund relief was available only after the Commission found that existing rates were unjust or unreasonable. The amendment to section 206 enacted in the 1988 Regulatory Fairness Act permitted limited retroactive refund authority—*i.e.*, from the refund effective date forward.

Key court precedent interpreting the FPA (and the Natural Gas Act, which contains relevant parallel provisions to the FPA) articulates the filed rate doctrine and the rule against retroactive ratemaking. The filed rate doctrine forbids a regulated entity from charging rates for its services other than those properly filed with the appropriate regulatory authority. In the area of Federal electricity regulation, this doctrine is founded on the requirements in section 205 of the FPA that rates for jurisdictional services must be just and reasonable and must be on file with the Commission. The precedents on the rule against retroactive ratemaking provide that, except for certain limited circumstances (*e.g.*, rates inconsistent with the filed rate; legal error by the Commission in approving rate changes), the Commission does not have authority to order retroactive rate changes.

While there is no Commission or court precedent on the applicability of the filed rate and retroactive ratemaking doctrines to market-based rates, the provisions of sections 205 and 206 make no distinction between cost-based and market-based rates. The refund provisions of sections 205 and 206 of the FPA thus would appear to apply equally to both cost-based rates and market-based rates. Similarly, the filed rate and retroactive ratemaking doctrines, which derive from the requirements of sections 205 and 206, would appear to apply equally to cost-based and market-based rates.

II. Legal Analysis of Refund Authority

A. Statutory Provisions

The Commission's statutory authority to order refunds is specified in sections 205 and 206 of the FPA. Section 205 addresses rate changes proposed by the public utility providing the service in question; section 206 addresses rate changes initiated by a complainant or the Commission.

1. Section 205

Section 205(a) provides that all rates and charges made, demanded, or received by any public utility for or in connection with the transmission or sale of electric energy subject to the jurisdiction of the Commission, and all rules and regulations affecting or pertaining to such rates or charges shall be just and reasonable, and any such rate or charge that is not just and reasonable is declared to be unlawful.[98] Section 205 also requires that, absent waiver, a public utility filing any changes in its rates, charges, classifications, or services must provide at least 60 days' prior notice, and permits the Commission to suspend the effectiveness of any such change for a period no longer than five months. Section 205(e) provides that the Commission ''upon completion of the hearing and decision may by further order require such public utility or public utilities to refund, with interest, to the persons in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified.'' Thus, refunds under section 205 are limited to the period beginning with the allowed effective date of the proposed rate change and are also limited to the difference between the proposed increased rate and the pre-existing rate.

Section 205 does not, on its face, provide the Commission authority to order refunds for periods prior to the effective date of the proposed rate change. But, as discussed in Section C.2., *infra,* the Commission may, for example, condition its acceptance of a section 205 formula rate filing on the Commission retaining the authority under section 206 to, at a later date, retroactively order refunds with respect to certain costs charged through the formula.

2. Section 206

Section 206 provides that if, upon complaint or upon its own motion, the Commission finds that existing rates, charges or classifications are unjust, unreasonable, or unduly discriminatory or preferential, it must determine, and order implementation of, a just and reasonable rate. In 1988, in the Regulatory Fairness Act (RFA),[99] Congress substantially revised section 206 to permit limited authority to order retroactive refunds of rates found to be unjust and unreasonable. Under section 206, as amended by the RFA, upon instituting a proceeding under section 206, the Commission must establish a refund effective date. In the case of a proceeding instituted upon complaint, the refund effective date cannot be earlier than the date 60 days after the filing of such complaint nor later than 5 months after expiration of such 60-day period. In the case of a proceeding instituted upon the Commission's own motion, the refund effective date cannot be earlier than the date 60 days after publication by the Commission of notice of its intention to initiate such proceeding, nor later than 5 months after the expiration of such 60-day period. At the end of any such proceeding, the Commission may, in its discretion, order refunds if it finds that the existing rate is unjust, unreasonable or unduly discriminatory or preferential. Possible refunds are limited to the period from the refund effective date through a date 15 months after such refund effective date and are also limited to the difference between the rate charged and the rate determined to be just and reasonable.

On its face, section 206 does not provide the Commission authority to establish a refund effective date that is earlier than 60 days after the date that a complaint is filed or the Commission investigates an investigation. Further, section 206 does not contain any provision authorizing the Commission to order refunds for periods prior to the refund effective date. Therefore, section 206 does not expressly afford retroactive refund relief for rates covering periods prior to the filing of a complaint or the initiation of a Commission investigation even if the Commission determines that such past rates were unjust and unreasonable.[100]

B. The Legislative History of Section 206

The FPA as originally enacted in 1935 permitted the Commission to order refunds in section 206 proceedings prospectively only, *i.e.,* prospectively from the date of the Commission's decision. While the originally proposed bill that led to the 1935 FPA contained a provision which would have allowed the Commission to order retroactive reparations, this provision was eliminated from the final bill while in committee. Thus, the FPA as enacted in 1935 allowed the Commission to change unjust or unreasonable rates, upon complaint or on its own motion, on a prospective basis only. In 1988, the Regulatory Fairness Act amended § 206 of the FPA to permit specifically limited retroactive refund authority.

[98] Section 205(b) provides that: ''No public utility shall, with respect to any transmission or sale subject to the jurisdiction of the Commission, (1) make or grant any undue preference or advantage to any person or subject any person to any undue prejudice or disadvantage, or (2) maintain any unreasonable difference in rates, charges, service, facilities, or in any other respect, either as between localities or as between classes of service.''

Section 205(c) provides the Commission discretion to prescribe rules and regulations, and to establish filing requirements ''within such time and in such form as the Commission may designate.''

[99] 102 Stat. 2299 (1988). The RFA amendments to section 206 are discussed *infra.*

[100] As discussed in Section C.2., *infra,* under the Commission's and the courts' interpretations of section 206, there are limited circumstances in which the Commission can order refunds for past periods.

1. The 1935 Act

The originally proposed bill that led to the 1935 FPA had contained a provision (section 213) which would have allowed the Commission, upon complaint, to ''order that the public utility make due reparation * * * with interest, for amounts charged by an electric utility which were thereafter found to be unreasonable or excessive.'' S. 1725, 74th Cong., 1st Sess. at 43 (1935).[101] This provision was eliminated from the final bill while in committee, as it was considered appropriate for a state utility law, but not ''applicable to one governing *merely wholesale transactions.*'' S. Rep. No. 621, 74th Cong. 1st Sess. 20 (1935) (emphasis added). Based upon the foregoing, it is apparent that Congress drew a distinction between retail and wholesale electric rate regulation as to the authority required by a regulatory agency to adequately protect consumers of electric energy. The reason underlying this distinction was not explicitly stated when the legislation was reported out of committee. Nonetheless, certain testimony from the hearings held in connection with the legislation sheds some light on this subject, as set forth below.

John E. Benton, General Solicitor of the National Association of Railroad and Utility Commissioners (NARUC) appeared before the House committee on behalf of his organization and argued for the elimination of section 213. *Public Utility Holding Companies; Hearings on H.R. 5423 Before the House Comm. on Interstate and Foreign Commerce,* 74th Cong. 1st Sess. 1684–1685 (1935) [hereinafter cited as *House Hearings*]. Mr. Benton stated:

The next amendment, we ask that section 213, beginning on page 118, be stricken out.

That is the reparation provision brought in from the Interstate Commerce Act. It provides that if service taken has been charged for at an unreasonable or excessive rate, and if within 2 years an application is made to the Commission, it may disapprove the rate charged and fix a reasonable rate, and require the selling utility to make due reparation to the complainant.

That is an entirely proper provision in a railroad statute. When a man goes to the railroad station with a load of goods to ship somewhere he has to ship at the rate that is fixed in the tariff. He must make the shipment then; and he ought to be able to come thereafter to the Commission and show that he was required to pay an unreasonable rate, if it was unreasonable, and to ask for a determination of a reasonable rate and get reparation that is due him for any overpayment. That is perfectly proper. But this bill relates only to service between the wholesale generating or production company and the distributing utility. We question whether the public interest will be served by giving any company the right to go ahead receiving service at the established rate for 2 years, and then to bring a complaint before the Federal Commission that the rate has been unreasonable. If the provision were that the reparation might run after the complaint was made, it would be more reasonable. But to allow the company to take service for 2 years with no question raised and then to allow it to come in and file a complaint, we believe, is not reasonable. We ask that the provision be stricken out or that it be limited to a recovery of reparation after the complaint is filed.

Id.

Whether the distinction drawn by Congress between wholesale and retail rate regulation was based on the relative volume of wholesale and retail sales existing at the time is unclear. Commissioner Clyde L. Seavey of the Federal Power Commission testified in support of the bill and discussed generally the need for Federal regulation of wholesale rates. *House Hearing, supra,* at 420–25. Commissioner Seavey testified that more than 17 percent of the total electric energy generated at that time was transmitted interstate, and that of this 17 percent, ''practically all of it is wholesale in nature.'' *Id.* at 420–21.

Now, in the electric energy field, at the present time the movement of interstate transmission is over 17 percent. That, however, in percentage does not in either case indicate the full measurement of the need of regulation. *A larger or a smaller percentage does not spell very much and that is not advanced at this time by the Commission as urging that regulation is more than it is in the smaller percentage,* but it is interesting to note, I think, that there is a very substantial movement of interstate energy at the present time.

Id. at 420 (emphasis added).

Based upon the foregoing, it appears that section 213 was included in the proposed legislation submitted to Congress by the Federal Power Commission as a standard utility law provision borrowed from the Interstate Commerce Act. It further appears that Congress accepted the argument set forth by the General Solicitor of NARUC that wholesale customers of electric utilities should not be permitted to accept service for up to two years without complaint and thereafter be permitted reparations covering that period. However, Congress did not explicitly accept the General Solicitor's alternative suggestion that the time period for recovery of reparations should commence with the filing of the complaint, and instead eliminated section 213 entirely. As discussed *infra,* this resulted in the courts later concluding that Congress intended that the Commission have authority to only grant relief in a section 206 proceeding prospectively from the date of its order,[102] and it also led to Congress providing limited retroactive refund authority in the RFA of 1988.

2. The Regulatory Fairness Act of 1988

The Senate Report on the RFA[103] contrasted the Commission's refund authority under sections 205 and 206. It noted that section 205 proceedings on average required one year for resolution and that final decisions by the Commission are retroactive to the effective date of the rate increase. With respect to section 206, the Senate Report stated:

Section 206 of the FPA allows the Commission, on its own motion or pursuant to complaint, to set a ''just and reasonable rate'' if it finds the rate in effect to be unlawful. Under existing law, a rate reduction under section 206 differs from a rate increase under section 205 in two important ways. First, a motion or complaint for rate reduction does not take effect automatically after a given period of time as does a request for rate increase. Second, under section 206 a rate reduction is prospective only.

Resolution of section 206 proceedings requires two years on average. One probable reason for the longer period needed to resolve such proceedings is that public utilities have no incentive to settle meritorious section 206 complaints since any relief is prospective. Under present law, public utilities keep revenues collected during the pendency of a section 206 proceeding, even if those revenues are subsequently determined to be excessive. H.R. 2858 would correct this problem by giving FERC the authority to order refunds, subject to certain limitations.[104]

Thus, the RFA was intended to correct the problem of public utilities engaging in dilatory behavior in section 206 proceedings in order to delay the effectiveness of proposed, presumably lower, rates. The RFA did so by giving the Commission the authority to establish a refund effective date and make an existing rate subject to refund during the pendency of a section 206 proceeding for a period of up to 15 months from the refund effective date (longer if the public utility is found to have engaged in dilatory behavior during the hearing).

The Senate Report also explains that the burden of proof was unchanged by the RFA, *i.e.,* the Commission or a complainant has the burden of proof to show that an existing rate, charge or related provision is unlawful and that the proposed rate is just and reasonable.[105]

The Senate Report also states that the RFA was intended to give the Commission the discretion needed to deal with individual circumstances in which refunds would not be in the public interest:

[101] Proposed section 213 read as follows: ''Sec. 213. (a) When complaint has been made to the Commission concerning any rate or charge for any service performed by any public utility, and the Commission has found after investigation that the public utility has charged an unreasonable, excessive, or discriminatory amount for such service in violation of any provision of this title, the Commission may order that the public utility make due reparation to the complainant thereunder, with interest from the date of collection. No such order shall be issued unless the complaint is filed with the Commission within two years from the date of the payment. (b) If the public utility does not comply with the order for the payment or reparation within the time specified within such order, action may be begun in any court of competent jurisdiction to recover the same within one year from the date of the order, and not thereafter.''

[102] *See, e.g.,* City of Bethany v. FERC, 727 F.2d 1131 (D.C. Cir. 1984), *cert.denied,* 469 U.S. 917 (1984).

[103] The House passed H.R. 2858, a Senate Committee amended the House-passed bill, and the Senate passed H.R. 2858, as amended.

[104] S. Rep. No. 491, 100th Cong., 2d Sess. 3–4 (1988), *reprinted in* 1988 U.S.C.C.A.N. 2685.

[105] S. Rep. No. 491 at 5, *reprinted in* 1988 U.S.C.C.A.N. 2687.

As passed by the House of Representatives, H.R. 2858 required refunds to be paid subject only to a narrowly drawn public interest exception. The Committee amended the House-passed bill to make the granting of refunds under section 206 discretionary so as to parallel the refund provision of section 205 of the Federal Power Act. The Committee recognizes that it may not be appropriate in all instances to order refunds in the event that it is determined in a proceeding under section 206 of the Act that rates or charges are not just and reasonable.

The Committee intends the Commission to exercise its refund authority under section 206 in a manner that furthers the long-term objective of achieving the lowest cost for consumers consistent with the maintenance of safe and reliable service.

The Committee is aware that there may be challenges to power pooling and system integration agreements brought under section 206 of the Federal Power Act in which refunds might not be appropriate, for example, where the issue relates to cost allocation among utilities, and the bill as reported by the Committee is intended to provide the Commission with the discretion needed to deal with individual instances in which refunds would not be in the public interest.

In determining if a refund may adversely affect the public interest in the case of power pool agreements, the Committee expects the Commission to consider whether, and the extent to which, a refund would adversely affect decisions made on the basis of energy pricing provisions of such pooling agreements or will impose a substantial burden on the pool in comparison with the benefits of refunds to consumers.

In addition to certain situations involving power pooling, there may be others in which the public interest would not be served by requiring refunds under section 206. Because the potential range of these situations cannot be fully anticipated, no attempt has been made to enumerate them here. In any case, the Committee generally expects the Commission to grant refunds under section 206 with comparable frequency to its granting of refunds under section 205.[106]

Thus, the Commission is given the discretion to determine whether, for example, a public utility's financial viability and ability to serve customers might be jeopardized if very large refunds were ordered.

C. Court Precedent

Two court doctrines have arisen from the courts' interpretations of the limitations of sections 205 and 206 of the FPA: the filed rate doctrine and its corollary, the rule against retroactive ratemaking.

1. Key Court Precedent Involving the Filed Rate Doctrine Under the FPA and Natural Gas Act

The filed rate doctrine ''forbids a regulated entity [from] charg[ing] rates for its services other than those properly filed with the appropriate regulatory authority.'' *Arkansas Louisiana Gas Co.* v. *Hall,* 453 U.S. 571, 577 (1981). In the area of federal electricity regulation, this doctrine is founded on the requirements in section 205 of the FPA that rates for jurisdictional services must be just and reasonable and must be on file with the Commission. The considerations underlying the rule are ''preservation of the agency's primary jurisdiction over reasonableness of rates and the need to insure that regulated companies charge only those rates of which the agency has been made cognizant.'' *City of Cleveland* v. *FPC,* 525 F.2d 845, 854 (D.C. Cir. 1976); *see also Montana-Dakota Utilities Co.* v. *Northwestern Public Service Co.,* 341 U.S. 246, 251–52 (1951).

In cases involving the Commission, the D.C. Circuit has explained that—

[v]arious reasons have been offered in support of the filed rate doctrine, and its corollary prohibiting the regulatory agency from altering a rate retroactively. Most recently, the Court justified the doctrine as necessary to enforcement of the underlying statute (*Maislin,* 110 S. Ct. at 2769), in that case the Interstate Commerce Act. The Court has also described the considerations underlying the doctrine as '' 'preservation of the agency's primary jurisdiction over reasonableness of rates and the need to insure that regulated companies charge only those rates of which the agency has been made cognizant.'' ' Opinions of this court have cited ''necessary predictability'' as ''the whole purpose of the well-established 'filed rate' doctrine * * * . '' In the context of the Interstate Commerce Act, the Supreme Court has indicated that the doctrine fulfills ''the paramount purpose of Congress'' of preventing ''unjust discrimination.'' Other courts of appeals have described the doctrine as intending ''to prevent discriminatory rate payments'' and as ''reflecting a statutory bias in favor of retroactive rate reductions but not retroactive rate increases.''

Whatever the justification, it is generally agreed that with respect to the Federal Power Act, the filed rate doctrine rests on two provisions: section 205(c), which requires utilities to file rate schedules with the Commission, and section 206(a), which allows the Commission to fix rates and charges, *but only prospectively* [emphasis added].[107]

The DC. Circuit further explained that as the filed rate doctrine and rule against retroactive ratemaking ''relate to purchasers, their guiding concern is '[p]roviding the necessary predictability,' allowing 'purchasers of gas to know in advance the consequences of the purchasing decisions they make.' ''[108]

2. Key Court Precedent Involving the Rule Against Retroactive Ratemaking Under the FPA

Except for certain limited circumstances discussed below (formula rates, legal error by the Commission), the courts have consistently held that under the FPA, the Commission does not have authority to order retroactive rate decreases. *See FPC* v. *Sierra Pacific Power Co.,* 350 U.S. 348, 353 (1956); *Public Service Co. of New Hampshire* v. *FERC,* 600 F.2d 944, 957 n.51 (D.C. Cir. 1979), *cert. denied,* 444 U.S. 990 (1979).

In a United States Supreme Court opinion addressing the Federal Power Commission's lack of authority to order reparations under section 205(a), the dissent (which concurred with the court's conclusion that the FPA does not authorize reparations under section 205(a)) stated:

We face at the outset the contention that this section confers on the Federal Power Commission authority to award reparations for unreasonable rates collected in the past. Federal railroad rate legislation gave such a power to the Interstate Commerce Commission. (citations omitted). But it was not given to the Federal Power Commission. It was withheld deliberately. *See* S. Rep. No. 621, 74th Cong., 1st Sess. 20. Wholesale consumers of electric energy were apparently considered, as a rule, adequately protected by the provisions of the Act authorizing the Commission to grant prospective relief and, in certain circumstances, to order refunding of sums accumulated during the pendency of rate proceedings. §§ 205(e), 206(a), 49 Stat. 852, 16 U.S.C. §§ 824d(e), 824e(a).

Montana-Dakota Utilities Co. v. *Northwestern Public Services Co.,* 341 U.S. 246 at 257–58 (1951), (Frankfurter J., dissenting on other grounds).

As the D.C. Circuit in *City of Piqua* stated:

In essence, the rule against retroactivity is a ''cardinal principle of ratemaking[:] a utility may not set rates to recoup past losses, nor may the Commission prescribe rates on that principle.'' [citation omitted] * * * The retroactive ratemaking rule thus bars utility refunds for past excessive rates, or the Commission's retroactive substitution of an unreasonably high or low rate with a just and reasonable rate.

City of Piqua v. *FERC,* 610 F.2d 950, 954 (D.C. Cir. 1979).

There are, however, some limited circumstances under which the Commission can order refunds for past periods. For example, where the Commission has conditionally accepted for filing a formula rate (such acceptance is subject to the condition that the Commission may, at a later date, retroactively order refunds with respect to certain costs impermissibly charged through the formula) and the utility has charged impermissible costs through the formula, or where the rates charged were contrary to the filed rate, the Commission may order refunds. *See, e.g., Appalachian Power Co.,* 23 FERC ¶ 61,032 at 61,088 (1987). The Commission may also be able to order refunds as a remedy to correct legal

[106] S. Rep. No. 491 at 5–6, *reprinted in* 1988 U.S.C.C.A.N. 2687–88.

[107] Towns of Concord, Norwood and Wellesley v. FERC, 955 F.2d 67, 71–72 (D.C. Cir. 1992) (citations and footnotes omitted) (*Towns of Concord* v. *FERC). See also* Natural Gas Clearinghouse v. FERC, 965 F.2d 1066, 1075 (D.C. Cir. 1992).

[108] Towns of Concord v. FERC, 955 F.2d at 75. *See also* Texas Eastern Transmission Corp. v. FERC, 102 F.3d 174, 188–89 (D.C. Cir. 1996) (filed rate doctrine ''seeks to prevent customers from relying on certain rates, only to find later that their purchasing decisions have been upset and their costs increased.'') Public Utilities Comm'n of California v. FERC, 988 F.2d 154, 164 (D.C. Cir. 1993) (''when determining whether a FERC order violates either the filed rate doctrine or the rule against retroactive ratemaking, this court inquiries whether as a practical matter, the purchasers of the [energy] had sufficient notice that the approved rate was subject to change.'').

errors found by an appellate court upon judicial review of a Commission order on a requested rate change. *United Gas* v. *Callery Properties,* 382 U.S. 223, 229 (1965) (while the Commission has no power to make reparation orders, its power to fix rates being prospective only, it is not so restricted where its order, which never became final, has been overturned by a reviewing court); *Reynolds Metals Co.* v. *FERC,* 777 F.2d 760, 763 (D.C. Cir. 1985); *see Public Utilities Commission of the State of California* v. *FERC, et al.,* 988 F.2d 154, 161–162 (1993) (allowing pipeline to seek retroactive recovery of costs based on court reversal of FERC order, citing ''general principle of agency authority to implement judicial reversal''). In *Office of Consumers Counsel* v. *FERC,* 826 F.2d 1136 (D.C. Cir. 1987), the court held that where the Commission had committed legal error in failing to order rate relief to consumers,[109] rate relief dating back to the date of the Commission's error would not violate section 5 of the NGA [110] since this would place consumers in the same position they would have occupied had the error not been made.[111] *See also Tennessee Valley Mun. Gas Assn.* v. *FPC,* 470 F.2d 446, 453 (D.C. Cir. 1972) (granting of refunds did not violate anti-reparations language in the statute which was designed to protect established expectations under legally established rate schedules; one ''cannot claim justifiable reliance or protectable expectations based on [Commission] action which was illegal'').

D. Applicability of the Refund Provisions of Sections 205 and 206 and the Filed Rate and Retroactive Ratemaking Doctrines to Market-Based Rates

No distinction between cost-based and market-based rates is made in the FPA. Indeed, the statute itself does not dictate or even indicate how the Commission is to establish rates. Nor have courts found the Commission to be ''bound to the use of any single formula or combination of formulae in determining rates.'' *FPC* v. *Hope Gas Co.,* 320 U.S. 591, 602 (1944); *see Duquesne Light Co.* v. *Barasch,* 488 U.S. 299, 310 (1988) (same). Section 205(c) of the FPA is clear, however, that all rates and charges for jurisdictional transactions must be on file with the Commission. Further, a Commission-approved rate, whether cost-based or market-based, may not be changed, except as provided by sections 205 and 206 of the FPA. The refund provisions of sections 205 and 206 of the FPA thus would appear to apply equally to both cost-based rates and market-based rates. Similarly, the filed rate and retroactive ratemaking doctrines, which derive from the requirements of sections 205 and 206, would appear to apply equally to cost-based and market-based rates. There is no court or Commission precedent that addresses the question directly, however.

Massey, Commissioner, *concurring:*

Today the Commission takes a step toward restoring confidence that wholesale markets in California can produce just and reasonable prices and consumer benefits. I am concurring on this proposed order, and want to make a number of points.

First, our order finds that the California wholesale market has produced wholesale prices for electricity that are unjust and unreasonable, and that remedies are necessary. On August 23d, in voting on the complaint filed by San Diego Gas & Electric, I reached this conclusion and set forth my opinion in a separate written statement. Although I have maintained an open mind on all issues during the course of our subsequent investigation, I am convinced that any reasonable interpretation of the record now before us today leads to this same conclusion.

Second, our order moves in the right direction toward remedying the problems in California's electricity market. It correctly identifies the problems that must be addressed going forward to ensure just and reasonable rates and protect consumers. The over reliance on spot markets, underscheduling leading to high prices in the real time markets, and the lack of a demand response are clearly areas that must be dealt with effectively, and our order proposes remedies in each of these areas. I am pleased that our order requires the ISO and PX to reconstitute their governing boards with independent members and abolishes the so-called stakeholder boards. Today's order eliminates the state-imposed requirement that the three California utilities sell into and buy from the PX, and I support the ending of this so-called buy/sell requirement.

Third, our order proposes price mitigation going forward. No bid in excess of $150/MWh will set the market clearing price in the ISO and PX auctions. Sellers may bid above this level and receive their bid if they are dispatched, but they will not set the price that all generators will receive and must report their bid to the Commission.

And fourth, from October 2, 2000 going forward, purchasers may be entitled to refunds for any unjust and unreasonable wholesale prices that may be charged over the following 24 months.

In some of these areas, however, I continue to advocate a more aggressive approach. One of these is forward contracting. Our order finds that there has been an over reliance on spot markets in California, and that consumers have suffered from this. We rightly focus attention on the importance of forward contracts as a way for both buyers and sellers of power to hedge the risk of volatility in the ISO and PX spot markets, and we encourage state policymakers to remove unnecessary barriers to forward contracting. Our order says that we expect public utility sellers to offer a full range of forward contracts covering both short and long-term periods of time. I agree with these conclusions, but would like comment from parties to this proceeding on whether the Commission's final order should take additional steps to ''kick start'' the market for forward contracting.

Should we, for example, require sellers during the two-year mitigation window to forward contract with California load serving entities a certain percentage of their supply? In a recent pleading styled an Offer of Settlement, the California ISO suggests a forward contracting requirement of 70%. Should the Commission require a certain amount of forward contracting as a temporary measure to mitigate market power in spot markets? Should such an obligation be placed on sellers or buyers, or both? Should the Commission specify a certain level, or does this unnecessarily intrude into business arrangements? During our recent hearing in San Diego, Professor Frank Wolak, Chairman of the ISO's Market Surveillance Committee, suggested that the Commission define a forward contract of 18–24 months duration, set a just and reasonable price for such a contract, and attempt to reach agreement with the California PUC that purchasing such a contract would be deemed prudent. I would appreciate comments on the viability of this concept as well.

Another issue on which I would like comment from parties is our order's proposed $150/MWh ceiling on the market clearing price. Is this a sufficient consumer protection measure? This ceiling would last for 24 months. Our order concludes that in some hours, and particularly at high load levels when there is an imbalance between supply and demand, flawed market rules and a flawed market structure allow the exercise of market power that must be effectively mitigated. Under the proposed $150 ceiling, a generator that bids higher and is dispatched can receive the higher bid, so this is not a hard $150 cap, but this higher bid will not set the market clearing price, and the generator must file a report to allow the Commission to evaluate the bid. This $150 ''soft cap'' is designed to accommodate the marginal running costs for a combined cycle generating unit, dispatched roughly one third of the time, with an investment payback period of 5 years. It seems to me that these same assumptions, coupled instead with a 10 year payback period, might justify a $120 ceiling. Or the price of natural gas could fall, justifying a somewhat lower ceiling.

I would like comment on whether this soft cap is a good idea. Will it be an effective market power mitigation measure? Has the Commission balanced competing interests reasonably in choosing the $150 level? Should such a cap vary at different load levels or with the price of natural gas or No_x credits? Commenters should keep in mind that today's order proposes to eliminate the ISO's purchase price cap authority, which is the only wholesale price mitigation protection customers have had, so the $150 soft cap should be evaluated with this in mind. Would a 24 month hard cap be more appropriate or would it deter entry of much-needed generation.

[109] The court determined that the Commission had committed legal error.

[110] 15 U.S.C. § 717d (1994). Section 5 of the Natural Gas Act is analogous to section 206 of the FPA.

[111] In Exxon Co., U.S.A. v. FERC, 182 F.3d 30, 49 (D.C. Cir. 1999), the court held:

The goals of equity and unpredictability are not undermined when the Commission warns all parties involved that a change in rates is only tentative and might be disallowed.* * * As we stated in [*Public Service Co. of Colorado* v. *FERC,* 91 F.3d 1478 (D.C. Cir. 1996)], ''[a]bsent detrimental and reasonable reliance, anything short of full retroactivity * * * allows [some parties] to keep some unlawful overcharges without any justification at all.'' 91 F.3d at 1490.

Our order deals with other important issues. With respect to the issue of retroactive refunds for last summer when prices were very high, our Office of General Counsel has prepared a legal memorandum that concludes that the Commission has no authority to order refunds for any period of time before October 2, 2000. I realize that this is an issue of utmost importance to the residents of California. This agency must act within the authority delegated by law, and the Congress has not given us this authority, according to our legal staff. Today's order concludes, however, that the Commission would consider any equitable remedies that parties wish to propose in this area. I interpret this language among other things to invite comment on the extent of the Commission's authority in the area of refunds. Has our legal staff reached the correct conclusion? Are there legal precedents or arguments that we have overlooked or misconstrued? This is such an important issue that we should use the comment period to ensure that we reach the correct conclusion with respect to the scope of our refund authority.

Finally, our order attempts to lay out the areas of concern that we believe are our responsibility under the Federal Power Act, including the justness and reasonableness of wholesale prices and ensuring the independent management of the transmission grid. But for the wholesale market to function well, California needs new generation and transmission capacity, and the siting of new facilities is clearly within the jurisdiction of the State of California. I know that I am stating the obvious, but I just want to make the point that we share jurisdiction over electricity regulation with the State of California. We must do our part, and the state must do its part to ensure that customers benefit from competition. I look forward to working with the State of California to ensure that consumers do in fact benefit from competitive markets that produce just and reasonable prices. That is what today's order is all about.

In conclusion, this is not a perfect order. I seek comment on whether we should take a more aggressive approach to certain issues. Going forward, this Commission must take each and every measure necessary to protect consumers from unjust and unreasonable prices. We must ensure that consumers benefit.

William L. Massey,
Commissioner.

Hebert, Commissioner, concurring:

Introduction

As much as I would like to offer a recitation that would be more to the liking of San Diegans, and sit as the most popular member of this Commission, my oath, taken almost exactly three years ago on this date, requires me to regulate in a forthright and intellectually honest fashion. We must provide supply and deliverability opportunities in America and, especially, in California. Worse than high prices, reliability concerns for the good people of California must be a priority.

Recent events demonstrate two things. California wholesale electricity markets require reform. And California ratepayers deserve relief.

In today's order, the Commission attempts to accomplish both tasks. Frankly, in my judgment, it is not altogether clear whether the Commission has moved in the direction of achieving its stated goals of reforming California markets and helping California ratepayers. If it were up to me, today's order would be much, *much* different.

Nevertheless, on balance, today's order appears to be a step in the right direction. For this reason, I hesitantly concur. However, there remains much uncertainty as to the practical effect of various remedial measures adopted in today's order. I can support the order only because it does not represent the last word; it is merely a ''proposed'' order. A technical conference and a round of comments from the public will follow. If, after listening to comment on the subject, I am convinced that the Commission has moved in the wrong direction—and I am perilously close to that conviction right now—I will not be hesitant to upset the basket of remedial measures adopted today.

I write separately to present for comment the basket of remedial measures I would adopt, if given the chance. I agree with today's order to the extent it explains that California electricity markets suffer from serious structural defects that inhibit the operation of a competitive market. I also agree that the current situation requires ''decisive'' action; otherwise, California markets will not move toward the goal we all agree on. The Commission needs to act now to ensure that energy suppliers have an incentive to enter capacity-starved California markets, that local utilities have strong reason to hedge against price risk, that entrepreneurs have a motivation to develop new products and technologies, and that consumers share a motivation to conserve.

I simply disagree with today's order with respect to its selection of corrective measures. Some will help; others will hurt. Others not selected would have helped more. The Commission should have stopped with corrective measures designed to remove impediments from the operation of a competitive market. Instead, unfortunately, it decided to go farther and adopted additional measures that prescribe with tremendous specificity how market institutions and market participants should act during the transition period to a fully competitive market. The majority of the Commission believes that various prescriptive measures will ease the pain felt by market participants during what it believes will be a two-year transitional period.

I believe, however, that the Commission's overreaching will only prolong the transition period for an indefinite period. If the Commission were truly committed to the competitive ideals articulated in today's order, it would have taken ''decisive'' action to ensure that California markets achieve those ideals as quickly as possible. Now is not the time for timidity. California ratepayers will benefit from the restructuring of the California energy market *only* when that market is allowed to operate without artificial restraints designed by regulators who believe that they know best how to serve energy customers.

I now proceed to explain the basket of remedial measures I would adopt to address the California electricity situation. I then explain those measures adopted by the Commission that I would not have adopted. I finish with a discussion of the Commission's attitude toward refunds.

Remedial Measures I Would Adopt

1. Eliminate All Price Controls

Today's order is filled with repeated references to the perceived need for ''price mitigation.'' As a general matter, I find the concept of ''price mitigation'' to be an offensive one. Government should not be mitigating prices. It is ill-equipped to do so; its efforts invariably back-fire to the detriment of consumers. Rather, market participants—primarily energy suppliers and energy consumers—should be entrusted with the ability and the responsibility to mitigate their price exposure as they deem best.

This is a subject that I have written about in numerous dissents and concurrences over the past three years. Events in California demonstrate that my position is not merely academic or philosophical. In a report dated September 6, 2000, the Market Surveillance Committee of the California ISO concluded that price caps have little ability to constrain prices. Specifically, it noted that monthly average energy prices in California during June of this year, when the price cap was $750/MWh, were lower than monthly average energy prices during August of this year, when the price cap was $250/MWh—even though energy consumption was virtually the same in both months.

Moreover, the Commission's own Staff Report suggests that there is a direct correlation between lower price caps and higher consumer prices. Specifically, it finds that decreases in the ISO price cap this past summer were matched by increases in exports of electricity out of California during the same period. The resulting decrease in net imports, historically relied upon by California, is one of the principle reasons for the increase in wholesale electricity prices.

For these reasons, I am gratified that the Commission today decides to reject the price cap proposed by the PX and the purchase cap amendment filed by the ISO. I agree with the rest of the Commission that the price cap has served to keep sellers out of California markets and has inhibited the incentive of electricity purchasers to engage in forward contracting and thus hedge against price volatility and uncertainty.

Unfortunately, the Commission does not stop here. Instead, it proceeds to take additional ''mitigation'' action that belies its stated intention to allow competitive markets to send price signals to suppliers and customers.

2. Abolish the Single Price Auction

The Commission abandons a hard cap and imposes a soft cap in its place. This is accomplished through the Commission's modification of the single price auction. In today's order, the Commission creates two distinct categories of bids into the PX and ISO. Sellers bidding below $150/MWh will be subject to little scrutiny. Sellers bidding in excess of the $150 threshold, however, will be subject to tremendous scrutiny. Today's order explains in considerable detail all of the information the PX, ISO, and each seller must report for each bid in excess of $150. Moreover, the order states ominously that the purpose of the enhanced reporting requirements is not simply to monitor market behavior. Rather, it explains that the Commission will use this information ''to adjust transaction prices, if necessary, to establish just and reasonable rates.''

Thus, to me, the practical effect of today's modification to the single price auction is to clearly disfavor all bids in excess of $150. While the order states that the Commission is not preventing a supplier from bidding in excess of that number and receiving its bid, I doubt that suppliers will be anxious to take advantage of that opportunity and to incur the Commission's wrath. I ask for comment as to whether my doubts are shared by the industry.

I would simplify matters considerably. I would not select an arbitrary $150 figure and leave it in place for an equally arbitrary 24-month period. Instead, I would do what numerous participants in our California proceeding have been asking us to do—eliminate the single price auction altogether.

Despite its length, today's order is surprisingly silent as to the merit of abandoning the single price auction. (This is one of the remedial options identified in the Staff Report.) I fail to perceive any compelling reason why any bid should set the price for the entire market. If the market clearing price for the final increment of needed capacity is, say, $100 MWh, why should a supplier who bid a lower figure receive the same value as that afforded to the supplier of higher-priced increment? Similarly, if the market clears in excess of $100, why should that clearing price set the market price?

My preference is that sellers in California be paid what they bid, regardless of what that bid is, rather than the market clearing price. I can think of no other action that would be more effective in lowering rates to truly competitive levels.

3. Terminate the Mandatory Buy-Sell Requirement in the PX

This is one topic that the Commission gets right in most respects. Wholesale customers should have the ability to name their own price. The Priceline.Com model is, in its most basic form, applicable to wholesale electricity. Purchasers do not need the government to intercede to limit upside price risk. Rather, purchasers have the ability to do this for themselves, if government does not interfere to limit their ability to take advantage of financial instruments and contracting options.

Today's order concludes that the existing requirement that investor-owned utilities sell all of their generation into and buy all of their requirements from the PX contributes significantly to rates that are unjust and unreasonable. I agree. The Commission correctly removes this encumbrance to trading options. Load-serving utilities should have full opportunity to pursue a portfolio of long- and short-term resources and to reach whatever markets are best suited to meet the needs of their customers.

Unfortunately, in its zeal to promote hedging opportunities—a laudable goal to be sure—the Commission goes too far. I explain later in this statement my objection to the Commission's decision to dictate to market participants how best to manage risk.

4. Direct the ISO and PX to Address Remaining Impediments in Their January, 2001 RTO Filing

Today's order expends many pages addressing numerous other flaws in the California market design. Specifically, the order discusses reserve requirements, congestion management redesign, reliability and operational measures, governance structures, demand response, balance scheduling, generation interconnection, and market monitoring and mitigation. The Commission requires specific responses to certain of its concerns. It directs market institutions and participants to consider and report back on other concerns.

I am greatly concerned that the Commission, in its desire to appear active and engaged, is greatly undermining the ability of the ISO and PX to make its regional transmission organization (RTO) filing. That filing is due to be filed no later than January 16, 2001—only 2½ months from now. I have no problem with the Commission identifying its concerns in this order. However, I would ask the ISO and PX to take these concerns into account when they make their RTO filing. By asking the ISO and PX to act immediately on some measures, relatively soon (short-term) on other measures, and somewhat more leisurely (long-term) on still other measures, the Commission is greatly inhibiting the ability of the PX and ISO to respond effectively to their RTO filing obligation. The Commission is also hindering, and in some cases pre-judging, its ability to act on that filing once received.

Remedial Measures I Would Not Adopt

1. Modify the Single Price Auction

I have already explained my preference for abandoning, rather than modifying, the auction rules used by the PX and ISO. If the Commission insists on modifying, rather than terminating, the single price auction, I would offer a different modification.

Specifically, I would start the single price auction for all sale offers at or below $250 MWh. I would not lower the *de facto* price cap below the figure currently in place and previously approved (over my dissent) by the Commission. The Staff Report indicates (at 6–12) that the existing ISO cap already appears to be too low, and that it comes close to the variable costs (fuel and emissions) of a combustion turbine. The Report continues that a price cap at the existing level is unlikely to be high enough to attract new investment.

If the Commission is insistent that it must have a single price auction dollar

figure in place, I would not leave it at that figure for the entire period of the transitional period. Rather, I would escalate that figure upward by specific amounts (say, $250 or $500 amounts) at specific intervals (say, every six months). In this manner, California market participants and institutions, in conjunction with California regulators and legislators, will have the incentive to respond *immediately* to the market design flaws identified in today's order. For example, the Commission has no authority to direct the state of California to expedite its siting and permitting procedures, or to drop remaining impediments to forward contracting. A price cap escalator, however, would act to spur all market players to adopt new and badly-needed remedial measures.

2. Disband Stakeholder Boards at This Time

I have no particular fondness for the stakeholder Governing Boards for the PX and the ISO. As today's order correctly explains, the decision-making process is overly complex, mired in controversy, and prone to excessive influence by special interest groups. In operation, the Boards function as little more than a debating society among various market participants. Their governance structure is no model for how a transmission grid or centralized exchange should be operated. The structure is certainly no model for how a competitive business should be run.

Despite all of my misgivings, I would not proceed, as the Commission does today, to dictate right now how the Governing Boards should be restructured. Governance and independence are topics, I presume, that the ISO and PX are vigorously debating as they prepare their RTO filing. They very well may decide to adopt the independent, non-stakeholder governance structure preferred by the Commission in today's order. But, then again, they may not. This is ultimately a matter to be addressed by the ISO and PX, after consultation with various market participants, in the first instance and for the Commission to consider only after receiving the California RTO filing.

By insisting upon a non-stakeholder structure right now, the Commission is betraying its principles as articulated in Order No. 2000. The Commission stated its preference for flexibility and initiative. It also indicated that what works well in one region of the country may not work as well in other regions. I have no idea whether the Boards of ISOs in New York, New England, and PJM would have responded any more effectively and independently than the California ISO and PX Boards, had they been presented with similar market problems. Today's order assumes that governance structures in the East would have operated more effectively than the existing governance structure in the West. I would make no such assumption.

Indeed, all of the Commission's articulated concern for independence and effective decision-making merely confirms my belief that by far the most independent and effective governance structure is that found in an independent transmission company. Despite my enthusiasm for a transco, I would not dare suggest that the Commission impose one on California right now in punishment for the conduct of the California Governing Boards this past summer.

Finally, the Commission is needlessly provoking a constitutional show-down. The Governing Boards are the product of legislative decisionmaking. As a practical matter, I doubt they can be replaced in the time frame contemplated in today's order. Moreover, left unexplained is what the Commission intends to do if the ISO and PX balk at the requirement to adopt immediately a non-stakeholder governance structure. This is precisely the reason why the governance structure should be negotiated and worked out in the context of the collegial RTO process—not determined immediately by regulatory fiat.

3. Dictate to Market Participants How Best to Manage Risk

I share the Commission's enthusiasm for risk management and forward contracting. A prudent utility, I assume, would spread out its risk and procure a diversified portfolio of contracts. This Commission and the California Commission, to the extent possible, should encourage the scheduling of load in forward markets (daily, weekly, monthly, annually, etc.) and should discourage scheduling in real-time (spot) markets. California utilities that failed to take advantage of forward contracting options, because of inattentiveness or regulatory inhibitions, were badly burned this past summer when real-time electricity prices sky-rocketed.

Nevertheless, I draw the line at dictating to market participants precisely how much of their transactions to schedule in forward markets and how much to schedule in real-time markets. I have no basis for assessing what an optimal allocation between forward and real-time scheduling should look like. I believe that no single risk allocation portfolio is appropriate for all market participants. And I believe that no market participant should be locked into a particular allocation method once established. This is, ultimately, a decision to be made by market participants based upon their own risk tolerance and their own evaluation of competitive and financial opportunities. (Hopefully, market participants will be able to make such a decision now that the Commission is eliminating the mandatory buy-sell requirement in the PX.)

I understand that there is a fine line between managing risk and operating in a reliable manner. The Commission justifiably raises a concern in today's order that underscheduling of load and generation in day-ahead and day-of markets forces the ISO to operate an energy market and places system reliability at risk. However, the answer to this concern is not to compel market participants to schedule 95 percent or more of their transactions in forward markets. Rather, I would prefer to direct the ISO and PX to address the underscheduling issue in their forthcoming RTO filing.

Refunds

I choose to close with a discussion of refunds, so as to stress the importance of this issue.

The Commission needs to be honest and forthright with California ratepayers on the subject of refunds. It is a basic premise of responsible government that the American public should know precisely where their elected and appointed officials stand. This is particularly true in California, as the Commission has promised in its orders and in its hearings that it would decide quickly and decisively whether to order refunds.

I believe that the Commission has failed as to this basic responsibility. It is now November 1, and California ratepayers are no closer to a final decision on their claim to refunds for perceived overcharges during the summer. Today's order employs mushy and confusing language on the subject of refunds, indecipherable to all but the most devoted of FERC insiders. I would be more direct.

As for refunds for past periods, today's order concludes that legal authority offers ''strong support'' for the proposition that the Commission lacks authority to order retroactive refunds. I would not be so equivocal. The Federal Power Act rests on a legislative preference for rate certainty. Refunds and rate revisions, absent a utility filing, are reserved for periods subsequent to the filing of a customer complaint or the initiation of a Commission proceeding.

I discern no exception for market-based (as opposed to stated) rates.

I fail to see how the Commission, even if it wanted to order refunds for prices charged to San Diegans during the summer of 2000, could do so in the present circumstances. Neither the Staff Report nor today's order contains any finding that any power supplier exercised market power or otherwise engaged in inappropriate behavior. Indeed, neither the Staff Report nor the order reaches definite conclusions about any seller or category of sellers. In these circumstances, how could the Commission order individual sellers or categories of sellers to make refunds, much less allocate responsibility for refunds among sellers?

Curiously, the Commission does state in a footnote that it is willing to consider ''other forms of equitable relief'' to mitigate the ''severe financial consequences of last summer's high prices.'' Frankly, I do not know what this statement means. If the Commission intends to suggest that it enjoys the power to do indirectly what it cannot do directly—*i.e.,* exercise its considerable powers of persuasion to motivate power suppliers to reimburse buyers in some respect—then I reject that suggestion as legally unfounded.

As for refunds for future periods, today's order informs power suppliers that their sales into California ISO and PX markets are now ''subject to refund.'' I addressed the practical effect of ''subject to'' language in my concurrence to the August 23 order initiating the Commission's investigation into California markets. 92 FERC at 61,611. I believe that the inclusion of ''subject to'' language will act to exacerbate supply deficiencies in California. This is because power suppliers, uncertain whether the Commission later may decide to alter the rate they have charged, justifiably will decide to sell their capacity in markets outside California. This will only accelerate the exodus of power outside California, a factor recognized by the Staff Report as contributing to the summer increase in the wholesale price of electricity.

I also have serious reservations about conditioning market-based rate authorization on maintaining a ''subject to refund'' obligation through the end of 2002. This has the practical effect of extending the refund protection under section 206 of the FPA for a total of 27 months of protection. In contrast, section 206 is explicit that, absent dilatory behavior of the type not present here, refund relief may extend only 15 months from the refund effective date established by the Commission (here, October 2, 2000).

To address credible claims of anticompetitive behavior, I would employ the Federal Power Act as it was drafted and promulgated, not as it arguably should be revised to recognize modern-day power sales. I continue to believe that the Commission should act vigorously to detect and remedy real abuses of market power. If a complaint or Commission staff-initiated investigation can establish, to the Commission's satisfaction, such an abuse, the Commission should order refunds prospective from the date of that complaint or investigation. By directing the imposition of a ''subject to refund'' condition on California sellers of power, the Commission now goes beyond the limitations of the FPA by allowing for the potential award of refunds for conduct prior to the filing of a complaint or the initiation of an investigation.

Next Tuesday represents the most political day of our American heritage. It is our birthright as Americans. Today, there is no room for politics. The question is not whether or not I want to give refund relief to California ratepayers. I do, but I want to follow the law. I am certainly not above it.

Conclusion

In conclusion, there is much I like and much I dislike about today's order. I believe that it is important to keep the process moving forward and to inform California ratepayers and officials of our judgments as soon as possible. I look forward to public input. I remain committed to respond to the needs of California ratepayers in a balanced manner that, hopefully, will allow them to enjoy the benefits of a competitive market as quickly as possible.

For all of these reasons, I respectfully concur.

Curt L. Hébert, Jr.,

Commissioner.

[FR Doc. 00–28447 Filed 11–2–00; 2:57 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL00–95–000, EL00–98–000, EL00–107–000, ER00–3461–000, ER00–3673–000]

San Diego Gas & Electric Company, Complainant, v. Sellers of Energy and Ancillary Services Into Markets Operated by the California Independent System Operator and the California Power Exchange, Respondents;Investigation of Practices of the California Independent System Operator and the California Power Exchange; Public Meetng in San Diego, California; California Power Exchange Corporation; California Independent System Operator Corporation; Order specifying time of conference and procedure for seeking participation

Issued November 1, 2000.

Before Commissioners: James J. Hoecker, Chairman; William L. Massey, Linda Breathitt, and Curt Hebert, Jr.

In this order, the Commission specifies the time and place for the November 9, 20009 public conference announced by Commission order on October 19, 2000, [1] and the procedure for interested persons to follow in seeking participation in the conference.

Background

On October 19, 2000, in the consolidated dockets listed above, the Commission issued an order announcing in advance the procedures it expects to follow over the coming weeks to move forward in these proceedings. Among other things, the Commission indicated that it expected to hold a public conference on November 9, 2000 to discuss proposed remedies and stated that a separate order would be issued to specify the date and time of the conference and the manner for seeking participation in the conference.

Discussion

Time and Place of Conference

The Commission announces that it will convene a public conference to be held on Thursday, November 9, 2000, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The conference will commence at 9 a.m. and will be open to all interested persons.

[1] San Diego Gas & Electric Company, *et al.*, 93 FERC ¶61,051 (2000).

Participation in Conference

Persons wishing to speak at the conference must submit a request to make a statement in the above-captioned dockets. The request should be submitted by e-mail to David Boergers at *david.boergers@ferc.fed.us* (include Docket No. EL00–95–000 in the subject heading of the e-mail), and should be followed up, at the same time, with a letter to the Secretary of the Commission. The request should clearly specify the name of the person desiring to speak, his or her title and affiliation, and the party or parties the speaker represents. In addition, the request should include a telephone number for notifying the speaker. The request should also include a brief summary of the issue or issues the speaker wishes to address, not to exceed one page. All e-mail requests must be submitted on or before Friday, November 3, 2000.

The number of persons desiring to speak at the conference may exceed the time available. Thus, interested persons are encouraged to join with other persons with similar interests. Based on the requests to participate, panels of speakers will be specified. The Secretary will issue a notice listing the speakers and panels for the conference.

In addition, all interested persons are invited to submit written comments on matters addressed at the conference. These comments should be submitted on or before November 22, 2000, in the above-captioned proceedings. All comments will be placed in the Commission's public files and will be available for inspection or copying in the Commission's Public Reference Room during normal business hours. Comments are also accessible via the Commission's Records Information Management System (RIMS).

The conference will be transcribed. Information about obtaining transcripts will be provided on the Commission's website, www.ferc.fed.us.

The Capitol Connection will offer this conference live over the Internet, as well as via telephone and satellite. For a reasonable fee, you can receive these meetings in your office, at home or anywhere in the world. To find out more about The Capitol Connection's internet, phone bridge or satellite coverage, contact David Reininger or Julia Morelli at 703–993–3100 or visit the website (*www.capitolconnection.org*).

In addition, National Narrowcast Network's Hearing-On-The-Line service will cover this conference live by telephone so that interested persons can listen at their desks, from their homes, or from any phone, without special equipment. Billing is based on time on-line. Call 202–966–2211.

Anyone interested in purchasing videotapes of the conference should call VISCOM at 703–715–7999.

The Commission Orders

The Commission hereby orders that a public conference be convened on Thursday, November 9, 2000, at 9 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 00–28446 Filed 11–2–00; 2:57 am]

BILLING CODE 6717–01–M

Federal Register

Wednesday,
November 8, 2000

Part III

Environmental Protection Agency

40 CFR Part 148, et al.

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148, 261, 268, 271, and 302

[SWH–FRL–6882–6]

RIN 2050–AD85

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is listing as hazardous two wastes generated by the chlorinated aliphatics industry. EPA is finalizing these regulations under the Resource Conservation and Recovery Act (RCRA), which directs EPA to determine whether certain wastes from the chlorinated aliphatics industry may present a substantial hazard to human health or the environment. The effect of listing these two wastes is to subject them to stringent management and treatment standards under RCRA and to subject them to emergency notification requirements for releases of hazardous substances to the environment. EPA is finalizing a contingent-management listing approach for one of these wastes. Under the contingent management listing determination, the waste will not be a listed hazardous waste, if it is sent to a specific type of management facility. EPA also is finalizing determinations not to list as hazardous four wastes generated by the chlorinated aliphatics industry.

EFFECTIVE DATE: This final rule is effective May 7, 2001.

ADDRESSES: Supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification Number is F–2000–CALF–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. The index and some supporting materials are available electronically. See the beginning of the Supplementary Information section for information on accessing them.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of the rule, contact Ross Elliott of the Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. [E-mail address and telephone number: elliott.ross@epamail.epa.gov, (703) 308–8748.]

SUPPLEMENTARY INFORMATION: Wherever ''we'' is used throughout this document, it refers to the Environmental Protection Agency (EPA).

The index and some supporting materials for this rulemaking are available on the Internet. Follow these instructions to access these documents.

WWW: http://www.epa.gov/epaoswer/hazwaste/id
FTP: ftp.epa/gov
Login: anonymous
Password: your Internet address
Files are located in /pub/gopher/OSWRCRA

EPA will keep the official record for this action in paper form. The official record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

The contents of the preamble to this final rule are listed in the following outline:

I. Who Potentially Will Be Affected By Today's Final Rule?
II. What Is The Legal Authority and Background of Today's Final Rule?
A. What Are the Statutory Authorities for This Rule?
B. Schedule Suit
III. Summary of Today's Action
IV. What Proposed Listing Determinations Led to Today's Final Rule?
A. What was the Proposed Listing Determination for Chlorinated Aliphatic Wastewaters?
B. What Were the Proposed Listing Determinations for Wastewater Treatment Sludges?
C. Which Constituents did EPA Propose to Add to Appendix VIII of 40 CFR part 261
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A. Listing Determination for Chlorinated Aliphatic Wastewaters
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C. Landfill Leachate Derived From Previously Disposed VCM–A Wastewater Treatment Sludges
VI. What Is the Rationale for Today's Final Rule, and What are EPA's Responses to Comments?
A. Chlorinated Aliphatic Wastewaters (other than wastewaters from the production of VC–A using mercuric chloride catalyst in an acetylene-based process)
B. Wastewater Treatment Sludges from the Production of EDC/VCM
C. Wastewater Treatment Sludges and Wastewaters from the Production of VCM–A
D. Wastewater Treatment Sludges from the Production of Methyl Chloride
E. Wastewater Treatment Sludges from the Production of Allyl Chloride
F. What is the Status of Landfill Leachate Derived from Newly-listed K175?
G. Population Risks
H. Which Constituents are Being Added to Appendix VIII of 40 CFR part 261?
I. What are the Land Disposal Restrictions Standards for the Newly-Listed Wastes?
J. Is There Treatment Capacity for the Newly-Listed Wastes?
VII. What is the Economic Analysis of Today's Final Rule?
A. What is the Purpose of the Economic Analysis?
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VIII. When Must Regulated Entities Comply With Today's Final Rule?
A. Effective Date
B. Section 3010 Notification
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IX. How Will This Rule be Implemented at the State Level?
A. Applicability of Rule in Authorized States
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X. What Are the Reportable Quantity Requirements For Newly-Listed Wastes (K174 and K175) under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)?
A. What is the Relationship Between RCRA and CERCLA?
B. Is EPA Adding Chlorinated Aliphatic Wastes to the table of CERCLA hazardous substances?
C. How Does EPA Determine Reportable Quantities?
D. When Do I Need to Report a Release of K174 or K175 Under CERCLA?
E. What if I Know the Concentration of the Constituents in My Waste?
F. How Did EPA Determine the RQs for K174 and K175 and Their Hazardous Constituents?
G. How Do I Report a Release?
H. Is CERCLA Reporting Required for Spills of EDC/VCM Wastewater Treatment Sludge That (Prior to the Spill) Does Not Meet the Listing Description for K174?
I. What is the Statutory Authority for This Program?

XI. What Are the Administrative Assessments?
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Risks and Safety Risks
H. National Technology Transfer and Advancement Act of 1995
I. Executive Order 12898: Environmental Justice
J. Congressional Review Act

I. Who Potentially Will Be Affected by Today's Final Rule?

Today's final rule could directly affect those who generate and handle the types of chlorinated aliphatic hydrocarbon production wastes that EPA is adding to the Agency's list of hazardous industrial wastes under RCRA. Although there are an estimated 39 chlorinated aliphatic hydrocarbon chemical manufacturing facilities in the United States as of 1999, the K174 and K175 listing final rule only applies to 18 of these facilities (17 for the K174 listing and one for the K175 listing), which manufacture two such chemicals; ethylene dichloride (EDC) and vinyl chloride monomer (VCM). Furthermore, because of the final rule's ''conditional listing'' approach, in comparison to current (baseline) waste management practices in this industry, EPA anticipates that three of the 18 chemical manufacturing facilities subject to the final rule as generators of K174 and K175 hazardous wastes, will incur costs to modify their current waste management practices, while the remaining 15 facilities will incur only minimal regulatory costs, primarily associated with documentation of current waste management practices. In addition, EPA anticipates that four industrial waste management facilities also will be affected by the final rule due to potential changes in the annual quantities of hazardous wastes handled and associated changes to business revenues that will be the result of modifications to current waste management practices to comply with the provisions of today's final rule.

In addition to waste generators targeted by the rule, because of RCRA's ''cradle-to-grave'' statutory design, EPA anticipates that four waste handlers (three for the K174 listing and one for the K175 listing) are likely to experience ''induced effects'' from this final rule. In addition, EPA's regional offices and states with RCRA-authorized programs potentially will incur some costs because they must administer new RCRA listings. Several additional stakeholders also will have to read the final rule.

As defined in the Economics Background Document prepared for today's final rule, ''targeted effects'' are the anticipated costs of the final rule incurred by the unique class of industrial facilities that generate the newly listed hazardous wastes K174 and K175. ''Induced effects'' are anticipated costs of direct, indirect or secondary impacts the final rule may have on entities linked economically to the targeted facilities such as offsite waste management facilities, and on entities which are likely affected by other generic provisions of the final rule, such as states with RCRA authorized programs which will implement and enforce the rule. ''Incidental effects'' are anticipated consequential impacts on other types of entities, such as on other chemical manufacturers (to read the rule), other Federal agencies (to read the rule), and other non-governmental organizations (such as industry trade associations to read and propagate the rule to its member companies).

EPA's estimate of expected regulatory costs for these 116 potentially affected entities, is described in EPA's ''Economics Background Document'(USEPA 2000a) [1] for this final rule, which is available for public review from the RCRA Docket. A summary of the potentially affected industry sectors (by respective SIC and NAICS codes) is displayed in the table below.

SUMMARY OF ENTITIES POTENTIALLY AFFECTED BY THE RCRA K174/K175 FINAL RULE

Item	Economic sector classification			Number entities potentially affected			
	SIC	NAICS	Description	Targeted	Induced	Incidental	Total
1	2869	32511	Industrial organic chemical manufacturers* (waste generators).	18	0	21	39
2	4953	562211	Hazardous waste treatment & disposal (waste handlers).	0	4	0	4
3	9511	92411	State government environmental departments (public administration).	0	49	0	49
4	9511 9611 9621	92411 92611 92612	Federal government offices (environmental, economic & transportation public administration).	0	11	1	12
5	8742	54161	Management consulting services (non-governmental organizations).	0	0	12	12
			Total	18	64	34	116

Explanatory Notes:
(a) *Parent company codes may differ from the codes associated with the facility units targeted by the rule.
(b) This list of sector classification codes for ''induced effect'' entities may not be exhaustive for at least two reasons:
- Non-hazardous and hazardous industrial waste collection transporters (SIC 4212, 4953, NAICS 562111, 562112) may be affected, depending upon whether waste collected from K174/K175 generators is transported by waste treatment/disposal facilities, or by separate, unaffiliated transporter companies.
- If waste remediation is required, such entities may be affected (SIC 4959, NAICS 56291).

[1] USEPA. 2000a. Economics Background Document, USEPA Final Rule Listing Industrial Wastewater Treatment Sludges Generated by Chlorinated Aliphatic Chemical Manufacturing Facilities, as RCRA Hazardous Wastecodes K174 & K175: Industry Profile and Estimation of Regulatory Costs. Office of Solid Waste. 31 July.

The list of potentially affected entities in the above table may not be exhaustive. Our aim is to provide a guide for readers regarding those entities that EPA is aware potentially could be affected by this action. However, this action may affect other entities not listed in the table. To determine whether your facility is regulated by this action, you should examine 40 CFR part 260 and 261 carefully in concert with the rules amending RCRA that are found at the end of this **Federal Register** notice. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT.**

II. What Is the Legal Authority and Background of Today's Final Rule?

A. What Are the Statutory Authorities for This Rule?

These regulations are being promulgated under the authority of sections 2002(a), 3001(b), 3001(e)(2) and 3007(a) of the Solid Waste Disposal Act, 42 U.S.C. 6912(a), 6921(b) and (e)(2), and 6927(a) as amended several times, most importantly by the Hazardous and Solid Waste Amendments of 1984 (HSWA). These statutes commonly are referred to as the Resource Conservation and Recovery Act (RCRA), and are codified at Volume 42 of the United States Code (U.S.C.), sections 6901 to 6992(k) (42 U.S.C. 6901–6992(k)).

Section 102(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9602(a) is the authority under which the CERCLA aspects of this rule are being promulgated.

B. Schedule Suit

In 1989, the Environmental Defense Fund (EDF) [2] sued the Environmental Protection Agency (EPA), in part for failing to meet the statutory deadlines of Section 3001(e)(2) of RCRA (EDF vs. Browner; Civ. No. 89–0598 D.D.C.). To resolve most of the issues in the case, EDF and EPA entered into a consent decree, which has been amended several times to revise dates. The consent decree sets out deadlines for promulgating certain RCRA rules and for completing certain studies and reports. The consent decree obliges EPA to propose a hazardous waste listing determination for wastewaters and wastewater treatment sludges generated from the production of specified chlorinated aliphatic chemicals. The wastewater and wastewater treatment sludges subject to the consent decree are those from the production of chlorinated aliphatics for which other process wastes already have been designated as hazardous waste F024 in 40 CFR 261.31. According to the consent decree, EPA was required to propose listing determinations by July 30, 1999 and promulgate final listing determinations on or before September 30, 2000. Today EPA is promulgating listing determinations for these wastes in accordance with the consent decree.

[2] Now known as Environmental Defense.

III. Summary of Today's Action

In today's notice, EPA is promulgating regulations that add two wastes generated by the chlorinated aliphatics industry to the list of hazardous wastes in 40 CFR 261.32. Below are the wastestreams EPA is listing as hazardous with their corresponding EPA Hazardous Waste Numbers.

K174 Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (EDC/VCM)

K175 Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process

EPA is listing these wastes as hazardous based on the criteria set out in 40 CFR 261.11(a)(3) for listing a waste as hazardous. EPA assessed and considered these criteria for each of six wastestreams generated by the chlorinated aliphatics industry through the use of risk assessments and risk modeling, as well as a consideration of other pertinent factors. Today's final listing determination follows the elements of the Agency's listing decision policy that was presented in the proposed listing determination for wastes generated by the dye and pigment industries published in the **Federal Register** on December 22, 1994 (see 59 FR at 66073). This policy uses a ''weight-of-evidence'' approach in which calculated risk information is a key factor considered in making a listing determination.

Upon the effective date of the hazardous waste listings promulgated today, wastes meeting the listing descriptions will become hazardous wastes and need to be managed in accordance with RCRA subtitle C requirements. Residuals from the treatment, storage, or disposal of the wastewater treatment sludges proposed to be listed as hazardous also will be classified as hazardous wastes pursuant to the ''derived-from'' rule (40 CFR 261.3(c)(2)(i)). Also, with certain limited exceptions, any mixture of a listed hazardous waste and a solid waste is itself a RCRA hazardous waste (40 CFR 261.3(a)(2)(iv), ''the mixture rule'').

In today's notice, the Agency is promulgating an alternative approach to listing wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (EDC/VCM), rather than listing this waste in accordance with the Agency's traditional listing approach. The Agency is promulgating a conditional listing approach because the Agency evaluated the ways in which the wastes are likely to be managed and determined that the waste may present significant risks to human health and the environment, although it concluded that a particular waste management practice is protective of human health and the environment. Under the conditional listing approach, EPA is listing the waste as hazardous only if the waste is managed in a way other than the manner in which the Agency has determined is protective of human health and the environment. In developing this conditional-listing approach, the Agency has determined that wastes that fall outside the scope of the listing description (e.g., are destined for the appropriate type of disposal) are non-hazardous when generated. However, if it turns out that the waste actually is not handled in accordance with the conditions of the listing at any point in its management, the generators or other handlers of the waste will be subject to enforcement actions. The conditional-listing approach being promulgated today for certain wastes generated from chlorinated aliphatics processes is further discussed in section VI.B. of today's rule.

Today's action also promulgates no list decisions for the following four wastes:

- Process wastewaters from the production of chlorinated aliphatics (other than wastewaters from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process),
- Process wastewaters from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process,
- Wastewater treatment sludges from the production of methyl chloride, and
- Wastewater treatment sludges from the production of allyl chloride.

EPA considers the listing criteria set out in 40 CFR 261.11, in light of information relevant to the criteria, in making listing determinations. The criteria provided in 40 CFR 261.11 include eleven factors for determining whether a waste is capable of posing a ''substantial present or potential hazard to human health and the environment.'' Nine of these factors, as described

generally below, are directly incorporated into EPA's completion of a risk assessment for the wastestreams of concern:

- Toxicity (§ 261.11(a)(3)(i)) is considered in developing the health benchmarks used in the risk assessment modeling.
- Constituent concentrations and waste quantities (§§ 261.11(a)(3)(ii) and 261.11(a)(3)(viii)) are used to define the initial conditions for the risk evaluation.
- Potential to migrate, persistence, degradation, and bioaccumulation of the hazardous constituents and any degradation products (§§ 261.11(a)(3)(iii), 261.11(a)(3)(iv), 261.11(a)(3)(v), and 261.11(a)(3)(vi)) are all considered in the design of the fate and transport models used to determine the concentrations of the contaminants to which individuals are exposed.

We consider two of the remaining factors, plausible mismanagement and other regulatory actions (§§ 261.11(a)(3)(vii) and 261.11(a)(3)(x)) in establishing the waste management scenario(s) modeled in the risk assessment.

EPA conducted analyses of the risks posed by wastewaters and wastewater treatment sludges from the production of chlorinated aliphatic chemicals to assist in the determination of whether the wastes meet the criteria for listing set forth in 40 CFR 261.11(a)(3). In the preamble to the proposed rule (64 FR 46476), we discussed the human health risk analyses and ecological risk screening analyses EPA conducted to support our proposed listing determinations for chlorinated aliphatics wastewaters, EDC/VCM wastewater treatment sludges, and methyl chloride wastewater treatment sludges. These analyses, as well as comments EPA received on the analyses, are further discussed in this notice in section VI below. We considered the results of the risk analyses, as well as comments received, and the results of analyses conducted in response to information provided by public commenters in finalizing our listing decisions for each wastestream. The risk analyses conducted in support of our proposed listing determination are presented in detail in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination and in the 1999 Addendum to Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination which are located in the docket for the proposed rule. Additional information and analyses conducted with regard to our original risk assessment in response to comments received on our proposed rule are included in the September 2000 Addendum to Risk Assessment Background Document for the Chlorinated Aliphatics Listing Determination. This document is located in the docket for today's final rule.

IV. What Proposed Listing Determinations Led to Today's Final Rule?

In the August 25, 1999 proposed rule (64 FR 46476), EPA proposed to list three wastes generated by the chlorinated aliphatics production industry as hazardous wastes under RCRA. The wastes the Agency proposed to list as hazardous included chlorinated aliphatics manufacturing process wastewaters, wastewater treatment sludges generated from the treatment of wastewaters from the production of ethylene dichloride and/or vinyl chloride monomer (EDC/VCM), and wastewater treatment sludges from the treatment of wastewaters from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM–A). EPA proposed a conditional listing approach for EDC/VCM wastewater treatment sludges, based upon available information regarding the management of these sludges and the results of the Agency's risk assessment.

In connection with the proposed listings, EPA proposed to amend Appendix VIII of 40 CFR Part 261 to add two constituents, octachlorodibenzo-p-dioxin (OCDD) and octachlorodibenzofuran (OCDF). These constituents are found in chlorinated aliphatic wastewaters and in EDC/VCM wastewater treatment sludges.

In the proposed rule, the Agency also proposed not to list as hazardous wastewater treatment sludges generated from the treatment of wastewaters from the production of methyl chloride and the production of allyl chloride. In addition, the Agency proposed not to list process wastewaters from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.

The Agency proposed to add to the list of CERCLA hazardous substances those wastes that were proposed to be listed as hazardous. EPA also proposed adjusted Reportable Quantities (RQs) for each waste.

A. What Was the Proposed Listing Determination for Chlorinated Aliphatic Wastewaters?

As explained in Section III.A.1. of the proposed rule (64 FR 46479), the Agency segregated wastewaters from the chlorinated aliphatics industry into two waste groupings. Based upon current waste management practices, we grouped all chlorinated aliphatic wastewaters, except for those wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process, into a single waste category for the listing determination investigation. We decided to study these wastewaters collectively because most chlorinated aliphatic manufacturers commingle wastewaters generated by individual processes prior to treating the wastewaters in a common wastewater treatment system. In addition, many process wastewaters generated from the production of chlorinated aliphatic hydrocarbons contain similar constituents of concern.

EPA proposed to list as hazardous process wastewaters generated from the production of chlorinated aliphatic hydrocarbons (other than those wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process). Results of the risk assessment conducted in support of the proposed rule, indicated that the wastewaters met the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous. Risk assessment results identified risks of concern associated with air releases of dioxins from wastewater treatment systems using aerated biological treatment in open tanks.

EPA proposed not to list as hazardous process wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM–A wastewaters). EPA proposed not to list this waste as hazardous due to the fact that the wastewater exhibits the toxicity characteristic for both mercury and vinyl chloride. Therefore, the wastewater already is defined as hazardous waste. In addition, any risks associated with the management and disposal not addressed by RCRA (*i.e.,* direct discharge) of the wastewaters are addressed by other environmental regulations. With respect to the discharge of this wastewater, the facility treats and discharges the wastewater in compliance with the conditions of a NPDES permit. Regarding any air emissions of vinyl chloride from these wastewaters, vinyl chloride is a hazardous air pollutant, therefore the facility is subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements specific to vinyl chloride emissions (40 CFR 61.65), as well as the Hazardous

Organic NESHAP for the synthetic and organic chemical manufacturing industry sector (40 CFR Part 63, subpart G)(59 FR 19468, April 22, 1994). For these reasons, the Agency proposed not to list VCM–A wastewaters as hazardous waste.

B. What Were the Proposed Listing Determinations for Wastewater Treatment Sludges?

1. EDC/VCM Wastewater Treatment Sludges

EPA proposed to list as hazardous sludges generated from treating wastewaters from the production of ethylene dichloride (EDC) and/or vinyl chloride monomer (VCM). The Agency proposed to list this waste due to the fact that the Agency identified risks of concern associated with the management of this waste in a land treatment unit. Our risk assessment identified dioxin and arsenic as contaminants of concern, and found that high-end cancer risk to the farmer receptor from dioxin was 2E–04. The dioxin risks are associated with airborne releases and subsequent deposition and food chain contamination from dioxin. Surface erosion due to runoff also contributes to risk from dioxin. The risk assessment results for the land treatment unit scenario indicated a risk level above EPA's levels of concern for dioxin.

The risk assessment for EDC/VCM wastewater treatment sludges also included modeling a landfill management scenario. Our risk assessment showed no significant risk from dioxin, and only marginal risk from arsenic associated with the groundwater pathway. Based upon the Agency's findings that EDC/VCM wastewater treatment sludges pose significant risks when managed in land treatment units but do not pose significant risks when managed in landfills, the Agency proposed a ''contingent management listing'' for this waste. EPA proposed to list EDC/VCM wastewater treatment sludges as hazardous, unless the sludges are managed in landfills.

As explained in the proposal, the Agency believes that allowing the waste to continue to be managed under a low risk management scenario (*i.e.,* non-hazardous waste landfilling) outside of the subtitle C system achieves protection of human health and the environment, and that little additional benefit will be gained by requiring that all EDC/VCM wastewater treatment sludges be managed in accordance with RCRA subtitle C management standards. Given the Agency's finding that no significant risks are posed from managing EDC/VCM wastewater treatment sludges in a landfill, the Agency sees no reason to include sludges managed in this manner in the scope of the hazardous waste listing. Additionally (and after consideration of the predicted risk differential between land treatment and landfilling), because only one facility identified in the RCRA 3007 Survey employs land treatment for these wastes, this practice is somewhat anomalous compared with land disposal. The Agency proposed that it does not make sense to apply a traditional listing approach (*i.e.,* list all wastes regardless of management practice) based upon a practice occurring at one facility, especially if a more tailored listing can prevent this risk.

2. VCM–A Wastewater Treatment Sludges

EPA proposed to list as hazardous wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM–A). EPA proposed to list this waste as hazardous based upon the fact that it exhibited the toxicity characteristic for mercury when sampled by the Agency and based upon the Agency's assessment of potential risks from this waste, given its high mercury content and given the uncertainties associated with the disposal of untreated wastes of potential high toxicity in lined landfills.

3. Methyl Chloride Wastewater Treatment Sludges

EPA proposed not to list as hazardous sludges from the treatment of wastewaters generated from methyl chloride production processes. The results of our risk assessment indicated that this waste does not pose a substantial present or potential hazard to human health or the environment. As explained in the proposal, EPA identified only one facility that generates sludges from the treatment of wastewaters from the production of methyl chloride and does not currently manage the waste as hazardous. This facility generates less than 800 metric tons of this sludge each year and disposes of the sludge in an on-site landfill along with other wastes from the facility. The landfill is lined and has a leachate collection system. The Agency analyzed potential risks from methyl chloride wastewater treatment sludge by modeling non-groundwater pathways and conducting a screening analysis for groundwater pathway risk. The Agency concluded that no significant risks are posed by the management of methyl chloride sludges in an on-site landfill.

4. Allyl Chloride Wastewater Treatment Sludges

EPA proposed not to list as hazardous sludges generated from treating wastewaters associated with the manufacture of allyl chloride. The Agency identified no risks of concern associated with the current management of the waste.

Only one facility generates wastewater treatment sludge from the production of allyl chloride, and this facility does not currently manage the sludge as hazardous waste. The sludge is generated from the treatment of commingled wastewaters managed at the facility's centralized wastewater treatment system. This wastewater treatment system is a non-dedicated system in that wastewaters from the facility's multiple production processes are discharged to the single system for combined treatment. Wastewaters from the production of allyl chloride contribute less than two percent to the system's total sludge loading. The sludge generated from the facility's wastewater treatment system is incinerated on site in a non-hazardous waste incinerator.

TCLP analyses of the sludge conducted by EPA indicated the presence of no TCLP constituents above regulatory levels. As explained in the proposal, the Agency does not anticipate any significant risk from the incineration of allyl chloride wastewater treatment sludge in a non-hazardous waste incinerator, since both the total arsenic level and the dioxin level detected in the sludge are well within typical soil background levels for these constituents.

C. Which Constituents Did EPA Propose To Add to Appendix VIII of 40 CFR Part 261?

EPA proposed to add two constituents, octachlorodibenzo-p-dioxin (OCDD) and octachlorodibenzofuran (OCDF) to the list of hazardous constituents at 40 CFR part 261, Appendix VIII. These two constituents of concern are present in the EDC/VCM wastewater treatment sludges and the chlorinated aliphatic wastewaters that the Agency proposed to list as hazardous. OCDD and OCDF are members of the large family of polychlorinated dioxins and furans. The Agency proposed to add these two dioxin congeners to Appendix VIII of 40 CFR part 261 because they are constituents of concern in the wastes proposed to be listed as hazardous, studies showed that OCDD and OCDF

have toxic effects and are therefore hazardous, and EPA also noted that OCDD and OCDF are the only congeners that make up 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD or ''TCDD'') toxic equivalence (TEQ) that are not currently listed in Appendix VIII.

D. What Were the Proposed Treatment Standards Under RCRA's Land Disposal Restrictions Standards?

In the proposal, EPA proposed to apply existing universal treatment standards (UTS) to the regulated hazardous constituents of concern in the wastes that were proposed to be listed as K173 (chlorinated aliphatic wastewaters) and K174 (EDC/VCM wastewater treatment sludges). For K175 (VCM–A wastewater treatment sludges), EPA proposed a metals recovery requirement, roasting and retorting, as the treatment standard. Since treatment residuals would exist after mercury recovery, EPA proposed the residuals meet existing UTS prior to land disposal. Information available to the Agency at the time of the proposal indicated that each of the wastes proposed to be listed as hazardous, as well as the treatment residuals, could be managed in existing treatment and reclamation units that routinely manage similar or as-difficult-to-treat hazardous wastes that currently are prohibited from land disposal. The BDAT background document provided detailed information on EPA's rationale for proposing to apply UTS to the wastes and for proposing a treatment standard of metals recovery to K175.

In the case of hazardous debris contaminated with proposed K173, K174 and K175, EPA proposed that the provisions in 40 CFR 268.45 apply to the treatment and disposal of hazardous debris. Hazardous debris treated in accordance with the provisions of 40 CFR 268.45 may be allowed for land disposal in a hazardous waste disposal facility. As a result, debris contaminated with proposed K173, K174, and K175 would be required to be treated prior to land disposal, using specific debris treatment technologies such as extraction, destruction, or immobilization. Residuals generated from the treatment of contaminated debris would have to meet the applicable UTS limits proposed for K173, K174, and K175.

In the case of proposed K175, EPA proposed an alternative treatment standard. The alternative standard proposed was to subject K175 to a numerical concentration limit of 0.025 mg/L TCLP mercury. Under the alternative proposal, K175 could be land disposed if a standard of 0.025 mg/L TCLP mercury is achieved using any technology other than impermissible dilution.

In the proposal, the Agency explained that the solubility of the mercury in K175 (in the form of mercuric sulfide) varies as a function of pH. In fact, above pH 6.0 the presence of sulfide complexes results in significantly increased solubility. Therefore, controlled treatment and disposal pH conditions were proposed to avoid mobilization of the mercury in the waste. To insure operational stability of the treatment process and proper long-term disposal, EPA proposed two conditions as part of the LDR treatment standards. First, the waste would have to be treated to (or otherwise be generated to meet) a pH of 6.0 or below. Second, EPA proposed that if K175 were to be co-disposed in a landfill with other wastes, co-disposal would be restricted to wastes with similar pH (*i.e.,* pH not greater than 6.0). EPA proposed that disposal facilities be required to certify and maintain operating records demonstrating compliance with this disposal condition.

EPA also proposed to add the numerical standards derived for the 1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin; 1,2,3,4,6,7,8-heptachlorodibenzofuran;, 1,2,3,4,7,8,9-heptachlorodibenzofuran; 1,2,3,4,6,7,8,9-octachlorodibenzo-p-dioxin (OCDD); and 1,2,3,4,6,7,8,9-octachlorodibenzofuran (OCDF) to the Table of Universal Treatment Standards (UTS) at 40 CFR 268.48. As explained in the proposal, these constituents have been shown to have the potential to cause significant risks to human health or the environment and their presence in wastes should be mitigated to avoid such potential risks. EPA proposed that all characteristic wastes which have these constituents as underlying hazardous constituents above the UTS be required to be treated to UTS levels for those constituents before land disposal.

Furthermore, EPA proposed that the constituents 1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin; 1,2,3,4,6,7,8-heptachlorodibenzofuran; 1,2,3,4,7,8,9-heptachlorodibenzofuran; OCDD; and OCDF be added to the list of regulated constituents in hazardous waste F039 multisource leachate. F039 applies to multiple listed hazardous waste landfill leachates in lieu of the original waste codes, and F039 wastes are subject to all numerical treatment standards applicable to all listed wastes. To maintain the regulatory implementation benefits of having one waste code for multisource leachate, the treatment standards for F039 must be updated to include the constituents of newly listed wastes.

E. What Risk Assessment Approach Was Used for the Proposed Rule?

EPA conducted human health risk analyses for chlorinated aliphatics wastewaters, EDC/VCM wastewater treatment sludges and methyl chloride wastewater treatment sludges that provided estimates of the incremental human health risks resulting from exposure to contaminants detected in these wastes. The incremental human health risks were expressed as estimates of excess lifetime cancer risk for carcinogenic (cancer-causing) contaminants and hazard quotients (HQs) for those contaminants that produce noncancer health effects.

EPA used two different methods of analysis to estimate risks. These methods are called ''deterministic risk analysis'' and ''probabilistic risk analysis.'' A deterministic risk analysis produces a point estimate of risk or hazard for each receptor based on using a single value for each parameter in the analysis. A probabilistic analysis calculates risk or hazard by allowing some of the parameters to have more than one value, consequently producing a distribution of risk or hazard for each receptor.

EPA conducted both ''central tendency'' and ''high end'' deterministic risk assessments to attempt to quantify the cancer risk or non-cancer hazard for the typical receptor in the population (the central tendency risk) and the risk or hazard for individuals in small, but definable ''high end'' segments of the population (the high end risk). In the case of the central tendency deterministic risk analyses, we set all parameters at their central tendency values. For the chlorinated aliphatics risk assessments, the central tendency values generally were either mean (average) or 50th percentile (median) values.

We used high end deterministic risk analysis to predict the risks and hazards for those individuals exposed at the upper range of the distribution of exposures. EPA's Guidance For Risk Characterization (EPA 1995) [3] advises that ''conceptually, high end exposure means exposure above about the 90th percentile of the population distribution, but not higher than the individual in the population who has the highest exposure,'' and recommends that ''* * * the assessor should approach estimating high end by

[3] EPA. 1995. Guidance for Risk Characterization. U.S. Environmental Protection Agency Science Policy Council. February.

identifying the most sensitive variables and using high end values for a subset of these variables, leaving others at their central values.'' For the chlorinated aliphatics high end deterministic risk analyses, EPA set two parameters at their high end values (generally 90th percentile values), and set all other parameters at their central tendency values. We used a ''sensitivity analysis'' to identify the two parameters that we set at high end.

EPA used probabilistic risk assessment to support the results of the deterministic risk analyses and to allow us to quantify individual risk at selected percentiles of the risk distribution (for example, 50th percentile, 90th percentile, 95th percentile). EPA conducted probabilistic risk analyses for those combinations of receptor, contaminant, and pathway for which risk or hazard estimated using a high end deterministic analysis exceeded the following criteria: a cancer risk of 1×10^{-6} or a hazard quotient of 1. The Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination describes the input parameters used in the probabilistic analysis. In the probabilistic analysis, risk was approximated through repetitive calculation of the fate and transport and exposure equations and models using input parameters randomly selected from the Probability Density Functions (PDFs). The result of the probabilistic analysis is a distribution of the risks or hazards for each of the receptors.

The human health risk assessments that EPA conducted to support the chlorinated aliphatics listing determination included five primary tasks: (1) Establishing that there are constituents in the wastes that are of concern to the Agency and that warrant analysis to determine their risk to human health; (2) establishing a scenario under which contaminants are released from a waste management unit and subsequently are transported in the environment to a human receptor; (3) estimating the concentrations of contaminants to which the receptor might be exposed; (4) quantifying the receptor's exposure to contaminants and the contaminants' toxicity to the receptor; and (5) describing the receptor's predicted risk. The preamble to proposed rule provided a detailed discussion of how EPA completed each of these tasks for the risk assessments conducted to support the chlorinated aliphatics listing determination (see 64 FR 46483).

V. What Changes Were Made to the Proposed Rule?

As a result of comments and additional information provided to the Agency in response to the proposed rule, we made certain modifications to the risk modeling assumptions used in the risk assessment for the proposed rule. Changes made to the risk analysis resulted in changes in our risk assessment results. These changes subsequently caused us to re-evaluate, and in some instances change, our proposed listing determinations. These changes and the consequent scope of today's final action are described below. Detailed reasoning behind these changes and a summary of each of our final listing determinations is provided in Section VI.

A. Listing Determination for Chlorinated Aliphatic Wastewaters

In response to comments and information provided by commenters in response to the proposed rule, the Agency examined the record and reconsidered the risk assessment and proposed listing determination for chlorinated aliphatic wastewaters. Commenters to the proposed rule provided detailed comments on the risk assessment approach used to evaluate the potential risks from the management of chlorinated aliphatic wastewaters in aerated biological treatment tanks. These comments generally fell into one of six topic areas: concern about the waste management scenarios EPA evaluated; concern about the exposure scenarios EPA evaluated; EPA's methods for calculating exposure point concentrations; the way that EPA estimated exposure; EPA's assessment of contaminant toxicity; and EPA's characterization of estimated risks. To fully respond to critical issues raised by commenters, EPA decided to make modifications to some modeling assumptions and data inputs used in the risk assessment for the proposed rule. Modifications were made to fully consider the potential impacts of those issues raised by commenters that the Agency found to have merit. In addition, we evaluated the merits of other suggestions provided by commenters, and found these to be of no importance to the listing determination, or we disagreed with the suggested changes. Specifically, we agreed with commenters who pointed out that the intake rates that we used to calculate exposure to beef should have accounted for the mass of beef that is lost during cooking and post-cooking activities (for example, dripping and volatile losses, bones, excess fat, scraps, and juices). We also adjusted our analysis to reflect the variability of dioxin concentrations in air over an area that would be more consistent with the area of a pasture where cattle graze. In addition we were convinced by commenters that our modeling assumptions should have accounted for the removal of wastewater solids prior to wastewaters entering aerated biological treatment tanks.

After we accounted for these modifications, our adjusted risk assessment results indicated that the management of chlorinated aliphatic wastewaters in aerated biological treatment tanks do not pose substantial risks to human health and the environment. The Agency has concluded that available information provides sufficient basis to determine that chlorinated aliphatic wastewaters should not be listed as hazardous waste. A more detailed discussion of the issues raised by public commenters and the modifications made to our risk assessment results to account for some of these issues is provided in Section VI below.

The final listing determination for chlorinated aliphatic wastewaters is based upon EPA's consideration and review of public comments submitted in response to the proposed listing determination, and other relevant information available to the Agency and in the rulemaking record. The final determination is based on the Agency's evaluation as to whether the waste meets the criteria in 40 CFR 261.11(a)(3) for listing wastes as hazardous. We have assessed and considered the factors contained in these criteria primarily by incorporating them as elements in the revised risk assessment, which is based on the methodology described in the preamble to the proposed rule and subsequent modifications described in this preamble and the support documents in the rulemaking record. EPA bases its final listing determinations on the entire rulemaking record, including applicable sections of the preamble to the proposed rule, analyses and background documents developed for the proposed rule, the Agency's responses to the comments on significant issues raised in the preamble to the proposal, and all other relevant information available to the Agency.

B. Modification of Wastewater Treatment Unit Exemption and Application of Subpart CC Requirements for Tanks Managing Chlorinated Aliphatic Wastewaters

Because we are not finalizing the listing for chlorinated aliphatic wastewaters as proposed, the proposed amendments to regulations for tanks

managing chlorinated aliphatic wastewaters are not necessary and are not being finalized in today's rule. This includes the proposed amendments to the wastewater treatment unit exemption in 40 CFR 264.1 and 265.1, as well as the proposed amendments to the 40 CFR parts 264 and 265 subpart CC requirements for implementing the tank cover requirements and the waste sampling and analysis requirements.

C. Landfill Leachate Derived From Previously Disposed VCM–A Wastewater Treatment Sludges

In the proposal, EPA proposed amending the existing exemption from the definition of hazardous waste (40 CFR 261.4(b)(15)) to include leachate derived from non-hazardous waste landfills that previously accepted newly-listed VCM–A wastewater treatment sludges (K175). The Agency would have temporarily deferred the application of the new waste code to such leachate to avoid disruption of ongoing leachate management activities during a time period in which the Agency would decide how to integrate RCRA and CWA regulations governing the management of landfill leachate.

The Agency proposed the deferral because information available to EPA at the time of the proposal indicated that VCM–A wastewater treatment sludges may have been managed previously in non-hazardous waste landfills. However, information provided by the one generator of this waste in response to the proposed rule, indicates that since 1985 these sludges have not been disposed in a non-hazardous waste landfill. The generator has assured EPA that the VCM–A sludges always have been disposed in subtitle C landfills. Based upon this information, the Agency sees no need to finalize the proposed deferral for landfill leachate at this time.

The Agency is not finalizing (but is deferring a final decision on) the proposed temporary deferral for applying the new K175 waste code to leachate from non-hazardous waste landfills that previously accepted waste that meets the K175 listing description. Should the Agency receive information at a later date indicating that one or more non-hazardous waste landfills did accept this waste prior to the effective date of today's rulemaking, we may re-consider our decision not to finalize the proposed deferral.

VI. What is the Rationale for Today's Final Rule, and What Are EPA's Responses to the Comments?

A. Chlorinated Aliphatic Wastewaters (Other Than Wastewaters From the Production of VCM–A Using Mercuric Chloride Catalyst in an Acetylene-Based Process)

The sections that follow provide a discussion of the comments received by the Agency in response to the EPA's proposal to list chlorinated aliphatic wastewaters as hazardous waste, the Agency's response to these comments, and the impact of the comments on the Agency's evaluation of risk and the final listing determination.

1. Summary of the Agency's Listing Decision for Chlorinated Aliphatic Wastewaters

EPA is issuing a final decision not to list wastewaters from chlorinated aliphatic production processes. The Agency has determined that these wastewaters do not pose substantial risks when managed in aerated biological treatment tanks.

The Agency proposed to list chlorinated aliphatic wastewaters based upon an estimated high-end deterministic risk from dioxin for an adult farmer of 2E–05. As explained in more detail below, as a result of our analysis of information provided by commenters, we determined that it was appropriate to adjust our risk assessment results to account for certain factors not addressed in the risk assessment for the proposed rule. These factors include accounting for cooking and post-cooking losses for beef, assuming a more realistic size of the pasture (or field) supporting cattle that are indirectly exposed to dioxin emissions, and accounting for the potential for solids removal prior to wastewater treatment in aerated biological treatment tanks. After calculating these adjustments to our proposed risk assessment results, EPA found that they would reduce our high end deterministic risk estimate for the adult farmer. Specifically, accounting for cooking and post-cooking losses for beef would modify the risk estimate by a factor of 0.78, and accounting for a more reasonable pasture size would modify the risk estimate by a factor of approximately 0.50, resulting in an overall risk estimate of 7E–06. Accounting for solids removal from the wastewater prior to biological treatment could modify the overall risk estimate by an additional factor of 0.67 to 0.94, that is, could result in a risk estimate as low as 4E–06.

Given the Agency's finding, we are not finalizing the proposed amendment to the existing wastewater treatment unit exemption (40 CFR 264.1(g)(6) and 265.1(c)(10)). In addition, the Agency is not finalizing the proposed requirement that wastewater treatment units used to treat chlorinated aliphatic wastewaters comply with specific RCRA air emissions standards.

Today's decision not to list chlorinated aliphatic wastewaters applies to all chlorinated aliphatic wastewaters, including wastewaters managed in underground injection control units. As explained further below, in the case of chlorinated aliphatic wastewaters managed in surface impoundments, although the wastewaters are not listed hazardous wastes, sludges derived from EDC/VCM process wastewaters and generated in impoundments will meet the scope of the hazardous waste listing for EDC/VCM wastewater treatment sludges after the effective date of today's rule.

2. Response to Major Comments Received on Proposed Rule for Chlorinated Aliphatic Wastewaters

EPA received comments on a number of issues concerning the data and analyses EPA used to arrive at our listing decision for chlorinated aliphatic wastewaters. The most significant comments that we received may be divided generally into six categories: (1) Comments on EPA's waste management assumptions; (2) comments on the exposure scenarios we evaluated in our risk assessment; (3) comments on how we calculated exposure point concentrations in the risk assessment; (4) comments on EPA's exposure assessment; (5) comments on EPA's toxicity assessment for dioxin and chloroform; and (6) comments on how we characterized risks associated with dioxin and chloroform. These comments, and the Agency's responses to these comments, are summarized below. We have developed responses to all of the public comments received in response to the proposed rule. The verbatim comments and our responses to all comments are provided in Response to Public Comments; Final Listing Determination for Chlorinated Aliphatics Industry Wastes in the docket for today's rule.

a. Waste Management Assumptions

The majority of chlorinated aliphatic wastewaters is managed in on-site, tank-based wastewater treatment systems prior to direct discharge of the wastewaters in accordance with facility-specific NPDES permits or discharge to an off-site POTW. As explained in the

preamble to the proposed rule, two chlorinated aliphatic production facilities manage their wastewaters in underground injection control (UIC) wells. In addition, commenters provided information indicating that one facility pipes its chlorinated aliphatic wastewaters off-site for treatment in a wastewater treatment system that includes biological treatment in surface impoundments.

i. Why Did EPA Only Evaluate Air Releases From Tanks?

One commenter asserted that EPA did not consider releases from tanks other than air emissions from treatment tanks managing chlorinated aliphatics wastewaters. As the commenter pointed out, EPA assumed that the wastewater treatment system tanks are of sufficient integrity to prevent releases and that the tanks are equipped with overflow and spill controls that will prevent non-air releases of wastewaters, even though (as the commenter also points out) no overflow and spill controls are required for nonhazardous storage waste tanks, including tanks that manage wastewaters subsequently discharged either to Publicly Owned Treatment Works (POTWs) or surface waters. The commenter states that EPA's failure to consider non-air releases from wastewater treatment system tanks, which in the commenter's opinion are plausible mismanagement scenarios, violates EPA's criteria for listing determinations, which requires an assessment of ''plausible types of improper management.''

When EPA set out to assess risks from managing wastewaters in tank-based systems, we chose to model only air emissions because we determined that this was the greatest potential pathway of exposure for constituents from the tank systems (therefore causing the greatest potential risk), particularly since we knew from the RCRA Section 3007 Survey responses that the industry uses aerated biological treatment tanks, many of which are uncovered, or open to the atmosphere. In addition, survey responses indicated that the tanks are positioned aboveground and a majority of them are equipped with secondary containment. Therefore, EPA determined that any leaks or catastrophic releases from such tanks would be detected relatively quickly and corrective measures likely would be implemented prior to a release of significant quantity. In addition, these types of releases, if they were to occur, are not predictable or routine but rather would be the result of inordinate events or accidents such as upset conditions or catastrophic failures, which the Agency presumes would not be routine, frequent or plausible (mis)management. In sum, we continue to believe that air emissions from aerated biological treatment tanks is the predominate exposure pathway and that risks resulting from this pathway are significantly greater than any risk that may periodically arise from spills or leaks.

ii. Why Did EPA Not Evaluate Storage of Wastewater?

One commenter stated that EPA did not consider other air emissions from the storage of chlorinated aliphatic wastewaters prior to placing these materials in tanks. The commenter said that such analysis is not needed if EPA finalizes a ''standard'' listing mechanism for K173, but that EPA must undertake such an analysis if a concentration-based listing is adopted. EPA assumes that the commenter is describing wastewaters managed in tanks between the point the wastewater is first generated until it reaches the headworks of the wastewater treatment facility. (This is because under the proposed listing options, wastewater would not be tested to determine whether it exceeds the 1 ng/L dioxin trigger until it enters the first tank in the wastewater treatment system.) Although EPA is not finalizing the proposed chlorinated aliphatic wastewater listing in today's rule, we note that the RCRA Section 3007 questionnaire results indicate that only a few facilities manage wastewaters in tanks that are not a part of the wastewater treatment train. In all cases where a facility indicated having wastewater storage tanks that are not part of the wastewater treatment system the facility indicated that the tanks are covered. The fact that such tanks are covered would limit the potential for air releases. In our risk assessment, we chose to analyze air emissions from wastewater treatment tanks because, based upon information provided to the Agency in facility responses to the RCRA Section 3007 questionnaire, such tanks may be used to manage relatively large quantities of chlorinated aliphatic wastewaters, and often are not covered and are aerated. In view of our revised risk estimate for potential releases from these tanks, any potential risks from the covered, upstream tanks would not be substantial.

b. Exposure Scenarios Evaluated in EPA's Risk Assessment

EPA received comments from a number of parties that challenged EPA's basic methodology for establishing the exposure scenarios evaluated in the chlorinated aliphatic wastewater risk analyses. The commenters believed that EPA should have used a site (or facility)-specific approach for conducting the risk assessments. The commenters raised general concerns regarding EPA's approach, and also challenged specific aspects of EPA's analysis. These two issues are discussed separately below.

i. Evaluating Site-Specific Exposure Scenarios—General Comments

Commenters on the proposed rule stated that EPA should have used a site-specific approach to assessing risks from management of chlorinated aliphatic wastewaters, and presented general arguments why EPA should adopt a site-specific approach. Specifically, the commenters believed that EPA should have conducted the chlorinated aliphatics risk assessments using an approach similar to that used in the final combustion Maximum Achievable Control Technology (MACT) rulemaking under the Clean Air Act. For that rulemaking, EPA used facility-specific data in determining risks (64 FR 52828, September 30, 1999). The commenters contended that as a result of the public and peer review comments received on the risk assessment in the proposed combustion MACT, EPA modified its risk analysis to focus on the entire population of persons that are exposed to facility emissions rather than persons living on a few individual farms and residences. Some commenters recommended that EPA adopt a regulatory approach allowing generators themselves to determine the site-specific risk (using site-specific distances to the nearest receptor, wastewater concentrations, etc.) and subsequently the regulatory status of the wastes addressed under EPA's proposed rule.

Similarly, some commenters expressed general concern over EPA's use of ''assumptions,'' rather than site-specific data, in the risk assessment. The commenters believe that if EPA were challenged with evaluating hundreds of scenarios across the entire nation, then the use of assumptions from statistical sampling of databases or best judgment could be better understood. However, with the limited number of facilities and waste management units involved in this proposed rule making (23), the commenters believe that EPA could have spent more time gathering real, site-specific data to reduce the uncertainty in risk modeling. The commenters pointed to the limited set of waste sample data, the lack of site-specific information regarding waste

management units for the chlorinated aliphatics industry, and the regional databases used to obtain the parameter values necessary to model containment fate and transport as data elements that should have been more site-specific.

EPA acknowledges that we did not conduct site-specific risk assessments to support the chlorinated aliphatics wastewater listing determination, but rather evaluated plausible exposure scenarios that are based on a combination of national data, regional data, and data collected from the facilities themselves. In some cases we believe that only one specific management practice is plausible, and existing locations for that practice are not likely to change. For example, certain economic or natural resource factors may restrict the nature of wastes in terms of their constituent concentrations, their quantities, or the ways in which the wastes are managed. This generally is not the case for the chlorinated aliphatic chemicals production industry. EPA described the continued and projected growth of the chlorinated aliphatic chemicals industry in the Economics Background Document for the proposed rule, and documented evidence of the industry's historically dynamic nature (USEPA, 1999b).[4] Nevertheless, there is considerable uncertainty in predicting a relationship between industry growth and waste generation and management. We cannot foresee the effects that potential (and possibly simultaneous) changes in technology, facility expansion practices (that is, increasing production capacity at existing facilities versus building new facilities), and waste minimization activities may have on waste generation and management. We also cannot predict whether there will be an increase in global marketshare of off-shore (non-U.S.) chlorinated aliphatic chemical production. Consequently, we based our evaluation on general information describing current chlorinated aliphatic waste management and exposure scenarios. This is not to say we based the modeling entirely on assumptions or hypothetical values. Rather, we used the combination of site-specific information, and other types of information that we thought would effectively capture what we expected would remain relatively consistent for one industry while accounting for likely future variability. For example, we surveyed the potentially affected facilities to identify existing waste management practices, and then assumed that those same management practices will continue to be used by the industry in the future. Additionally, we identified the location of chlorinated aliphatics facilities, and assumed that in the future, facilities might locate in the same general geographic regions (for example, regions with the same meteorological conditions), and in areas with the same general land use patterns (for example, agricultural areas). Similarly, we assumed that, although the exact numbers and locations of facilities may change, the quantities of the wastes, as well as the types and concentrations of contaminants in the wastes, will be generally the same over the near to long term. Again, the specific mix of site-specific and more general information will vary from one listing rule to another and potentially from one waste to another within a given rulemaking, depending on how dynamic EPA expects future waste management practices to be.

By evaluating the data using the probabilistic and two-high end deterministic approaches discussed in the preamble to the proposed rule (64 FR 46483), EPA endeavors to avoid regulating wastes based on exposure scenarios that are unrealistic (that is, based on too many protective [high end] assumptions). However, in the case of the chlorinated aliphatics industry, we did not feel our information justified an assumption that there would always exist exactly 23 chlorinated aliphatics facilities at 23 specific locations that continue to generate the same quantities of wastewaters, with the same types and concentrations of contaminants, that are managed in aerated biological wastewater treatment tanks under a static set of operating conditions. Historically, EPA's policy under the listing program has been to conduct national-scale evaluations that consider the general characteristics of the wastes under review, and allow facilities to petition the Agency to have their wastes ''delisted'' if they believe that the wastes do not meet the criteria for hazardous waste listing.

EPA also notes that, in view of the Congressional mandate to make final listing determinations on seventeen waste categories in fifteen months, Congress does not appear to have anticipated that each of these listings efforts would involve a detailed, facility-by-facility analysis (RCRA 3001(e)).

ii. Evaluating Site-Specific Exposure Scenarios—Specific Comments

Commenters on the proposed rule raised objections to three specific aspects of the exposure scenarios on which EPA's risk assessments for wastewaters are based. The following discussion describes those comments and EPA's response.

A number of commenters noted that EPA's high end human health risk analyses are based on dioxin exposures to farmers who live at the same location within 300 meters (0.18 miles) of a chlorinated aliphatics facility for 48.3 years or more, who raise fruits, exposed vegetables, root vegetables, beef cattle, and dairy cattle within this 0.18 mile range, and whose diet consists of approximately 42 percent home-grown exposed vegetables, 17 percent home-grown root vegetables, 33 percent home-grown fruits, 49 percent home-produced beef, and 25 percent home-produced dairy.[5] Some commenters questioned why their operations would be regulated under EPA's proposed rule, contending that it does not make sense to regulate a waste stream or to require controls and expenditures to protect a type of individual that will not be present. Many of the commenters claimed that they were not aware of any farmers living within 0.18 miles of a chlorinated aliphatics facility that met all these criteria, and found it difficult to believe that such a farmer would grow fruit trees and vegetables, and raise beef and dairy cattle, all on the same plot of land. Moreover, the commenters maintained that in the south Texas area where several EDC/VCM manufacturing facilities are located, dairy cattle production is non-existent due to the climate. One commenter that represents facilities in Louisiana stated that of the nine companies that they represent, only at two facilities is there farmland within 300 meters of the facility boundary (not 300 meters from the wastewater treatment tanks). The commenters stated that beef cattle are raised on one of the two farms, and that beef cattle and sugar cane are raised on the other farm.

[4] USEPA. 1999b. Economics Background Document, Proposal by the USEPA To List Wastewaters and Wastewater Sludges from Chlorinated Aliphatic Chemical Manufacturing Plants, as RCRA Hazardous Wastecodes K173, K174, K175: Industry Profile and Estimation of Industry Regulatory Compliance Costs. Office of Solid Waste. 30 July.

[5] The public comments suggest that the commenters believe that EPA assumed that the farmer consumes 42 percent of the exposed vegetables, 17 percent of the root vegetables, 33 percent of the fruits, 49 percent of the beef, and 25 percent of the dairy products that the farmer grows. EPA assumes that the commenters meant to take issue with the EPA's assumption that 42 percent of the exposed vegetables, 17 percent of the root vegetables, 33 percent of the fruits, 49 percent of the beef, and 25 percent of the dairy products that the farmer consumes are home-produced (i.e., the rest of the farmer's diet would be obtained from other sources, such as a grocery store).

In response, EPA notes that exposure duration was one of the two high end parameters in our proposed high end dioxin risk estimate for the farmer, and that the value of 48.3 years is the 90th percentile exposure duration for households in the ''farm'' housing category as presented in Table 15–164 of the Exposure Factors Handbook (USEPA, 1997 [6]). Moreover, the information provided in the public comments confirms that an exposure scenario in which a farmer raises beef cattle on a farm located within 300 meters of a chlorinated aliphatics facility (and presumably a wastewater treatment tank located near the facility boundary) is plausible. Although the commenters clearly disagree that a farmer also might produce fruits and vegetables on this farm, these concerns are unwarranted. Table 5–3 of the Risk Assessment Technical Background Document (USEPA, 1999a) [7] shows that for the adult farmer, 99.3 percent of the high end risk from chlorinated aliphatic wastewaters was due to ingestion of beef and dairy products and only 0.7 percent was due to ingestion of home grown fruits and vegetables. As a result, even though EPA believes it is plausible that a subsistence or hobby farmer would raise fruits and vegetables for home consumption, the validity of EPA's risk estimate depends almost entirely on the validity of our assumption that a farmer might consume both beef and dairy products from cattle raised on a farm located in the vicinity of a chlorinated aliphatics production facility. To evaluate the commenters' concerns regarding dairy cattle production in the vicinity of chlorinated aliphatics facilities, EPA referred to public data on agricultural production in the regions surrounding chlorinated aliphatics production facilities that are available from the Agricultural Census of the United States (see reference for *http://govinfo.library.orst.edu* that is included in the docket for the proposed rule). The census data demonstrate that, in fact, of the 23 chlorinated aliphatic facilities that manage wastewaters, 21 facilities, including all of the facilities in the south Texas area, are located in counties where dairy cattle were reported to have been raised in 1997 (all of the facilities are located in counties where beef cattle were reported to have been raised in 1997). EPA believes that an individual who raises cattle to support a subsistence lifestyle might reasonably consume both dairy and beef products from his/her cattle.

Some commenters also challenged EPA's assumptions regarding the percentages of beef and dairy products consumed by the farmer that are home produced (that is, assumed to be from a contaminated source). Specifically, EPA assumed that 25.4 percent of the dairy products a farmer consumes are home produced, and that 48.5 percent of the beef products a farmer consumes are home-produced. The commenters asserted that the percentages EPA used apply to a relatively small fraction of the surveyed population who farm, and as such are overly conservative by a factor of 21.2 for dairy,[8] and a factor of 12.7 for beef,[9] if applied to the general population (USEPA, 1997). The commenters held the opinion that the percentages used by EPA overstate the upper end homegrown beef and dairy consumption markedly. However, one of the same commenters acknowledged that the commenter was unable to confirm alternate values that EPA should have used for percentage of beef and dairy consumed by the farmer that is home grown. One peer reviewer asked where EPA obtained the values for the percentages of food eaten by the farmer (EPA provided the source of the values in the preamble to the proposed rule), but did not indicate whether he believed the percentages were right or wrong.

EPA's estimates of the portion (percentage or fraction) of a farmer's diet that is home-produced are presented in EPA's Exposure Factors Handbook (USEPA, 1997), and are based on the U.S. Department of Agriculture's 1987–1988 Nationwide Food Consumption Survey (NFCS).[10] We did not use the percentages that reflect the consumption of home-produced foods by the general population in our risk assessment, as suggested by the commenters, because EPA's objective was to evaluate risks to farmers, not members of the general population, who consume home-produced food items. As one would expect, the data in the Exposure Factors Handbook indicate that farm households consume more home-produced foods than do households in the general population. The percentages that correspond to the general population would be applied more appropriately to an evaluation of residential receptors.

One commenter claimed that in EPA's Combustion MACT rulemaking, EPA indicated that according to USDA information, only 40% of farmers who raise beef eat their own beef (64 FR 52998), and that the percentage of dairy farmers who consume home grown dairy products is only 40% in the Northeast, 20% in the Midwest, lower elsewhere in the country, and averages only 13% nationally (64 FR 52998). The commenter also noted that in the Combustion MACT rulemaking, EPA acknowledged that information on the number of farms that produce more than one food commodity (for example, beef and milk) is not available from the U.S. Census of Agriculture (64 FR 52828, see 53005–53006), and that in determining the risk to commercial farmers under the Combustion MACT rule, EPA stated: ''only the primary food commodity produced on the farm was assumed to be consumed by farm households (64 FR 52998).

It appears that the commenter somewhat misrepresented the data from the final MACT rule. Specifically, the **Federal Register** notice to which the commenter refers is very clear that while ''[o]nly the primary food commodity produced on the farm was assumed to be consumed by farm households,'' ''[a] wide variety of foods was assumed to be produced and consumed by households engaged in subsistence farming'' (64 FR 52999). In fact, under the subsistence farmer scenario evaluated for the MACT rulemaking, EPA assumed that 100 percent of the food that the farmer consumes is home-produced. This assumption clearly results in greater exposure than the assumptions used in EPA's analysis of the farmer scenario in the chlorinated aliphatics analysis. Moreover, the commenter misinterpreted data presented in the MACT rulemaking that describe the percentages of households that consume beef and dairy products in various parts of the country. The **Federal Register** notice to which the commenters refers states:

In particular, we re-analyzed data collected by USDA to estimate consumption of home-produced foods, such as meat, milk, poultry, fish, and eggs. Over half of farm households report consuming home-produced meats, including nearly 40 percent that report

[6] U.S. EPA. 1997. Exposure Factors Handbook, Volumes I, II, and III. EPA/600/P–95/002Fa, b, c. Office of Research and Development, Washington, D.C., August.

[7] U.S. EPA. 1999a. Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination. Office of Solid Waste. July.

[8] The proportion of home-produced dairy consumed by ''households who farm'' (0.254) divided by the proportion of home-produced dairy consumed by persons in the general population (0.012).

[9] The proportion of home-produced beef consumed by ''households who farm'' (0.485) divided by the proportion of home-produced beef consumed by persons in the general population (0.038).

[10] The 1987–1988 NFCS data on intake of home-produced foods are included for use in the recent (1997) Exposure Factors Handbook (U.S.EPA, 1997), which has been reviewed by EPA's Science Advisory Board (SAB) as well as numerous other external reviewers.

consumption of home-produced beef. In the Northeast, nearly 40 percent of farm households report consuming home-produced dairy products, and in the Midwest, nearly 20 percent do. The percentage is lower elsewhere, averaging about 13 percent nationally.

The data cited by EPA pertains to the number of all farm households that consume home-produced beef and dairy products. The commenters incorrectly assumed that the data applied specifically to households engaged in raising beef cattle and households engaged in raising dairy cows, respectively. EPA expects that the consumption of home-produced beef and dairy products would be much greater for households engaged in production of these commodities compared to the consumption for all farm households.

c. Calculation of Contaminant Concentrations at the Point of Human Exposure (Contaminant Fate and Transport Modeling)

EPA received comments questioning the way that we estimated emissions from aerated biological wastewater treatment tanks, and the way that we estimated the concentrations of dioxins in beef and dairy products. These comments included concerns about how CHEMDAT8 evaluates dioxins that are sorbed onto solids in wastewaters, and about how EPA estimated the amount of solids influent to aerated biological wastewater treatment tanks. Commenters also took issue with the Agency's assumptions about the diet of dairy and beef cattle and the productivity of the modeled farm. Each of these assumptions significantly affects our calculation of contaminant concentrations to which human receptors are exposed.

i. EPA Did Not Correctly Consider Sorption of Dioxin Onto Solids and Solids Removal From Wastewater

To evaluate the human health risks posed by dioxins in chlorinated aliphatic wastewaters, EPA modeled air emissions from aerated biological wastewater treatment tanks. We conducted the emissions modeling assuming that the concentrations of dioxins in wastewaters flowing to aerated biological treatment tanks were equivalent to the concentrations of dioxins in certain wastewater samples we collected. For the proposal, we constrained (''capped'') the influent concentrations of four congeners in the wastewaters at their aqueous solubility concentrations to account for the fact that dioxins are strongly hydrophobic and are expected to be sorbed to solids preferentially in the wastewater influent, thus are unlikely to exist in the dissolved phase in excess of their solubility limits.

Commenters on the proposed rule expressed a number of concerns regarding the way that EPA evaluated the solids fraction of chlorinated aliphatics wastewaters. The commenters' primary concern was that EPA did not appropriately consider that most dioxins in chlorinated aliphatics facility wastewaters will be sorbed onto solids in the wastewaters even when the dioxin congener concentrations in wastewaters are less than their solubility limits. Certain commenters contended that in EDC/VCM production facilities that use fluidized bed oxychlorination processes, attrited catalyst fines (small particles that are 1 to 20 micrometers in size) that exit the facility process via the wastewater treatment system have very high surface area (approximately > 50 m2/g) and thus strongly sorb dioxins that are present in the wastewaters. The commenters asserted that EPA failed to account for the fact that almost all of the dioxins in wastewaters are sorbed to solids and are removed in primary clarifiers prior to aeration. Moreover, the commenters believed that EPA's model for estimating emissions from wastewater treatment tanks (CHEMDAT8) does not correctly model sorption. One commenter stated that CHEMDAT8 takes into account adsorption onto biomass solids, but claimed that CHEMDAT8 does not adequately address the fact that most dioxin is already sorbed onto solids (and not available for volatilization) when it enters an aerated tank. Commenters submitted various analyses and data to substantiate their claims, and contended that EPA had overestimated the concentration of dioxins available for volatilization by at least an order of magnitude.

Although EPA agrees that the primary removal mechanism of dioxins in wastewater treatment tanks will be through the sorption of dioxins onto solids (see p. 3–2 of EPA's 1999 Risk Assessment Technical Background Document, USEPA 1999a), EPA does not agree with the commenters' concerns that CHEMDAT8 fails to correctly account for sorption. CHEMDAT8 does in fact model sorption as a reversible, linear, equilibrium partitioning process, the same process that the commenters believed should be considered to account for the sorption of dioxins onto solids in wastewater. CHEMDAT8 is designed to evaluate the contaminant loss rates for the competing removal mechanisms of volatilization, biodegradation, sorption and hydrolysis based on the total contaminant load influent to the system (whether associated with the dissolved or solid phase). The contaminant loss rate due to sorption is based on the equilibrium solids partitioning coefficient and the rate at which solids enter or are generated within the system. Thus, in estimating the amount of solids available to sorb dioxins, CHEMDAT8 considers total suspended solids (TSS) in the influent stream as well as new biomass growth. It does not matter how dioxin is partitioned onto solids when the wastewater enters the tank, because the model repartitions the dioxins inside the tank according to the model's equilibrium partitioning relationship and the relative rates of the competing removal mechanisms. Consequently, in our analyses we evaluated the total contaminant load in the tank influent, regardless of whether the contaminants were associated with the dissolved or solid phase. In cases where solids are present in the influent, limiting a CHEMDAT8 analysis to dissolved phase wastewater influent concentrations might seriously under-represent the total contaminant load to the tank and result in greatly underestimating emissions, especially for sorptive chemicals like dioxins. Because CHEMDAT8 considers partitioning and removal by sorption within the tank, limiting the mass of dioxin influent to the system (by limiting the influent concentration to the dissolved phase concentration) may result in greatly underestimating emissions because only the contaminant mass in the dissolved phase would be partitioned in the tank, rather than the total contaminant mass associated with the influent's dissolved plus solid wastewater phases.

In contrast, EPA agrees with the commenters concerns that we failed to accurately account for the fact that in aerated biological wastewater treatment systems, at least some solids removal generally will occur between the headworks of the wastewater treatment system and the influent to an aerated biological treatment tank (we addressed risks from the management of solids separately in this listing determination). In the preamble to the proposed rule, EPA specifically stated that we selected wastewater data for evaluation that we believed represented the concentrations of contaminants in wastewaters at the influent (headworks) of treatment systems that are used to manage only wastewaters from the production of chlorinated aliphatic chemicals (''dedicated'' chlorinated aliphatics wastewater samples; 64 FR 46483). In

retrospect, our assumption that the same data that represent contaminant concentrations at the headworks of wastewater treatment systems could represent contaminant concentrations at the influent to aerated biological wastewater treatment tanks was somewhat flawed. The Agency reviewed information previously provided to us in industry survey responses and determined that of the eleven facilities that employ aerated biological processes to treat their wastewaters, nine employ primary clarification or other processes that have the effect of removing solids from wastewaters prior to their discharge to aerated biological treatment tanks. (One of these nine facilities is the facility from which we collected the ''high end'' wastewater sample used in the risk analysis that served as the basis for our proposed listing decision.) The remaining two facilities perform wastewater equalization in tanks prior to aerated biological treatment. One of these two facilities also employs wastewater pH adjustment with resultant precipitation of metal hydroxides prior to aerated biological treatment. Both of these processes are expected to result in at least some solids removal from the wastestream. Moreover, EPA does not anticipate that treatment of the wastewaters in units such as primary clarifiers and equalization basins would result in dioxin air emissions greater than those that we originally predicted from aerated biological treatment tanks, because primary clarifiers are, by design, quiescent units (Metcalf and Eddy, 1991,[11] p. 472), and we have no information that leads us to believe that the equalization tanks in use by the facilities are agitated.

To model the aerated biological treatment tanks correctly, that is, to determine what the appropriate influent concentration to the biological treatment tank should be, would have required that EPA model the wastewater treatment train from the point where wastewater enters the headworks of the treatment system to the point where the wastewater enters the aerated biological tank. Metcalf and Eddy (1991, p. 473) state that ''efficiently designed and operated primary sedimentation tanks should remove from 50 to 70 percent of the suspended solids * * * '' from wastewater. Assuming this level of solids removal from chlorinated aliphatics wastewaters prior to biological treatment we estimate that the high end deterministic risk estimate for the adult farmer reported in the proposal would be reduced by a factor ranging from approximately 0.67 (70 percent removal of solids) to 0.94 (50 percent removal of solids) (USEPA, 2000b).[12] A complete description of our analysis is provided in the Addendum to the 1999 Risk Assessment Technical Background Document (USEPA, 2000).

ii. EPA Incorrectly Evaluated the Contribution of Feed to Dioxin Levels in Dairy and Beef

To support the chlorinated aliphatics wastewater listing determination we estimated risks to a farmer who ingests beef and dairy products derived from cattle raised on a farmer's pastureland. EPA assumed that the beef and dairy cattle consume home-grown forage, grain, and silage, and incidentally ingest pasture soil. We assumed that beef cattle consume different quantities of the various food items (and pasture soil) than do dairy cattle. We also assumed that 100% of the cattle's feed is contaminated by releases from the wastes we evaluated, that is, that cattle are not provided feed from other (uncontaminated) sources.

The commenters believed that EPA should have considered that a cow's consumption of various food sources varies according to the animal's life stage and intended use. The commenters contended that these considerations influence both a cow's exposure and the potential translocation of dioxin to meat or milk. As an example, the commenters pointed out that beef cattle may be raised for part of their lives on pasture, but typically are raised on grain prior to slaughter. The commenters noted that, for instance, the beef cow nurses and pastures for approximately 180 days, pastures exclusively for 55 days, and subsists on a grain only diet for the final 130 days of its life (Stevens and Gerbec, 1988). The commenters asserted that EPA's risk assessment should have considered contaminant losses from a beef cow's tissue in the time period between the cow's consumption of contaminated feed and the cow's slaughter. The commenters also presented alternate information that they said could be considered in EPA's evaluation of risk. First, EPA assumed that dairy cattle consume 13.2 kg/day of forage, 4.1 kg/day of silage, 3 kg/day of grain, and 0.4 kg/day of soil, based on data cited by Rice (1994)[13]. In contrast, the commenters presented data from Stevens and Gerbec (1988)[14] who reported dairy cattle consumption rates of 6.8 kg/day of forage, 16.3 kg/day of silage, 4.5 kg/day of grain, and 0.14 kg/day of soil. Second, EPA assumed that beef cattle consume 8.8 kg/day of forage, 2.5 kg/day of silage, 0.47 kg/day of grain, and 0.5 kg/day of soil (Rice, 1994). The commenters contended that during the nursing phase the beef cow receives practically all of its daily dioxin dose through the mother's milk and this dose has been (and could be) calculated for nursing cattle (Stevens and Gerbec, 1988). The commenters continued that EPA should assume that during the pasture phase of its life the beef cow consumes 13.6 kg/day of feed: 10.2 kg/day of forage, 3.4 kg of silage, and 0.05 kg/day of soil. The commenters argued that during the cow's fattening stage of growth prior to its slaughter, during which the beef cow gains as much as 60 to 70% of its body weight, the cow's diet consists entirely of grain. The commenters suggested that EPA needs to take into account the impact of this body weight gain and consider how dioxin half-life influences the concentration of dioxin residuals in the meat.

The commenters also asserted that EPA's assumption that all of a cow's feed is contaminated seemed unrealistic. The commenters believed that such an assumption implies that a farm not only has both a dairy and beef cattle operation, but raises grain and silage (in addition to crops for human consumption) while still maintaining enough pasture to graze the animals. They noted that the same issue was raised by the peer reviewers who found some of the assumptions on productivity of the theoretical farmer unrealistically high and suggested that productivity necessary to maintain such a farm be researched and used to adjust EPA's assumptions accordingly. The commenters reasoned that since grain and silage often are purchased elsewhere, it would be more appropriate to assume that less than 100% of the cattle's feed is contaminated. They believed that fixing the percentage of contaminated feed consumed by the cattle at 100% is not a central tendency assumption, and fails to reflect the lack of certainty in this parameter. Therefore, they recommended that EPA assume

[11] Metcalf & Eddy, Inc. 1991. Wastewater Engineering: Treatment, Disposal, and Reuse. Revised by G. Tchobanoglous and F. Burton. Irwin McGraw-Hill, Boston. 1334 pp.

[12] 12 U.S. EPA. 2000b. Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination, Addendum. Office of Solid Waste. September.

[13] Rice, G. 1994. Quantity of Plants and Soil Consumed by Animal. Draft Working Papers. Office of Research and Development. U.S. Environmental Protection Agency, Washington D.C.

[14] Stevens, J.B. and Gerbec, E.N. 1988. Dioxin in the agricultural food chain. Risk Analysis. 8(3):329–335.

that only 50% of the feed is contaminated in the deterministic assessment, and that a uniform distribution of values be adopted for the Monte Carlo assessment, with percentages ranging from 0 to 100 percent.

To understand EPA's response to these comments, it is important to recall two pieces of information presented in EPA's Risk Assessment Technical Background Document for the proposed rule. First, as discussed previously in Section VI.A.2.b.ii, the risks that EPA estimated for the farmer are due almost exclusively to the farmer's ingestion of beef and dairy products (Table 5–3; USEPA, 1999a). Second, the dioxins in the beef and dairy products result almost entirely from the cattle's consumption of forage that is contaminated by air emissions from the modeled wastewater treatment tank—negligible levels of dioxins are contributed to cattle as a result of the cattle's ingestion of grain, silage, or soil (Appendix H.1, Table H.1–1a; USEPA, 1999a). Consequently, all that is required for the adult farmer to realize the risk that EPA presented in the proposed rule is that the farmer consume beef and dairy products derived from cattle that consume forage from the farmer's pastureland/field. That is, it is not necessary that the farmer consume home-grown fruits and vegetables, or that the farmer produce grain or silage for use as cattle feed. Therefore, in responding to the concerns of the commenters, EPA focused primarily on the technical validity and plausibility of our assumptions regarding the (1) consumption rates of forage by beef and dairy cattle and (2) the percentage of the forage that cattle consume that is contaminated.

EPA disagrees with the commenters' alternate recommendations regarding animal feeding practices. Although the feeding practices that the commenters describe, particularly those for beef cattle, may be applicable to commercial farming operations, EPA does not believe that such practices apply to hobby or subsistence farming. As noted by Rice (1994), a subsistence farmer will tend to feed his/her cattle an ''unsupplemented'' diet, meaning that the cattle will primarily feed on forage (because the cattle are permitted to graze more in the pasture), and will not be fattened at a feedlot prior to slaughter. Rice (1994) explains that in the southern part of the country (where most of the chlorinated aliphatics facilities are located), cattle will consume pasture as their major source of roughage the entire year (except in drought). Consequently, we believe that our assumptions regarding cattle ingestion of forage under a subsistence/hobby farming scenario are reasonable. We used the assumptions presented by Rice (1994) in other rulemakings [15] and have recommended that these assumptions be used in estimating risks under other hazardous waste programs (USEPA, 1998 [16]). Furthermore, the feed ingestion rate for dairy cows presented by the commenters is an average ingestion rate for a dairy cow in Minnesota (Stevens and Gerbec, 1988). In contrast, EPA's data for the intake rates of forage, grain, and silage for dairy cows are based either on data from the South Carolina-Georgia region (see Boone et al., 1981 [17]) or on more general data (Shor and Fields, 1980; [18] NAS, 1987; [19] and Boone et al., 1981). Chlorinated aliphatics facilities are located primarily in Texas and Louisiana, which we believe are probably more similar to South Carolina-Georgia than Minnesota in terms of cattle feeding practices.

With regard to EPA's assumptions for the percent of the cattle's feed derived from a contaminated source, EPA believes that it is appropriate to assume that a hobby or subsistence farmer is not supplying forage to his/her cattle from an outside source, such that 100 percent of the forage that the cattle consumes will be from the farmer's pasture or field (in our risk assessment, a contaminated source). This assumption is consistent with the assumptions made for both the subsistence and commercial farmers in the combustion MACT final rulemaking, as well as other EPA rulemakings and guidance.[20] However, in response to the commenters' concerns, we reviewed our methodology for estimating the concentrations of dioxins in forage to ensure that we were adequately considering the size of the contaminated source versus its expected productivity. In the proposed rule we explained that in evaluating the air pathway we always assume that the cattle are located along the centerline of the area most greatly impacted by air releases from the waste management units (64 FR 46486). We said that the air concentrations within about a 100-meter lateral distance from this point do not vary appreciably, and stated specifically in our Risk Assessment Technical Background Document (Addendum; USEPA, 1999a) that the concentrations vary about 20% within 200 meters of the point of maximum concentration. In the course of our reevaluation of these data in response to public comments, we concluded that we should have considered how the concentrations of dioxins in air, therefore in forage, vary over a wider aerial extent that would be more consistent with the area of a pasture. We concluded that a more reasonable approach would be to consider that the size of the pasture that is used to support the cattle is approximately 275 meters by 275 meters (75,625m^2, approximately 19 acres). We believe a field of this size would be large enough to support sufficient cattle to sustain the family of a subsistence farmer (USEPA, 2000b). We used the results of the air modeling we conducted for the proposed rulemaking to determine the approximate difference between the air concentration that we used to calculate the proposed risk estimate (the air concentration corresponding to a point located 300m from the modeled wastewater treatment tank) and the average air concentration at a 75,625m^2 field located 300m from the modeled wastewater treatment tank. In fact, EPA determined that more reasonably considering the area that is affected by the emissions from the modeled wastewater treatment tank would reduce the risk estimate on which our proposed rule was based, modifying the risk estimate (2×10^{-5}) by a factor of 0.50 (USEPA, 2000b).

[15] We used the assumptions of Rice (1994) in the risk assessment to support the final combustion MACT Rulemaking (64 FR 52828, September 30, 1999). In addition, we used some of the same assumptions in the Proposed HWIR Rule (November 19, 1999 **Federal Register**; 64 FR 63382) and the Petroleum Refining Residuals Final Listing (August 6, 1998 **Federal Register**; 63 FR 42210).

[16] USEPA. 1998. Human Health Risk Assessment Protocol for Hazardous Waste Combustion Facilities. Peer Review Draft. Office of Solid Waste and Emergency Response. EPA530–D–98–001A. July.

[17] Boone, F.W., Y.C. Ng, and J.M. Palms. 1981. Terrestrial Pathways of Radionuclide Particulates. Health Physics, vol 41, no. 5, pp. 735–747. November.

[18] Shor, R.W. and D.E. Fields. 1980. ''Agricultural Factors Affecting the Radionuclide Foodchain Pathway: Green Forage Consumption of Dairy Cows.'' Health Physics. vol. 39, pp. 325–332.

[19] NAS. 1987. Predicting Feed Intake of Food-Producing Animals. National Research Council, Committee on Animal Nutrition. National Academy Press, Washington, D.C.

[20] For example:

USEPA. 1998. Human Health Risk Assessment Protocol for Hazardous Waste Combustion Facilities. Peer Review Draft. Office of Solid Waste and Emergency Response. EPA530–D–98–001A. July.

USEPA. 1998. Methodology for Assessing Health Risks Associated with Multiple Pathways of Exposure to Combustor Emissions. National Center for Environmental Assessment. EPA600/R–98/137.

Proposed HWIR Rule (November 19, 1999 **Federal Register**; 64 FR 63382)

Final Petroleum Listing Rule (August 6, 1998 **Federal Register**; 63 FR 42210)

d. Exposure Assessment—Cooking and Post-cooking Food Losses

Commenters contended that the equations in the risk assessment used to characterize exposure to chemicals from the consumption of beef do not appear to account for loss of chemicals due to food preparation, cooking, and consumption practices. The commenters pointed out that The Exposure Factors Handbook (''the Handbook;'' USEPA, 1997; referenced in the preamble to the proposed rule) recommends that these losses be considered, and provides estimates for percent weight losses from preparation of various meats from cooking and post cooking actions. Beef-specific loss estimates range from 11%–42% (mean = 27%) due to cooking and 10%–46% (mean = 24%) due to post cooking actions. Therefore, the cancer risk estimates associated with the beef ingestion pathway should be adjusted by a factor of 0.55 (0.73×0.76).[21]

EPA agrees that the intake rates that we used for the adult farmer (and certain child of farmer age cohorts) should have incorporated loss of beef due to cooking and post-cooking activities. The Handbook explains that the intake rates it provides for home-produced food items do not reflect actual food consumption (intake), but instead were derived from the amount of household food consumption in an economic sense, that is, they are the measure of the weight of food brought into the household that has been consumed (used up) in some manner. The Handbook explains that in addition to food being consumed by individuals, food may be used up by spoiling, by being discarded (for example, inedible parts), through cooking processes, etc. The Handbook provides estimated preparation losses for beef that include cooking losses (which include dripping and volatile losses) and post-cooking losses (which include cutting, bones, excess fat, scraps, and juices.) The authors of the Handbook averaged these losses across all cuts and cooking methods to obtain a mean net cooking loss and a mean net post-cooking loss for beef. The Handbook explains that the preparation loss factors presented ''are intended to convert intake rates based on 'household consumption' to rates reflective of what individuals actually consume. However, these factors do not include losses to spoilage, feeding to pets, food thrown away, etc.'' EPA acknowledges that considering the mean cooking and post-cooking losses for beef (45%) as presented by the commenters would result in reducing the risk estimate, modifying the total (beef plus dairy, see section VI.A.3) high end deterministic dioxin risk estimate for the adult farmer (2E–05) by a factor of 0.78.

e. Toxicity Assessment

The proposed rule presented an assessment of the toxicity of dioxins and chloroform, the constituents of concern in chlorinated aliphatics wastewaters. Commenters on the proposed rule challenged data and analyses EPA relied upon to characterize the toxicity of the dioxins and chloroform. First, the commenters believed that EPA's use of draft documents under review was inappropriate for obtaining toxicity information for dioxins. Second, the commenters contended that EPA should have used a different cancer slope factor to calculate risks for two of the hexachlorodibenzo-p-dioxin (H_XCDD) congeners. Third, the commenters believed that EPA overestimated certain toxicity equivalency factors (TEFs, described below) that we used in our risk analysis. Lastly, commenters on the proposed rule challenged two of the assumptions inherent in the development of the toxicity benchmarks that we used to evaluate dioxins and chloroform. These two assumptions are as follows:

- To develop cancer benchmarks using animal studies, scientists often extrapolate dose-response data derived from the animal studies to lower levels that are within the range of human exposure. EPA historically has extrapolated response data in the low-dose range using a linear approach called the linearized multistage (LMS) model. However, in 1996, EPA published the Proposed Guidelines for Carcinogen Risk Assessment (hereafter referred to as the ''1996 Guidelines;'' USEPA, 1996[22]) that provided new recommendations for evaluating responses in the low-dose range when biologically-based or case-specific models are not available. While still recommending a linear extrapolation (a straight line extrapolation) as a default procedure for evaluating low-dose response, the 1996 Guidelines also suggest that extrapolation in the low-dose range can be performed using a nonlinear approach, when the data on the mode of action for the contaminant are sufficient to support such an approach. Commenters on the proposed rule contended that, for 2,3,7,8-TCDD (''TCDD'') and chloroform, a nonlinear approach is more appropriate for extrapolating response data in the low-dose range than the LMS approach used by EPA.
- To calculate human equivalent doses from animal doses used in toxicity studies, scientists typically scale animal doses based on the ratio of animal and human body weights. The 1996 Guidelines recommend that the default approach is to scale daily applied doses experienced for a lifetime in proportion to body weight raised to the ¾ power. This recommendation is a change from EPA's previous recommendation to scale doses in proportion to body weight raised to the ⅔ power.

Commenters on the proposed rule believed that EPA should account for this revised guidance in our risk assessments for dioxin and chloroform.

i. Assessment of the Toxicity of Dioxins and Furans

EPA used a cancer slope factor of 156,000 $(mg/kg\text{-}day)^{-1}$ for TCDD to calculate cancer risk from exposure to dioxins and furans in chlorinated aliphatics wastes. The cancer slope factor is a measure of the relative potency of carcinogens. That is, the higher the cancer slope factor, the more potent the carcinogen. The toxicity of each of the 17 dioxin and furan congeners with TCDD-like toxicity is expressed in terms of TEFs. TEFs are estimates of the toxicity of specific dioxin and furan congeners relative to the toxicity of TCDD, which is assigned a TEF of 1. The sections that follow present public comments on the slope factor and TEFs that EPA used to evaluate dioxins and furans, and provide the Agency's response to those comments.

TCDD Cancer Slope Factor and Health Effects

The existing cancer slope factor for TCDD is based on human equivalent doses calculated from laboratory animal data by scaling doses to body weight raised to the ⅔ power. Commenters maintained that this practice is obsolete, and does not reflect a change in EPA policy recommending that doses be scaled to body weight raised to the ¾ power. The commenters calculated that compared to a cancer slope factor that is based on scaling doses to body weight raised to the ¾ power, the existing cancer slope factor overestimates cancer risk from dioxin-like compounds by at least 35% (assuming a linear dose-response), and as a result, all of EPA's cancer risk estimates for dioxin-like compounds should be adjusted by at least a factor of 0.65. Commenters also claimed that the existing slope factor for TCDD does not take into account mechanistic information suggesting there is a threshold for TCDD

[21] The value 0.55 is calculated as follows: If 27 percent of the mass of meat is lost during cooking, then 73 percent of the meat remains. Of the remaining 73 percent, 24 percent more is lost after cooking (76 percent is retained). As a result, the mass of meat *remaining* after cooking and post-cooking activities is 76 percent of 73 percent, or 55 percent of the original mass. Therefore, the amount of meat *lost* through cooking and post-cooking activities is 45 percent.

[22] USEPA. 1996. Proposed Guidelines for Carcinogen Risk Assessment. 61 FR 17960.

carcinogenesis. The commenters noted that this point is emphasized in a recent letter to the editor of Risk Analysis, written and signed by nearly twenty of the world's leading pharmacologists (Byrd et al., 1998 [23]) which states: ''A dose-response assessment for dioxin based on receptor binding would predict a nonlinear dose-response relationship with a threshold for tumor induction. A nonlinear relationship is more consistent with the available chronic animal bioassays and human epidemiology studies.'' The commenters contended that, given this information, the cancer risk posed by all of the dioxin-like dioxin and furans may well be zero for all pathways considered in EPA's risk assessment.

Commenters also took issue with EPA's use of the Health Assessment Document for 2,3,7,8-Tetrachlorodibenzo-p-Dioxin (TCDD) and Related Compounds issued by EPA in 1994. These documents have been reviewed by the EPA Science Advisory Board (SAB), but have not been finalized. Some commenters noted that the SAB made substantial comments on the 1994 draft documents that are directly relevant to the risk assessment for the Chlorinated Aliphatics Listing Determination, and, because the SAB comments have not yet been incorporated in a final document, it is premature and incorrect to use the draft in this current rulemaking. The commenters noted that the front cover of the draft chapters state: ''Review Draft (Do not Cite or Quote)'' and

Notice: This document is a preliminary draft. It has not been formally released by EPA and should not at this stage be construed to represent Agency Policy. It is being circulated for comment on its technical accuracy and policy implications.

In addition, the commenters pointed out that page 5–33 of EPA's Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination, July 30, 1999, states: ''Most of the information in this summary is from this draft document and is subject to change, pending release of the final document.'' Thus, the commenters believe that conclusions made concerning dioxin in the risk assessment for chlorinated aliphatics wastes are based on a document that is preliminary and possibly incorrect.

In contrast to the comments above, one commenter strongly supported the proposal to list chlorinated aliphatics wastewaters because of significant risks posed by dioxins, and cited the 1994 draft Health Assessment Document for 2,3,7,8-TCDD and Related Compounds that was challenged by other commenters. The commenter asserted that dioxins are a probable human carcinogen and that, in animal testing, TCDD is one of the most potent carcinogens ever evaluated. The commenter noted that noncarcinogenic effects resulting from TCDD exposure also have been reported. Specifically, some studies suggest evidence of immunotoxicity, such as alteration in lymphocyte populations, cell surface markers or lymphocyte proliferative response. There also is evidence of reproductive and developmental effects from exposure to dioxins. The commenter pointed out that studies discussed in EPA's draft Dioxin Reassessment provide evidence of further health impacts.

EPA acknowledges the commenters' concerns regarding the use of a draft document to support our toxicity assessment for dioxin-like compounds. In the preamble to the proposed rule, and in the Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination (USEPA, 1999a), we presented a summary of the health effects believed to be associated with exposure to dioxins. Although the source of our information concerning dioxin health effects was the 1994 draft health assessment document challenged by commenters, the health effects we presented at the time of proposal continue to reflect our understanding of the health affects associated with exposure to dioxins. A December 1998 toxicological profile for chlorinated dibenzo-p-dioxins published by the Agency for Toxic Substances and Disease Registry (ATSDR, 1998 [24]) supports our appraisal of the adverse health effects associated with dioxin exposure. Our reassessment of dioxin risks is still ongoing and we are not relying on draft findings for this final listing determination.

As discussed above, the Agency also received comments on the value of the TCDD cancer slope factor that we used to evaluate cancer risk due to dioxins. The cancer slope factor that we used in our proposed chlorinated aliphatics risk analyses, 156,000 (mg/kg-day)$^{-1}$, is cited in a final Agency report published in 1985, [25] and is comparable to the TCDD slope factor published in the Health Effects Assessment Summary Tables (HEAST; USEPA, 1997), 150,000 (mg/kg-day)$^{-}$ [26]. We understand that the 1996 Proposed Guidelines for Carcinogen Risk Assessment recommends the body weight scaling factor approach noted by the commenters, and provides guidance for considering nonlinear contaminant dose-response relationships in developing cancer slope factors. EPA anticipates that we will consider these recommendations of the 1996 Guidelines, as well as other relevant recommendations of the 1996 Guidelines, in the course of future development or reevaluation of contaminant cancer slope factors. However, given that the Agency has not completed its comprehensive reassessment of TCDD carcinogenicity and toxicity, the Agency has decided to use the 1985 cancer slope factor for TCDD (USEPA, 1985) for this rulemaking. Moreover, decreasing the slope factor for TCDD as recommended by commenters would not have any impact on our ultimate listing decisions for chlorinated aliphatics wastewaters, EDC/VCM wastewater treatment sludges, or methyl chloride wastewater treatment sludges. Our decision not to list chlorinated aliphatic wastewaters is supported by other factors that decrease our proposed risk estimate (section VI.A.3), and reducing the slope factor as recommended by the commenters would not reduce our risk estimates enough to alter our listing decisions for the EDC/VCM wastewater treatment sludges (section VI.B.2.b.iv). Nevertheless, EPA may choose to reevaluate today's listing decisions in the future, pending the final outcome of the Agency's ongoing reevaluation of TCDD toxicity.

[23] Byrd III, D.M., Allen, D.O., Beamer, R.L., et al. 1998. Letter to the Editor: The dose-response model for dioxin. Risk Analysis. 18(1):1–2.

[24] ATSDR. 1998. Toxicological Profile for Chlorinated Dibenzo-p-Dioxins (Update). U.S. Department of Health and Human Services. December.

[25] USEPA. 1985. Health Assessment Document for Polychlorinated Dibenzo-p-Dioxins. Office of Health and Environmental Assessment. EPA/600/8–84/014F. September.

[26] The cancer slope factor for TCDD that we used to calculate the cancer risk resulting from exposure to dioxins in chlorinated aliphatics wastewaters, as well as EDC/VCM wastewater treatment sludges (see section VI.B) was 156,000 (mg/kg-day)$^{-1}$(USEPA, 1985). We incorrectly cited HEAST as the source of our slope factor in Appendix C of the Risk Assessment Technical Background Document (USEPA, 1999a). A risk estimate calculated using the slope factor presented in HEAST would be only a factor of 0.96 (150,000/156,000) times a risk estimate calculated based on the slope factor presented in the 1985 document. This difference would have no discernable impact on our risk estimates (use of either would have resulted in the high end risk estimate for the adult farmer, 2E–05, that we presented in the proposed rule).

USEPA. 1997. Health Effects Assessment Summary Tables: Annual Update (HEAST). Office of Emergency and Remedial Response. Washington, D.C. July.

Use of the Cancer Slope Factor for HxCDD

EPA's Integrated Risk Information System (IRIS) database includes a cancer slope factor of 6,200 (mg/kg-day)$^{-1}$ for HxCDD mixtures. Commenters believed it was curious that EPA did not choose to use this slope factor for any of the HxCDDs or hexachlorinated dibenzofurans (HxCDFs) evaluated in the chlorinated aliphatics risk assessment. Instead, EPA used the TCDD cancer slope factor of 156,000 (mg/kg-day)$^{-1}$ and a TEF value of 0.1, yielding an effective cancer slope factor of 15,600 (mg/kg-day)$^{-1}$, to evaluate all dioxin-like HxCDDs and HxCDFs. Commenters argued that the risk assessment for HxCDDs and HxCDFs would be greatly improved if it were based on the value of 6,200 (mg/kg-day)$^{-1}$ because (1) The cancer slope factor for HxCDD mixtures is verified on USEPA's IRIS database, whereas the value for TCDD is not, and (2) the slope factor for HxCDD mixtures is based on exposure to a mixture of congeners, whereas the value for TCDD is based on exposure to a single congener. The commenters believe that the slope factor for HxCDD mixtures replaces the TEF approach, which was created as an interim approach in the absence of chemical-specific data, with one that is based on chemical-specific dose-response data for this family of congeners. The commenters assert that in using the cancer slope factor for HxCDD mixtures, the inherent uncertainties associated with the application of the TEF approach would be eliminated. For these reasons, the commenters recommended that all cancer risk estimates for HxCDDs and HxCDFs be adjusted by a factor of 0.40 (6,200/15,600). Additionally, since the slope factor of 6,200 (mg/kg-day)$^{-1}$ is based on scaling doses using body weight raised to the ⅔ power, the commenters believed that the slope factor should be reduced further to account for the Agency's more recent recommendation that doses be scaled to body weight raised to the ¾ power, resulting in a net adjustment factor of 0.26 for HxCDD and HxCDF risk estimates.

EPA disagrees with the commenters' suggestion that the slope factor for HxCDD mixtures that is presented in IRIS is applicable to all dioxin-like HxCDDs and HxCDFs. The slope factor presented in IRIS clearly is based on studies of only the 1,2,3,6,7,8- and 1,2,3,7,8,9- congeners of HxCDD, thus these are the congeners to which the slope factor would apply if EPA chose to use it in the chlorinated aliphatics risk analyses. Although the commenters suggested that use of the IRIS slope factor would have an impact on the results of the risk analysis, particularly if the slope factor is adjusted using a revised scaling factor, EPA strongly disagrees. Upon review of the congener-specific risk estimates provided in the Risk Assessment Technical Background Document for the proposed rule (USEPA, 1999a) it is clear that eliminating the 1,2,3,6,7,8- and 1,2,3,7,8,9- congeners of HxCDD from the risk analysis *completely* would have the impact of modifying the high end risk estimate for the adult farmer only by a factor of 0.96.

Use of the WHO TEFs

Commenters contended that a hidden area of conservatism in EPA's risk assessment lay in the fact that the TEF values for many congeners, including 2,3,4,7,8-PeCDF and 1,2,3,4,7,8-HxCDF (the congeners that are the primary contributors to EPA's risk estimates), do not reflect central tendency values, but are instead upper bound values. Using the World Health Organization's (WHO's) database of Relative Potency (REP) estimates for these two congeners, the commenters determined that the TEF value of 0.5 for 2,3,4,7,8-PeCDF is equivalent to the 81st percentile of REP estimates obtained from 59 in vivo studies, and that the geometric mean from these 59 studies corresponds to a value of 0.19. Similarly, the commenters determined that the TEF value of 0.1 for 1,2,3,4,7,8-HxCDF is equivalent to the 93rd percentile of REP estimates obtained from 10 in vivo studies for this congener, and that the geometric mean from these 10 studies corresponds to a value of 0.041. The commenters asserted that EPA's risk estimates for dioxin should be adjusted downward to correct for EPA's use of upper-bound TEF values. Curiously, one of the same commenters who opposed the manner in which the WHO–TEFs were developed, also applauded the use of the WHO–TEFs: ''Thus, [the commenter] fully supports EPA's shift from I–TEF to WHO–TEF. This replacement by WHO–TEF needs to be adopted promptly by all EPA programs to avoid unnecessary confusion among the general public'' and ''[the commenter] commends EPA for several good policy decisions in this proposal. Specifically [the commenter] supports EPA's adoption of the WHO–TEF * * *.''

In response, EPA points out that the TEF values are based on all available studies. These studies were conducted under a variety of exposure scenarios, including chronic, subchronic, short-term and acute, and examining a broad spectrum of endpoints including biochemical, developmental, immunotoxicological, neurological, carcinogenic and teratogenic. Whereas the resulting range of in vitro/in vivo REP values for a particular congener may span 3–4 orders of magnitude, final selection of a TEF value gave greater weight to REPs from repeat dose in vivo experiments (chronic > subchronic > subacute > acute). Furthermore, studies examining toxic effects were given greater weight than studies examining biochemical effects. This weighting scheme and the use of professional judgment are designed to give more weight to studies that provide exposure scenarios similar to humans and for studies examining effects of concern.

As pointed out by the commenter, the range of the REPs for a particular chemical can vary across studies. However, the commenters' proposed use of the geometric mean or Monte Carlo simulations is cause for concern. The variability in the REPs for a particular chemical can be due to several factors. As with any other determination, there is variability in the measurement which can be due to either inter-laboratory variability and variability in the actual measurement (that is, experimental variability in determining ethoxyresorufin O-deethylase [EROD] activity). Another source of variability could be due to species or endpoint differences in the REP of a chemical. Finally, the REP of a chemical can be due to differences in study design, for example, in vitro studies vs. in vivo studies, or short-term vs. long term in vivo studies. The use of expert judgment and the weighting scheme described above allows for consideration of the important biological factors regulating the relative potency of a chemical. Use of the geometric mean ignores this biological information.

More importantly, the information presented by the commenters is not representative of the actual data available on TEFs and how this information is used. Of all the chemicals included in the TEF methodology, only 5 of these chemicals account for over 80% of the TCDD equivalents in human tissues, 2,3,7,8-TCDD, 1,2,3,7,8-PeCDD, 1,2,3,6,7,8-HxCDD, 2,3,4,7,8-PeCDF and PCB 126. The TEF values for, PCB 126, 1,2,3,7,8-pentachlorodibenzo-p-dioxin, and 2,3,4,7,8-pentachlorodibenzofuran, are similar to the mean of the relative potencies of these chemicals from in vivo studies and in some cases they are lower than the mean of the relative potencies. Chemicals for which there is limited data tend to have TEFs assigned that are conservative estimates of the

relative potencies specifically because of the limited data.

Another short-coming of the proposed statistical method for determining the TEF is the lack of a weighting scheme. In assigning a TEF value for a particular congener, all available data comparing the relative potency of a chemical to TCDD or PCB 126 are considered. The expert panel examines these data sets and places more emphasis on studies which examine toxic responses following chronic or subchronic exposures. The proposed alternative approach, in which the TEF is assigned based in the mean of the relative potency values, ignores the weighting scheme and places a relative potency for biochemical alterations in vitro equal to that for relative potencies based on toxic responses following subchronic exposures in vivo. While the statistical approach recommended by the commenters provides an estimate of the variability, it ignores biological phenomena that influence the relative potencies of these chemicals. In contrast, the use of expert opinion provides a TEF that is based on endpoints of concern and considers biological factors that influence the relative potency of these chemicals. In the development of the TEF methodology, the use of expert opinion to provide an estimate of the variability of the TEF has not been applied. However, the data base that the expert panel uses to derive the TEF is available from the WHO and does present the range of relative potencies.

Finally, the commenter describes the present TEFs as overly conservative based on comparison to the geometric mean of the REPs. It is unclear what the commenter means by ''overly conservative.'' The true relative potency of these chemicals in humans is uncertain. Because the true value is uncertain, it is difficult to determine if the TEF values are over estimates of the potency or if they underestimate the true potency of these chemicals. For the chemicals described, 2,3,4,7,8-PeCDF and 1,2,3,4,7,8-HxCDF, the TEF is based on giving greater consideration to studies using the most relevant dosing regimen and examining toxic endpoints. Use of the geometric mean down plays the importance of the more relevant studies and provides greater weight to acute and in vitro studies.

ii. Chloroform

One commenter claimed that, as was the case for TCDD, EPA's unit risk of 2.3×10^{-5} $(ug/m^3)^{-1}$ for chloroform was calculated using the outdated practice of scaling dose in proportion to body weight raised to the ⅔ power, rather than to the ¾ power, as recommended in the 1996 Guidelines (USEPA, 1996). The commenter believed that, as a result, the cancer risks attributable to chloroform should be adjusted by a factor of 0.52 (calculated in the same manner as discussed for TCDD in section VI.A.2.e.i). Another commenter asserted that, in evaluating cancer risks due to chloroform exposure, EPA failed to consider the EPA Office of Water's (OW) reanalysis of chloroform carcinogenicity. The commenter noted that EPA's December 16, 1998 rulemaking on disinfection byproducts firmly rejected the LMS approach for assessing cancer risks from chloroform exposure. The commenter contended that in the preamble for OW's rulemaking, EPA concluded specifically that ''the nonlinear cancer extrapolation approach is the most appropriate means'' to assess cancer risks from chloroform (63 FR 69400). The commenter contended that using the nonlinear approach, exposures to chloroform of 0.3 mg/L are considered to pose no cancer risk. The commenter believed that, therefore, the 0.2 mg/L central tendency concentration for chloroform in chlorinated aliphatics wastewater poses no cancer risk.

In contrast, a third commenter strongly supported the proposal to list chlorinated aliphatics wastewaters because of the significant risks posed by the hazardous constituents in the waste, including chloroform. The commenter pointed out that health risks from chloroform are well documented, and noted that chloroform is a recognized human carcinogen, as well as ''a suspected toxicant of the following human health systems: cardiovascular or blood toxicant; developmental toxicant; endocrine toxicant; gastrointestinal or liver toxicant; kidney toxicant; neurotoxicant; reproductive toxicant; and respiratory toxicant.'' The commenter noted that chloroform is ''more hazardous than most chemicals in 11 out of 14 ranking systems and is ranked as one of the most hazardous compounds (worst 10%) to ecosystems and human health.'' (The commenter referenced ''EDF's Scorecard, www.scorecard.org, on chloroform. Scorecard incorporates governmental and other authoritative information on chemicals, including their known and suspected health effects.'') The commenter believed that EPA is clearly justified in listing chlorinated aliphatics wastewaters.

While EPA acknowledges the concerns of the commenter who highlighted chloroform's adverse health effects, EPA agrees with the commenter who, based on evaluations conducted by OW, challenged our assessment of chloroform carcinogenicity at low doses. Based on mode of action considerations, EPA's Science Advisory Board (SAB), WHO, the Society of Toxicology, and EPA all strongly endorse the nonlinear approach for assessing risks from chloroform. Although OW conducted its evaluation of chloroform carcinogenicity for oral exposure, the nonlinear approach for low-dose extrapolation cited by the commenter would apply to inhalation exposure to chloroform as well, since chloroform's mode of action is understood to be the same for both ingestion and inhalation exposures. Specifically, tumorgenesis for both ingestion and inhalation exposures is induced through cytotoxicity (cell death) produced by the oxidative generation of highly reactive metabolites (phosgene and hydrochloric acid), followed by regenerative cell proliferation (63 FR 15685). As explained in EPA OW's March 31, 1998, and December 16, 1998, **Federal Register** notices pertaining to chloroform (63 FR 15673 and 63 FR 69389, respectively), EPA now believes that ''based on the current evidence for the mode of action by which chloroform may cause tumorgenesis, * * * a nonlinear approach is more appropriate for extrapolating low dose cancer risk rather than the low dose linear approach * * *'' (63 FR 15685). In fact, OW determined that given chloroform's mode of carcinogenic action, liver toxicity (a noncancer health effect) actually ''is a more sensitive effect of chloroform than the induction of tumors'' and that protecting against liver toxicity ''should be protective against carcinogenicity given that the putative mode of action understanding for chloroform involves cytotoxicity as a key event preceding tumor development'' (63 FR 15686).

Given the recent evaluations conducted by OW that conclude that protecting against chloroform's noncancer health effects protects against excess cancer risk, EPA now believes that the noncancer health effects resulting from inhalation of chloroform would precede the development of cancer and would occur at lower doses than tumor (cancer) development. Although EPA has not finalized a noncancer health benchmark for inhalation exposure (a reference concentration, RfC), the Agency for Toxic Substances and Disease Registry (ATSDR) has developed a Minimal Risk Level (MRL) for inhalation exposure to chloroform. An MRL is ''an estimate of the daily human exposure to a hazardous substance that is likely to be

without appreciable risk of adverse noncancer health effects over a specified duration of exposure [acute, intermediate, or chronic]'' (http://www.atsdr.cdc.gov/mrls.html). To evaluate the noncancer hazard associated with exposure to chloroform in air, we compared the concentration of chloroform that we predicted to occur at a high end receptor's point of exposure to the ATSDR MRLs for inhalation exposure to chloroform. The high end chloroform exposure point concentration in air for chlorinated aliphatics wastewaters, approximately 0.0001 ppm (0.74 ug/m^3), is more than two orders of magnitude below the chronic inhalation MRL for chloroform, 0.02 ppm (the chronic MRL is more protective than either the acute or intermediate MRLs), indicating that there is no concern for adverse noncancer health effects, or, therefore, significant increased risk of cancer, resulting from inhalation exposure to chloroform derived from chlorinated aliphatics wastewaters.

In response to the commenter who disagreed with EPA's use of a slope factor based on animal data that had been adjusted to human equivalent doses using body weight raised to the ⅔ power, EPA notes that in OW's comprehensive reevaluation of chloroform carcinogenicity, EPA adjusted the animal data to equivalent human doses using body weight raised to the ¾ power (63 FR 15686), as recommended in EPA's 1996 Guidelines (USEPA, 1996).

f. Noncancer Dioxin Risks for Adults and Nursing Infants

One commenter asserted that EPA should have considered dioxin noncancer endpoints for adults and for nursing infants in developing a dioxin concentration limit that triggers air emission control requirements for wastewater tanks. The commenter explained that a trigger level based on noncancer endpoints may be higher than the cancer-based trigger level, but that EPA should not assume that is the case. The commenter said that EPA should approximate and consider a trigger level for noncancer endpoints.

First, we note that the lead option proposed by EPA was a 'standard' listing for chlorinated aliphatic wastewaters, (*i.e.,* listed regardless of dioxin concentration) with the dioxin trigger level proposed as an attempt to provide a means to implement tank cover requirements more appropriate to the potential risk, particularly because our data indicated that dioxin levels varied among generators (64 FR at 46503). However, as discussed in section VI.A.3 of today's preamble we have made a decision not to list chlorinated aliphatics wastewaters based on revised estimates of cancer risk. EPA also does not believe there is reason for listing chlorinated aliphatics wastewaters based on dioxin noncancer effects, as discussed further below. Although the proposed wastewater trigger level to implement tank cover requirements is moot because we are not finalizing the listing as proposed, we do not believe any increased risk of adverse noncancer effects due to dioxin in chlorinated aliphatic wastewaters is of concern in any event.

Typically, EPA calculates a hazard quotient (HQ) to assess the noncancer health effects resulting from contaminant exposure. For oral exposures, the HQ is the ratio of an individual's average daily contaminant dose to the reference dose (RfD [27]) for the contaminant. EPA has not established RfDs for any of the dioxin or furan congeners (USEPA, 1994 [28]). EPA is awaiting the finalization of the Draft Reassessment before formalizing an approach to evaluating noncancer risks from dioxin. In recent years EPA's Office of Solid Waste and Emergency Response (OSWER) has calculated a modified margin of incremental exposure (MOIE) to dioxin on a case-by-case basis (for example, see 64 FR 52828, September 30, 1999). The MOIE is a tool for evaluating the potential for the occurrence of noncancer health effects due to dioxin. The margin of incremental exposure is an expression of the additional (increment of) exposure to dioxin that an individual receives in excess of background exposure to dioxin. Using this approach, we compare the estimated average daily dose attributable to chlorinated aliphatic wastewaters to background exposures in the general population. As a measure of risk, the MOIE presupposes that if exposures are small relative to background, then risks from these exposures are likely to have limited significance for human health. While the MOIE analysis is not specific to any particular health endpoint, it does allow direct comparison of exposures related to chlorinated aliphatics wastewaters to background dioxin exposure experienced by the general population. Using the high end exposure estimates developed for the proposed rule, the high end margin of incremental exposure due to chlorinated aliphatic wastewaters would be 0.17 for an adult farmer and 0.19 for the breast-feeding infant of an adult farmer. However, we estimate that exposures attributable to chlorinated aliphatics wastewaters are actually lower than we originally presented in the proposed rule, due to our reevaluation of our air dispersion modeling results, beef intake rates, and air emissions modeling assumptions (see section VI.A.3). Therefore, we project that the actual high end margin of incremental exposure for both the adult farmer and breast-feeding infant of the adult farmer is less than 0.1, that is, an order of magnitude or more lower than any risk that may be attributable to background exposures (USEPA, 2000b).

3. Rationale for the Final Listing Determination: Summary of the Impact of Public Comments on the Proposed Listing Determination for Chlorinated Aliphatic Wastewaters

As discussed above, public commenters presented arguments that EPA's high end deterministic risk estimate for the adult farmer was in error and overestimated potential risks to human health and the environment. After reviewing and carefully considering all information provided by commenters, we re-evaluated our risk assessment results for air releases of dioxins and chloroform from chlorinated aliphatics wastewaters managed in aerated biological treatment tanks. Based on information provided by commenters, we decided it was appropriate to adjust our risk assessment results to account for cooking and post-cooking losses for beef, a more realistic size of the pasture supporting cattle indirectly exposed to dioxin emissions, and the potential for solids removal prior to wastewater treatment in aerated biological treatment tanks. After calculating these adjustments to our proposed risk assessment results, EPA found that accounting for cooking and post-cooking losses for beef would modify the high end risk estimate for the adult farmer by a factor of 0.78, and accounting for a more reasonable pasture size would modify the risk estimate by a factor of 0.50, resulting in an overall risk estimate of 7E–06. This risk estimate does not consider the impact of

[27] In the preamble to the proposed rule, in an effort to present the concept of RfDs and RfCs in plain language, we incorrectly characterized RfDs and RfCs as levels that EPA considers ''acceptable.'' RfDs and RfCs are not by themselves action levels; they do not establish acceptable exposures, nor do they establish danger levels. RfCs and RfDs are used as tools in establishing concern for non-cancer effects resulting from exposure to contaminants, and they serve as a common reference point from which risk managers can make decisions regarding estimates of exposure.

[28] United States Environmental Protection Agency (USEPA). 1994. Health Assessment for 2,3,7,8-TCDD and Related Compounds. Public Review Draft. Office of Research and Development. EPA/600/EP–92/001a–c. September.

assuming solids removal from the wastewater, which could reduce risk to an even greater extent, reasonably by an additional factor of 0.67 to 0.94, such that our final risk estimate could be as low as 4E–06. Moreover, our proposed estimate of risk due to emissions of chloroform, which we previously believed would be additive to our dioxin risk estimate, is no longer valid given recent Agency information regarding chloroform's mode of action. Specifically, there is no concern for adverse noncancer health effects resulting from inhalation exposure to chloroform derived from chlorinated aliphatics wastewaters, therefore, there is no concern for increased risk of cancer. Furthermore, the noncancer health effects due to dioxin that we characterized in response to comments presented above also would be affected by the adjustments to our analysis, and would be even less than projected.

Thus, EPA believes that the risk from this waste is well below 1×10^{-5}. We acknowledge that there is some uncertainty associated with the analyses we have conducted in response to the three comments we found persuasive—for example, we do not have data to support specific conclusions with respect to the percentage of solids removed from wastewater by prior to biological treatment. Nonetheless, we have been conservative in accounting for the factors raised by the comments and believe the risk is unlikely to be higher than our revised estimates. In addition, we note that the risk level presented for these wastewaters in the proposal (2×10^{-5} as marginal. As we have explained, we make listing determinations based on a weight-of-the-evidence approach, and the result of a decision is not dictated by whether the risk calculated for a waste is slightly more or less than 1×10^{-5}. So, even aside from the specific revised risk numbers we have calculated, we would decide not to list this waste based on the determination that the already marginal risk level presented in the proposal clearly overstates the actual risk associated with the waste, and that the actual risk is almost certainly considerably below the 1×10^{-5} level.

Therefore, the Agency concludes that potential air releases from wastewaters managed in biological treatment tanks do not present significant risk to human health and the environment and do not support listing chlorinated aliphatic wastewaters as hazardous wastes. After carefully reviewing our analyses and making necessary adjustments to our risk estimates based upon arguments and information presented in public comments, we estimate that air releases from the management of chlorinated aliphatic wastewaters would result in high end cancer risk risks less than 1×10^{-5}. The Agency therefore is finalizing a decision to not list chlorinated aliphatic wastewaters as hazardous waste.

4. Waste Management Practices / Scope of Listing Determination for Chlorinated Aliphatic Wastewaters

EPA believes that the rulemaking record for this rule supports a decision not to list chlorinated aliphatic wastewaters based on the typical management scenario of biological treatment in tanks. As mentioned above, and explained in more detail in Listing Background Document for the Chlorinated Aliphatics Listing Determination (USEPA, 1999c),[29] the majority of chlorinated aliphatic manufacturing facilities manage their wastewaters in tank-based wastewater treatment systems and either directly discharge treated wastewaters under NPDES permits, or discharge the wastewaters to POTWs. However, the Agency is aware that two facilities treat their chlorinated aliphatic wastewaters on-site and dispose of the wastewaters in on-site UIC wells. In addition, the Agency learned from public comments, that one facility pipes its wastewaters off-site to a nearby chemical manufacturing facility that commingles the chlorinated aliphatic wastewaters with other wastewaters, and treats the combined wastewaters in a wastewater treatment system that includes surface impoundments.

a. Wastewaters Managed in Underground Injection Control (UIC) Wells

With respect to the two facilities that manage their chlorinated aliphatic wastewaters in on-site UIC wells, one of the facilities already manages its wastewaters as hazardous due to the fact that the wastewaters exhibit the toxicity characteristic. This facility manages its hazardous wastewaters in covered tanks, pipes the wastewater directly to a Class I hazardous UIC well and complies with RCRA and CAA (HON) air emissions requirements. Due the fact that this wastewater is being managed as a hazardous waste and in full compliance with RCRA subtitle C and applicable CAA requirements, we conclude that this wastestream does not present significant risk and we believe that our decision not to list these wastewaters as hazardous waste will have no potential adverse impact in terms of protecting human health and the environment.

In the case of the other chlorinated aliphatic production facility that manages its wastewaters by disposing of them in UIC wells, some of the facility's wastewaters were, until recently, defined as hazardous waste (*i.e.,* derived from previously listed hazardous waste) and disposed in a Class I hazardous UIC well and in compliance with a no-migration petition. Recently, the facility was granted a delisting for these wastewaters by the Region VI EPA Regional Administrator. Given that the Regional Administrator has evaluated these wastewaters and determined that the wastewaters, as generated, do not pose significant risks to human health and the environment and warrant the award of a delisting, we believe that our decision not to list chlorinated aliphatic wastewaters as hazardous waste is appropriate for this wastestream and this decision will result in no adverse impact to human health and the environment.

This facility also manages some of its chlorinated aliphatic wastewaters as non-hazardous waste and injects the wastewaters into a Class I non-hazardous UIC well. Although we did not model this management practice in our evaluation of potential risks from the management of chlorinated aliphatic wastewaters, we did examine the specific waste management requirements governing these wastewaters. Our evaluation of the specific management requirements applicable to these wastewaters included a comparison of the state requirements governing Class I non-hazardous UIC wells and those governing Class I hazardous UIC wells. We found that the requirements in Louisiana, where this facility is located, for Class I non-hazardous UIC wells are virtually identical to those governing Class I hazardous waste UIC wells. EPA staff confirmed this conclusion after consulting numerous sources, including a direct examination of the state regulations and discussions with state authorities and EPA Regional personnel. We also note that in our evaluation of these wastewaters, we determined that the levels of constituents in the wastewaters are equivalent to the levels for which the facility's other wastewaters were recently delisted. This indicates that these wastewaters will not pose risk when managed in Class I UIC wells at this specific facility. Given these conclusions, we think this practice is protective and believe that our decision not to list chlorinated

[29] U.S. EPA. 1999c. Listing Background Document for the Chlorinated Aliphatic Listing Determination (Proposed Rule). Office of Solid Waste. July.

aliphatic wastewaters will have no adverse impact on human health and the environment due to the management of this facility's wastewaters in non-hazardous UIC wells.

b. Wastewaters Managed in Surface Impoundments

At the time EPA published the proposed listing determination for chlorinated aliphatic production wastes, the Agency was not aware that any chlorinated aliphatic wastewaters were managed in surface impoundments. EPA noted in the preamble to the proposed rule that although information available to the Agency, at the time of the proposed rule, indicated that surface impoundments had been used in the past, available information indicated that chlorinated aliphatic wastewaters are not managed in surface impoundments today. However, as a result of public comments to the proposed rule, the Agency obtained information indicating that a single facility, which is not a chlorinated aliphatics manufacturing facility, accepts wastewaters from a chlorinated aliphatic manufacturer and treats the chlorinated aliphatic wastewater stream after commingling it with other wastewaters generated at the chemical manufacturing facility. The commingled wastewaters are treated in a wastewater treatment system that includes biological treatment in surface impoundments.

After receiving information indicating that one facility was managing chlorinated aliphatic wastewaters in surface impoundments, the Agency conducted additional research to determine if other chlorinated aliphatic wastewaters were being managed in impoundments. The results of this research are that the Agency could identify no other facilities managing chlorinated aliphatic wastewaters in surface impoundments.

As a result of comments received in response to the proposed rule indicating that one facility treats chlorinated aliphatic wastewaters in surface impoundments, EPA did a screening analysis of potential risks from these wastewaters when managed in an impoundment. That risk screening analysis was based on very conservative assumptions that result in an overestimate of risk, given that the Agency assumed there would be no dilution of the wastewater in the environment and that an individual would drink the wastewater directly from the impoundment. The screening analysis suggested that wastewaters might pose risks in impoundments under the very conservative (and unrealistic) assumptions used in the screening analysis (that is, it may not be safe to drink the wastewaters as generated in the impoundment). However, given the overly protective nature of that screening assessment, the ''screening analysis'' does not provide meaningful information about any risks actually associated with this waste management practice and, therefore, it does not provide a basis for listing the wastewaters as hazardous.

EPA has to make the best decision it can with the information and analysis it has at the time of its evaluation. EPA has decided at this time not to list as hazardous chlorinated aliphatic wastewaters, regardless of how the wastewaters are managed. We are finalizing this no list determination, given that the data and analysis before us, while indicating some potential for risks from the management of wastewaters in surface impoundments, does not warrant a decision to list these wastewaters as hazardous. Simply put, EPA was unable, in the time afforded under the consent decree, to perform a full risk assessment for this waste management practice and to subject that decision to public comment, and the screening assessment that EPA was able to do was indeterminate. Although EPA cannot rule out the possibility that this practice may present some risk to human health and the environment, EPA has fully assessed the risk presented by the predominant mode of waste management and made the determination that it does not present a substantial hazard. In fact, of the 23 chlorinated aliphatic manufacturing facilities that generate wastes effected by this rulemaking, only 3 facilities manage wastewaters in non-tank based systems. Under these circumstances, EPA has concluded that it is appropriate to make a final decision based on the information and analyses with respect to all the units and practices other than this impoundment.

This conclusion is based in part on our interpretation of our obligation under RCRA section 3001(e)(2). Under that provision, Congress required that EPA make final listing determinations for 17 different waste categories in 15 months. In view of the scope of the task and the tightness of the timeframe established, Congress could not have intended that EPA conduct an in-depth review of every unit managing any amount of waste within the categories. Rather, Congress must have intended that EPA make the best reasoned judgment it can based on analyses and information that are reasonably representative of the waste categories. In practice, EPA has gone well beyond this in its listing decisions and generally has tried to account for all the waste management practices and units of which it is aware. However, in this rulemaking, EPA was faced with the choice of continuing this practice—which would have meant diverting time from completing the rulemaking to attempt to negotiate a further extension of the consent decree—or completing the rulemaking on schedule. Although EPA could always perform more complete and rigorous analysis given more time on any rule, at some point it is appropriate to move toward finalizing a decision and cut off further analysis. In view of the length of time already devoted to this rulemaking and the number of extensions previously negotiated to the consent decree, and the fact that only one waste management unit was unaccounted for in our analysis, EPA decided to issue a final determination not to list aliphatics wastewaters without accounting for this unit.

EPA is not deferring a decision for chlorinated aliphatics wastewaters; it is making a final decision not to list the wastewaters. Of course, EPA can always consider additional information and analyses in the future and make further regulatory decisions based on that. In addition, should EPA learn that the management of waste at this impoundment presents a threat to human health and the environment, EPA could consider taking site-specific action to abate the threat without listing the waste, *e.g.,* an action under RCRA Section 7003.

B. Wastewater Treatment Sludges From the Production of EDC/VCM

EPA is listing as hazardous sludges generated from treating wastewaters associated with the manufacture of ethylene dichloride and vinyl chloride monomer. This wastestream meets the criteria set out at 40 CFR 261.11 (a)(3) for listing a waste as hazardous and is capable of posing a substantial present or potential hazard to human health or the environment when managed in land treatment units. EPA is finalizing a conditional listing for this waste, based upon the Agency's determination that the waste does not pose a substantial risk when disposed of in a landfill.

K174 * * * Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions: (i) they are disposed of in a subtitle C or non-hazardous landfill licensed or permitted by the state or federal

government; (ii) they are not otherwise placed on the land prior to final disposal; and (iii) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (*e.g.,* contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, etc.) that the terms of the exclusion were met.

1. Summary of the Agency's Listing Decision for EDC/VCM Wastewater Treatment Sludges

EPA evaluated potential risks from the management of wastewater treatment sludges generated by producers of ethylene dichloride (EDC) and vinyl chloride monomer (VCM). This waste grouping consists of all sludges generated from the treatment of EDC/VCM wastewaters, excluding sludge generated from the treatment of VCM-A wastewaters (discussed elsewhere in today's rule). EPA estimates, based upon 1996 data, that approximately 104,600 metric tons of wastewater treatment sludges are generated annually by facilities that produce EDC and/or VCM.

EDC/VCM wastewater treatment sludges are generated by 12 facilities. Most facilities manage these sludges by disposing of them either in a hazardous waste landfill or a non-hazardous waste landfill. However, one facility manages its EDC/VCM sludges in an on-site land treatment unit. To assess the potential human health risks associated with EDC/VCM sludges, EPA evaluated potential risks from managing this waste in an off-site non-hazardous waste (unlined) landfill and an on-site land treatment unit. The highest risk estimates were calculated for an adult farmer who ingests beef and dairy products containing dioxin derived from airborne releases and erosion/runoff from the land treatment unit. The proposed high end and central tendency risk results for the farmer exposed to dioxin from the land treatment unit were 2E–4 and 4E–6, respectively. The Agency also concluded in the proposal that the management of EDC/VCM wastewater treatment sludges in landfills does not present risks of sufficient concern to support a decision to list the sludges as hazardous waste when managed in this manner. 64 FR 46476; 64 FR 49052 (September 9, 1999 **Federal Register**).

Issues raised by commenters, and data provided in comments received in response to the proposed rule, caused the Agency to reevaluate the risk analyses that were the basis of our proposed risk estimates. After careful consideration of information provided by commenters, we lowered the estimated risk associated with the management of EDC/VCM sludges in a land treatment unit. While the Agency's proposed high-end deterministic risk estimate for the land treatment unit (2E–4) was at a level at which the Agency presumes a waste poses sufficient risk to be listed (i.e., 1E–4 or greater), the revised risk estimate (7E–5) falls within the range of risks where the Agency may decide to list the waste as hazardous (i.e., between 1E–4 and 1E–6), upon consideration of additional factors. 59 FR at 66077. More specifically, EPA has previously stated that where risk estimates are within the 1E–4 to 1E–6 range, there is a ''presumption of candidacy for either listing (risk >1E–5) or no listing (risk < 1E–5).'' 59 FR at 66077. Applying that approach in this instance, the risk estimate for the land treatment unit of 7E–5 is not only greater than 1E–5, it is in the upper end of the range between 1E–5 and 1E–4. Comments received on the Agency's proposed risk analysis for the landfill waste management scenario did not result in the Agency modifying the risk estimate for the landfill. High-end deterministic risk estimates for the landfill scenario were all well within the presumptive no-list range (*i.e.,* less than 1E–6) with the exception of arsenic, the groundwater risk for which was estimated at 3E–5. (The Agency's discussion of additional factors that led EPA to decide that the arsenic risk estimate alone did not support listing EDC/VCM wastewater treatment sludges managed in landfills is presented below in Section VI.B.2.b.v. of this preamble.)

The Agency is therefore listing as hazardous EDC/VCM wastewater treatment sludges (using a conditional listing approach as proposed) based upon EPA's consideration of the risk estimates and additional factors. The Agency's decision was influenced by the fact that dioxin has been heavily studied, and the dioxin concentrations and volumes of EDC/VCM sludge have been well characterized in EPA's study of this industry (and, along with the toxicity [30] of dioxin, were incorporated into the risk assessment). Additionally, there was evidence that the land application unit where these wastes are currently managed had releases of other constituents to the environment, which indicates that there may not be adequate coverage by other regulatory programs.[31] Because industrial solid waste land treatment is a plausible management scenario for these wastes, EPA is concerned about EDC/VCM sludges managed in this manner where dioxin (a chemical that is persistent over the long term) is the constituent of concern.

Finally, the EPA's concern is that not only is the application of dioxin-containing wastes in a land treatment unit plausible, it is in fact occurring. No commenter provided evidence that absent a decision to list the waste, there is other regulatory authority that would assure that the risks the Agency estimates for this practice would not continue, either at the facility currently utilizing this practice, or at a different facility.

The Agency concludes, based upon the estimated risk for dioxin of 7E–5, and after considering other relevant factors described above, that EDC/VCM wastewater treatment sludges pose a substantial hazard when managed in land treatment units. In addition, the Agency concludes that this waste does not pose a substantial hazard when managed in landfills. Based on these conclusions the Agency is promulgating a conditional listing for this waste. EPA is listing EDC/VCM wastewater treatment sludges as hazardous waste, unless the sludges are managed in landfills. The conditional listing promulgated today also requires that EDC/VCM wastewater treatment sludges not be placed on the land prior to disposal. In addition, generators must be able to demonstrate that the sludges are managed in accordance with the conditions for being excluded from the hazardous waste listing.

2. Response to Major Comments Received on Proposed Rule for EDC/VCM Wastewater Treatment Sludges

EPA received comments on a number of issues concerning the data and analyses EPA used to arrive at our listing decisions for EDC/VCM wastewater treatment sludges. In addition, one commenter asserted that many of the comments on EPA's analysis of dioxin risks from the management of chlorinated aliphatics

[30] Dioxin has the highest slope factor (an indicator of carcinogenic potency) of any chemical in the EPA IRIS database.

[31] See Appendix A.—Environmental Release Descriptions, in Hazardous Waste Characteristics Scoping Study U.S. EPA, November 15, 1996, pp. A–28 and A–29.

wastewaters (for example, comments relating to the dioxin cancer slope factor) also apply to EPA's analysis of dioxin risks from the management of EDC/VCM wastewater treatment sludges in a land treatment unit. The comments we received may be generally divided into nine categories: (1) Comments on EPA's waste management assumptions; (2) comments on the exposure scenarios we evaluated in our risk assessment; (3) comments on how we calculated exposure point concentrations in the risk assessment; (4) comments on EPA's exposure assessment; (5) comments on EPA's toxicity assessment for dioxin; (6) comments on how we characterized risks associated with arsenic; (7) comments on demonstrating compliance with the listing description; (8) comments on the status of EDC/VCM sludges that are managed in ways other than land treatment or landfilling; and (9) comments on whether or not a contingent management approach to the listing is appropriate. The comments, and the Agency's responses to these comments, are described below.

a. Waste Management Assumptions

Eleven facilities manage EDC/VCM wastewater treatment sludges by disposing of them either in a hazardous waste landfill or a non-hazardous waste landfill. One facility manages this waste in an on-site land treatment unit. As a result of public comment, the Agency has learned that one facility generates and manages EDC/VCM wastewater treatment sludges in surface impoundments.

In 1996, approximately 104,561 metric tons of wastewater treatment sludges were generated in wastewater treatment systems used to treat process wastewaters from the manufacture of EDC/VCM. Of this volume, approximately 6,574 metric tons is attributable to the production of EDC/VCM. The remaining sludge volumes are associated with the treatment of other process wastewaters that are commingled with EDC/VCM process wastewaters and treated in the same wastewater treatment system.

i. Waste Volumes

One commenter questioned whether EPA used the correct assumption with regard to waste volume in the risk assessment, given that the production of EDC/VCM may be increasing in the United States. The commenter cited information provided in the Agency's Economics Background Document for the proposed rule. The commenter asserted that had EPA assumed a larger waste volume, based upon increased future production capacity, the result would be an increase in the predicted level of risk associated with the management of EDC/VCM sludges in landfills. The same commenter questioned whether or not the Agency had accounted for the likelihood that EDC/VCM wastewater treatment sludges generated by different facilities may be co-disposed in the same landfill.

In response to the commenter's concerns regarding co-disposal of sludges, the Agency wishes to clarify that we did, in fact, account for co-disposal of EDC/VCM sludges where information provided in the RCRA 3007 questionnaire responses showed that multiple generators dispose of the sludges in the same off-site landfill. As documented in the Listing Background Document (USEPA, 1999c, USEPA, 2000e), the Agency accounted for two instances where sludges generated by two generators are disposed in the same landfill.[32] In both cases, the Agency used the combined sludge volume in assessing the quantities of sludges managed in off-site landfills.

In response to other concerns raised by the commenter, the Agency reviewed the sensitivity analyses for the landfill analyses that were presented in the July 1999 Risk Assessment Technical Background Document. Our conclusion is that predicted risk levels are not very sensitive to changes in waste volume. As shown in Table H.3.3 in Appendix H of the Risk Assessment Technical Background Document (USEPA 1999a), we found that increasing waste volume from the central tendency value of approximately 15,000 m^3 to the high end value of approximately 51,000 m^3 increases the maximum 9-year average receptor well concentration, thus risk, by only a factor of 1.6 in the 10,000 year time period that we modeled. This means that if waste volumes more than tripled, the risk estimate would be expected to increase by only a factor of 1.6 (that is, to 5E–05). Such an increase in production and waste generation, which results in a relatively small change in potential risk, would not cause the Agency to change its listing decision. The Agency also points out that there may be significant uncertainties in projecting changes in the volume of waste generated, based upon increased production capacity, due to uncertainties in the relationship between production rates and waste generation rates and the effects that technology changes, types of facility expansions (*i.e.,* increased production capacity at existing facilities versus building new facilities) and the impact of potential (and simultaneous) adoption of waste minimization activities.

ii. Interpretation of Analytical Results

A commenter questioned the Agency's use of analytical results from ''dedicated'' sludge samples in its risk analysis and the commenter indicated that some of the ''non-dedicated'' sludge samples appear to have higher dioxin concentrations than the dedicated samples. As explained in the preamble to the proposed rule (see 64 FR 46483), ''dedicated'' wastes are those wastes attributable only to the production of EDC/VCM and do not include wastes derived from the production of other chlorinated aliphatic wastes and commingled with EDC/VCM sludges. In our risk analysis, EPA used analytical information from samples of dedicated sludges only to isolate the risks from constituents attributed to those wastes generated from the production of the chlorinated aliphatic chemicals of concern to this listing determination. Given the commenter's concerns, the Agency did review the dioxin concentrations in the sludge samples not included in the risk analysis. The Agency found that on the basis of dioxin TEQs, the highest dioxin concentration in the ''non-dedicated'' samples (those not included in our analysis) was less than one fourth of the highest concentration of dioxins (on a TEQ basis) found in the samples used in the analysis. Therefore, had the Agency used the analytical results from the non-dedicated samples in its analysis, the use of the dioxin concentrations would not have caused an increase in the risk estimate.

A commenter also questioned EPA's use of TCLP analytical results to predict leachate concentrations of contaminants from landfill disposal of EDC/VCM wastewater treatment sludges. The commenter questioned why EPA's data showed that lead and chromium are not detected using the TCLP, given that these constituents were found in the total constituent analysis of the sludges. The commenter suggested that high iron content in the sludges may affect the concentration of lead predicted by the TCLP analysis, citing data in a previous EPA rulemaking (Phase IV Land Disposal Restrictions, or LDR, proposed rule) that suggests high iron content effects lead. EPA believes that the commenter is referring to an issue first raised in the Phase III LDR proposed rule and subsequently finalized in the Phase IV LDR final rule on May 26, 1998 (63 FR 28556). In the Phase IV LDR final rule, EPA determined that the addition

[32] See page 56 of ''Listing Background Document for the Chlorinated Aliphatics Listing Determination'' (USEPA, 1999c).

of iron filings to lead-containing hazardous wastes was not a legitimate form of treatment, and was in fact impermissible dilution, because the iron filings can interfere with the TCLP test used to determine whether the waste has been effectively treated (40 CFR 268.3(d)). The commenter stated that EPA should determine whether the non-detects for lead in the sludge samples are an artifact of the TCLP, and if so, that EPA should instead use partitioning equations rather than TCLP data in the landfill modeling.

In response, the Agency notes it has consistently relied on the results of TCLP leach tests in estimating the leaching potential of wastes for making listing determinations, although more recently this use in listing determinations has narrowed to evaluation of leaching potential of wastes actually or plausibly being managed in Municipal Solid Waste (MSW) landfills (see for example, 65 FR 55684, September 14, 2000 **Federal Register**). As presented elsewhere in today's preamble, the Agency modeled an unlined, MSW landfill for EDC/VCM sludges, which is not only plausible but is actually occurring as well (see section below on landfill controls).

In addition, after reviewing the information related to the LDR rulemakings referenced by the commenter, and the analytical data for the EDC/VCM sludge samples EPA used in the landfill analysis, EPA does not believe there would be potential risks from groundwater even if all of the lead leached out of the samples EPA used in the landfill modeling, therefore the screening analysis performed was quite adequate to conclude that no significant risks would be posed by the lead in the EDC/VCM sludges. For further information the reader is referred to the Response to Comments Document for today's rule.

iii. Landfill Controls

Two commenters questioned why EPA assumed, in its risk assessment for EDC/VCM sludges managed in landfills, that non-hazardous waste landfills are covered daily and have runoff and runon controls. The commenters stated that some states do not require industrial, non-hazardous waste, landfills to apply daily cover and/or install runon and runoff control systems. The Agency contacted state agency officials in states where generators of EDC/VCM wastewater treatment sludges are located and where landfills identified in the RCRA 3007 questionnaires as accepting EDC/VCM wastewater treatment sludges are located. Officials in each state indicated that either industrial landfills are required to have daily cover and runon/runoff controls, or in the case of one state, although state regulations do not require these controls, the controls are generally required and enforced through permits. In addition, EPA called the owner/operators of each of the landfills identified in the RCRA 3007 questionnaires as accepting EDC/VCM wastewater treatment sludges for disposal. In every case, the owner/operators indicated that daily cover is applied and that the facility is equipped with runon/runoff controls. In addition, all but one of the landfills contacted accepts municipal solid waste. Therefore, Federal and state regulations require these landfills to apply daily cover and be equipped with runon and runoff controls. In addition, we expect that state agencies will continue to require these technical standards in future. Given that all landfills currently accepting EDC/VCM wastewater treatment sludges currently are applying daily cover and are equipped with runon/runoff controls and given that state agencies in states where EDC/VCM sludges currently are generated and managed require these controls, the Agency concludes that the commenters' concerns are unfounded.

b. Risk Assessment Exposure Scenarios, Contaminant Fate and Transport Modeling, Exposure Assessment, and Toxicity Assessment

EPA received comments on several aspects of the landfill and land treatment unit risk assessments that we conducted to support the EDC/VCM wastewater treatment sludge listing determination. EPA received two specific comments concerning the exposure scenarios that we evaluated in the landfill risk assessment: 1) that we did not evaluate particulate emissions from landfills, and 2) that we failed to consider ''non-routine'' exposures. EPA also received a comment on the contaminant fate and transport modeling that was conducted for the groundwater pathway analysis under the landfill scenario. EPA uses contaminant fate and transport modeling to estimate the contaminant concentrations at the receptor's point of exposure. Commenters contended that we had not correctly evaluated groundwater pathway risk for the landfill because we assumed that leaching of the landfill did not begin until after landfill closure. Lastly, we received a general comment that we believe applies to several aspects of our land treatment unit risk assessment: the exposure scenarios evaluated, the contaminant fate and transport modeling, and the exposure and toxicity assessments. This comment asserted that ''much of the same type of over conservatism'' present in the risk assessment for the chlorinated aliphatic wastewaters also was present in the risk assessment for EDC/VCM sludges managed in a land treatment unit.

i. Particulate Emissions From Landfills

Based upon information provided in responses to the RCRA § 3007 questionnaires, EPA evaluated the risks associated with the management of EDC/VCM wastewater treatment sludges in unlined municipal landfills and in a land treatment unit. We determined that releases from landfills could occur through the release of vapor emissions to the air and through leaching of the waste into the subsurface. One commenter was concerned that EPA had not considered the risks due to exposure to particulate emissions from landfills in which EDC/VCM wastewater treatment sludges are disposed. The commenter acknowledged that the Agency did not evaluate particulate emissions because the Agency assumed that the moisture content of the waste would prevent the release of particulates. The commenter indicated that the assumption that sludges would have sufficient moisture content to prevent particulate emissions was ''not well founded, given possible climate and wind conditions (for example, location of a landfill in an arid climate with high wind).''

The Agency disagrees with the commenter. As explained in the proposed rule (64 FR 46484), data collected by the Agency in support of the listing determination indicate that the EDC/VCM sludges have a high moisture content. Samples analyzed by the Agency had moisture contents of between 41 and 74 percent, which should prevent generation and release of particulates to the air during the time between placement of the waste in the landfill and the application of daily cover (or the application of new waste). Moreover, based on the results of our risk analyses for the land treatment unit, we do not think that particulate emissions from landfills, even if they did occur, would present significant risk. Under the land treatment unit scenario, dioxins were the only contaminants for which we identified significant risks due to air releases, and only 8 percent of the dioxin risk was due to particle phase air releases, while 92 percent of the risk was due to vapor phase air releases (Table 5–8; USEPA, 1999a). Under the landfill scenario, the vapor pathway dioxin risk was estimated to be 4E–10 (Appendix H.3.1,

Table H.3–1c; USEPA, 1999a). Even though we did not calculate risks from particle emissions, we expect they would be even less than 4E–10, based on the relative risks from land treatment units.

ii. ''Non-Routine'' Exposures

One commenter claimed that virtually the entire risk modeling effort was confined to long-term chronic risk exposures, that is, primarily indirect exposures offsite of a management facility. The commenter believed that EPA ignored activities at the waste management unit itself, and therefore ignored risks to workers and others at the waste management facilities. The commenter believes EPA also should consider acute exposure risks through accidents and other ''non-routine'' waste management conditions. Examples of such conditions provided by the commenter include high winds (40—60 mph) on dry days, drought or arid conditions, heavy rainfall, and hurricanes. The commenter stated that heavy rainfall and hurricane conditions could cause substantial amounts of dioxin-laden solids to be moved over land and into streams if the wastes were disposed in an unbermed area. The commenter expressed concern that during windy and arid conditions, dioxin-laden particulates may be dispersed from the landfill and beyond the unit boundaries. The commenter argued that the analysis of non-routine exposures is appropriate because of the toxicity and persistence of dioxin relative to other contaminants.

The commenter was concerned that EPA did not evaluate acute exposure to dioxins under scenarios involving workers, extreme climatological events, or accidents. EPA agrees that it can be appropriate to assess acute exposure scenarios or accidents in certain cases. However, in the case of chlorinated aliphatic sludges, we did not believe that such scenarios merited explicit analysis because the sludges, which result from the treatment of wastewaters, do not contain the very high concentrations of dioxins that we believe would be necessary to result in estimates of significant acute risk or hazard. For example, the highest TCDD TEQ concentration reported for dedicated EDC/VCM wastewater treatment sludges, 0.907 ug TCDD TEQ/kg, is below EPA's Superfund soil action level of 1 ug TCDD TEQ/kg which was developed to be protective of direct long term exposure to dioxins in residential soils and therefore clearly would be protective of shorter term exposure (OSWER Directive 9200.4–26, April 13, 1998).

iii. Delay of Landfill Leaching Until After Closure

In evaluating releases to groundwater from the landfill used to manage EDC/VCM sludge, EPA made a simplifying assumption that contaminant leaching from the landfill does not occur until after the landfill closes (that is, after 30 years). As we explained in the proposed rule, we made this assumption because of the complexities associated with linking the output of our landfill partitioning equations and our groundwater model, EPACMTP (EPA's Composite Model for Leachate Migration with Transformation Products). Two of the public commenters and all three of the peer reviewers questioned the appropriateness of our assumption, suggesting that it would lead to an underestimate of risk. One commenter noted that during the period when the landfill is open and the waste is exposed directly to storm water, ''leachate migration of contaminants is at its highest level.''

In retrospect, we realize that we were not completely clear concerning how our landfill modeling approach considers the production of leachate over the life of the landfill. Because of the way our landfill model is constructed, the application of daily cover and a final cap only limits the release of air emissions from the landfill, daily cover and final cap do not limit the production of landfill leachate. This is because the infiltration rate that we use for the landfill during its active life is the same as the infiltration rate that we use for the landfill once it is closed—we assume that the infiltration through the daily cover and final cap is the same as the infiltration through the exposed waste. Our basis for assuming that the cap will not reduce infiltration is that we predict that over the long term a cap will fail, and will cease to function effectively. Consequently, the effect of delaying leaching of the landfill until after closure is only to ''offset'' the arrival of the peak contaminant concentration at the groundwater receptor well by 30 years. For the sole contaminant of concern for the landfill, arsenic, the peak arrival time was estimated to be 8800 years. Reducing this time estimate by 30 years is clearly insignificant.

iv. Overly Conservative Land Treatment Unit Risk Analysis

One commenter maintained that ''much of the same type of over conservatism'' that was present in the risk assessment for the chlorinated aliphatic wastewaters also was present in the risk assessment for EDC/VCM sludges managed in a land treatment unit. The commenter contended that ''[f]or the same reasons articulated'' for wastewaters, ''EPA should reevaluate and adjust risk assessment parameters as necessary before proposing to list such wastes, even under a land treatment scenario.''

Although the commenter was not specific regarding which aspects of their comments on the wastewater risk analysis they felt applied to the Agency's evaluation of EDC/VCM sludges managed under a land treatment unit scenario, we reviewed the risk assessment comments for wastewaters to determine which could be relevant to the land treatment unit analysis. The comments that we focused on are discussed below. Section VI.B.3 summarizes how the comments influence the proposed risk estimate for EDC/VCM sludges managed in a land treatment unit.

Cooking and Post-Cooking Losses for Beef

The commenter claimed that the intake rates that EPA used for beef should have been adjusted downward to account for cooking and post-cooking weight loss, as recommended in the Exposure Factors Handbook (USEPA, 1997). As was the case for wastewaters (see section VI.A.2.d.), EPA agrees that we should have accounted for cooking and post-cooking losses of beef in our exposure analysis for the land treatment unit.

Assessment of the Toxicity of Dioxins and Furans

In our evaluation of the comments on wastewaters, we disagreed with the commenter's claim that we should modify the cancer slope factor that we used for TCDD and that our TEFs represent upper-bound values. Our responses to these comments are provided in section VI.A.2.e.i. Although we also disagree with the commenter's assertions that we should use the IRIS slope factor for HxCDD mixtures in our risk assessment (see section VI.A.2.e.i.), eliminating the 1,2,3,6,7,8- and 1,2,3,7,8,9-congeners of HxCDD from the land treatment unit risk analysis *completely* would have the impact of modifying the high end risk estimate for the adult farmer only by a factor of 0.97, which would not significantly change the results of the risk analysis.

EPA Should Have Evaluated Site-Specific Exposure Scenarios

The commenter maintained that EPA should have used a site-specific approach to assessing risks from

management of chlorinated aliphatics wastewaters (see section VI.A.2.b). The commenter suggested that such an approach would recognize that EPA's assumption that a farmer lives at the same location within 300 meters of a chlorinated aliphatics facility for 48.3 years, and raises fruits, exposed vegetables, root vegetables, beef cattle, and dairy cattle within this distance, is unrealistic. In addition, the commenter challenged the amounts of home-produced beef, dairy products, vegetables, and fruits that EPA assumed were consumed by the farmer.

Although the Agency's response to these comments is presented in our discussion of chlorinated aliphatics wastewaters in section VI.A.2.b, there are a few additional points that we can make with regard to the exposure scenario we considered in our evaluation of the risk associated with management of EDC/VCM wastewater treatment sludges in a land treatment unit. Although our land treatment unit analysis was inherently more site-specific than our analysis of wastewaters (since only one facility uses a land treatment unit to manage EDC/VCM sludges), we do not believe, for the reasons presented in section VI.A.2.b.i, that it would have been appropriate to conduct facility-specific risk analyses for chlorinated aliphatics wastes.

In response to concerns regarding the likelihood that a farmer would raise fruits and vegetables for home consumption, in addition to producing beef and dairy products, EPA refers to Table 5–8 of the Risk Assessment Technical Background Document (USEPA, 1999a) that shows that only 4 percent of the high end risk for the adult farmer was due to ingestion of home grown fruits and vegetables. As was the case for wastewaters, even though EPA believes it is plausible that a subsistence or hobby farmer would raise fruits and vegetables for home consumption, the validity of EPA's risk estimate depends almost entirely on the validity of our assumption that a farmer might consume both beef and dairy products from cattle raised on a farm located near a chlorinated aliphatics production facility. While we responded to this comment in our previous discussion of wastewaters, EPA notes that even in the specific case of the facility where the existing land treatment unit is located, there is evidence of the potential close proximity of grazing cattle. First, the most recently available agricultural census data (1997) indicate that both beef and dairy cattle were reported as being raised in the parish in which the land treatment unit is located. Second, although the potential proximity of cattle farming operations to chlorinated aliphatics facilities was confirmed by commenters on the wastewater risk analysis, EPA notes that, in addition, a land use map depicts the location of the facility that operates the land treatment unit as adjacent to land described as cropland and pasture (USEPA, 2000b). In addition, in a 1994 aerial photograph of the facility (located in the docket for the final rule), areas adjacent to the facility are depicted as being used for agriculture. Third, a 1986 RCRA Facility Assessment (RFA) conducted at the facility at which the land treatment unit is located noted the following for a landfarm/land treatment area at the facility: ''* * * the State issued a violation to the facility for allowing cows to graze in this area.''

EPA Incorrectly Evaluated the Contribution of Feed to Dioxin Levels in Dairy and Beef

The commenter raised several issues related to how EPA evaluated the contribution of feed to dioxin levels in dairy and beef. The Agency's responses to most of these concerns are addressed in section VI.A.2.c.ii. As was the case for wastewaters, we reviewed our methodology for estimating the concentrations of dioxins in beef and dairy products. The dioxins in the beef and dairy products result primarily from the cattle's intake of forage and soil that are contaminated by air emissions and runoff/erosion from the modeled land treatment unit—minor levels of dioxins are contributed to cattle as a result of the cattle's ingestion of grain or silage (USEPA, 2000b). Consequently, all that is required for the adult farmer to realize the risk that EPA presented in the proposed rule is that the farmer consume beef and dairy products derived from cattle that consume forage and incidentally ingest soil from the farmer's pastureland/field. That is, it is not necessary that the farmer consume home-grown fruits and vegetables, or that the farmer produce grain or silage for use as cattle feed. As was the case for wastewaters, we felt that we likely should have considered how the concentrations of dioxins in air vary over a wider areal extent that would be more consistent with the area of a pasture where cattle graze. Similar to wastewaters, we calculated what the impact would be to the risk estimate if we accounted for a more reasonable pasture/field size (USEPA, 2000b). In addition, in response to comments from peer reviewers, we also reviewed the method by which we evaluated risk attributable to the runoff/erosion pathway to ensure that we appropriately characterized the dioxin concentrations in feed, thus the concentrations in dairy and beef. In subsequently evaluating the land treatment unit dioxin mass balance, we determined that, due to limitations of the available model, we overestimated the amount of dioxin-contaminated soil lost from the land treatment unit due to erosion over long durations (USEPA, 2000b). The revised risk estimate that considers these modifications is presented in section VI.B.3.

v. Characterization of Arsenic Risk Results

Several commenters were concerned that although EPA found risks from arsenic that are within its discretionary range for listing EDC/VCM wastewater treatment sludges, EPA did not include arsenic as a basis for the listing determination and the contingent management listing for EDC/VCM wastewater treatment sludges allows this waste to be managed in landfills despite our risk assessment results for arsenic.

EPA evaluated potential risks from arsenic resulting from both landfill management of EDC/VCM wastewater treatment sludges and management of the waste in a land treatment unit. In the case of the landfill scenario, risk assessment results showed a high-end risk from arsenic from a groundwater ingestion exposure pathway, to be 3E–05. However, this potential risk level is predicted to occur only after a very significant period of time. Our modeling results indicate that, after a period of 8,800 years, the disposal of EDC/VCM sludge in an *un*lined landfill would result in an increase in the concentration of arsenic in groundwater in a down gradient well (102 meters from the landfill) by only 1.4 ug/L and would add approximately 2 ug/day of arsenic to the average daily exposure level (about 20 ug/day) for the highly exposed individual.

Given these predicted circumstances, we conclude that the risks from arsenic for the landfill scenario are not significant for several reasons. The predicted risks levels are associated with a peak arsenic concentration in a receptor well that is estimated to occur only after a very long period of time. In addition, the predicted high-end arsenic concentration at a receptor well (1.4 ppb) is very close to the median arsenic background concentration of 1.0 ppb found in groundwater in Texas and Louisiana.[33] The predicted high-end

[33] Focazio, M.J., Welch, A.H., Watkins, S.A., Helsel, D.R., and Horn, M.A., 1999, A Retrospective Analysis on the Occurrence of Arsenic in Ground-

Continued

arsenic concentration also is well below the current maximum contaminant level (MCL) allowed for arsenic in drinking water and below the revised MCL for arsenic recently-proposed by EPA's Office of Ground Water and Drinking Water. The current MCL for arsenic is 50 ppb, the revised MCL proposed by EPA is 5 ppb (65 FR 38888).

Given that the estimate of potential risk for arsenic is within the range of risk levels in which the Agency exercises discretion with regard to a listing decision (i.e., predicted risk levels are less that 1E–04), the Agency's established policy provides that it may take into account other factors affecting the potential risk associated with the waste in making its listing determination. The risk estimate for arsenic in EDC/VCM wastewater treatment sludges managed in landfills is the result of predicted concentrations of arsenic that are close to background levels, do not exceed the MCL in the modeled receptor well, and the result of a peak arsenic concentration in a receptor well that is predicted to occur only after a period of 8,800 years. Given that there are uncertainties associated with our risk estimates we do not think it makes sense to impose requirements now to address a marginal risk that may be realized so far in the future. In addition, even if the arsenic concentrations predicted to occur very far in the future were to occur now, these concentrations are not at levels of concern, given that the peak concentration of arsenic in groundwater is predicted to be below the current (and all recently proposed) MCL(s). Therefore, EPA concludes that EDC/VCM wastewater treatment sludges do not pose a significant risk due to the presence of arsenic when managed in landfills.

In the case of the potential risks associated with arsenic in EDC/VCM wastewater treatment sludges managed in a land treatment unit, we found that arsenic may present some risk from potential releases to groundwater from the land treatment unit. However, we conclude that the estimated level of potential risk is not significant for the very same reasons we concluded that the risk from arsenic in a landfill scenario is not significant (*i.e.,* predicted concentrations of arsenic in groundwater wells is close to background levels, and is the result of a peak arsenic concentration in a receptor well that is predicted to occur only after a long period of time). The Agency concludes that the risk posed from potential releases of arsenic in this wastestream does not warrant listing the waste as hazardous. However, in the case of the land treatment unit scenario, the Agency determined that the waste should be listed as a hazardous waste based upon the potential risks associated with dioxin concentrations found in the waste. The Agency therefore is listing EDC/VCM wastewater treatment sludges based solely on the presence of dioxin and the potential risk associated with dioxin when this waste is managed in a land treatment unit.

vi. Regulatory Compliance Demonstration

Two commenters were concerned that the proposed conditional listing approach for EDC/VCM wastewater treatment sludges would be burdensome to generators due to commenters' view that the proposal required generators to document their ''intent'' to properly manage and dispose of the waste. In response, the Agency notes that we are not imposing any new paperwork requirements as part of the conditional listing. In the final listing determination, the Agency is requiring that generators and other handlers of EDC/VCM wastewater treatment sludges merely be able to demonstrate that past and on-going waste management practices are in compliance with the conditions of the contingent management listing approach. Our intent in describing potential types of records or contracts that could fulfill the demonstration requirement was merely to provide examples of appropriate demonstrations, and not to impose stringent or specific paperwork requirements. As explained above, the Agency is finalizing, as part of the listing description, a flexible performance standard similar to the documentation requirement provided in 40 CFR 261.2(f) for documenting claims that materials are not solid wastes, when managed in certain ways. Generators and other handlers of EDC/VCM wastewater treatment sludge that claim the waste is not a hazardous waste must merely demonstrate that the generator or handler has handled the waste or intends to handle the waste in compliance with the conditions of the conditional listing. One manner in which this demonstration may be made is by presenting a copy of a signed contract between the generator and a state-licensed landfill under which the landfill agrees to accept the EDC/VCM waste. Again, in cases where such a contract does not exist, other documentation of past and on-going disposal practices such as signed non-hazardous waste manifests, shipping papers, and/or invoices may provide an appropriate demonstration of proper management. The Agency points out that a generator's or handler's ability to demonstrate recent and/or on-going shipments of EDC/VCM wastewater treatment sludges to appropriate disposal facilities will serve as sufficient demonstration of their intent to continue such management practices for wastes being appropriately stored on-site (i.e., stored in a manner that does not involve direct placement of the waste on the land) prior to off-site disposal and not yet offered for off-site shipment.

vii. Status of EDC/VCM Sludges Managed by Methods Other Than Land Treatment and Landfilling

Incineration

Several commenters requested that EPA include incineration of EDC/VCM wastewater treatment sludges as a contingent management option for this waste. Commenters argued that incineration should be allowed to occur without the sludge falling within the scope of the listing description (*i.e.,* commenters requested that EPA allow the incineration of EDC/VCM wastewater treatment sludges as non-hazardous wastes).

The Agency disagrees with the commenters. First, the Agency notes that commenters provided no information indicating that incineration of presently non-hazardous EDC/VCM sludges is occurring and indicated only that they were considering the practice. Some commenters stated specifically that they currently do not incinerate presently non-hazardous EDC/VCM wastewater treatment sludges. Information available to the Agency during development of the proposed rule indicated that there were no facilities presently incinerating non-hazardous forms of the waste, and EPA did not evaluate potential risks from on-site or off-site incineration of EDC/VCM wastewater treatment sludges in non-hazardous waste incinerators. EPA bases listing determinations on an assessment of plausible (and worst-case) management scenarios. It is not practicable for EPA to evaluate every possible management scenario, and particularly not those management practices that are found not to be plausible (or are hypothetical). This is consistent with the Agency's mandate to evaluate determine whether or not to list wastes, and not management practices. EPA does carve out particular

water Resources of the United States and Limitations in Drinking-Water-Supply Characterizations: U.S. Geological Survey Water-Resources Investigation Report 99–4279, 21 p.

waste management practices in certain circumstances (*e.g.*, here, where there is a widespread practice we have modeled fully), but we cannot possibly evaluate every practice, particularly hypothetical practices, that any commenter says they might employ.

Our policy with regard to hazardous waste listings is that in cases where we have identified one plausible management practice that presents a significant risk to human health and the environment (in this case, land treatment), the waste warrants being listed as a hazardous waste. However, since the Agency identified another plausible management approach (landfill), evaluated the risk from this management approach, and determined that the second management approach does not present a significant risk to human health and the environment, the Agency determined that it is appropriate to exclude the waste from the hazardous waste listing, when managed in this particular manner. Without evaluating potential risks from additional management approaches, the Agency cannot determine whether or not the waste, when managed in a different manner, warrants being excluded from the hazardous waste listing. Given that EDC/VCM wastewater treatment sludges currently are not managed in non-hazardous waste incinerators, we have not used the limited time and resources we have for the rulemaking to conduct an analysis of potential risks associated with this potential management practice. Therefore, we do not have a basis to exclude sludges managed in this manner from the listing description. Should the Agency receive information in the future indicating that non-hazardous waste incineration is occurring, the Agency may re-visit the decision to preclude the management of these sludges in non-hazardous waste incinerators. However, given that these sludges contain dioxin, EPA would want to carefully consider the potential risks of managing these wastes in non-hazardous waste incinerators, before concluding that this practice does not pose a risk.

The final rule, as promulgated in today's notice, provides that EDC/VCM wastewater treatment sludges are listed hazardous wastes, unless the sludges are disposed in a subtitle C landfill or a non-hazardous waste, state-licensed landfill and are not placed on the land prior to final disposal in a landfill. Under the conditional listing, the incineration of EDC/VCM wastewater treatment sludges in a non-hazardous waste incinerator and the disposal of the ash in a landfill does not meet the conditions of the listing. EDC/VCM wastewater treatment sludges destined for incineration are hazardous wastes (*i.e.*, are K174).

EDC/VCM Wastewater Treatment Sludges Derived From the Management of Chlorinated Aliphatic Wastewaters in Surface Impoundments

As mentioned above, at the time of the proposed rule EPA was not aware that any chlorinated aliphatic production facility was managing chlorinated aliphatic wastewaters in surface impoundments, or potentially generating EDC/VCM wastewater treatment sludges in surface impoundments. However, the Agency received information from public comments indicating that one chlorinated aliphatic manufacturing facility produces VCM and sends its process wastewaters to an adjacent facility, where the VCM wastewater is combined with other non-chlorinated aliphatic wastewaters for treatment in surface impoundments. The commenter described the type of treatment occurring in these impoundments to include biological treatment followed by clarification; therefore, we presume wastewater treatment sludges are generated in these impoundments. Because these wastewater treatment sludges are the result of treating wastewaters from the production of VCM, they will meet the definition of today's K174 hazardous waste listing on the effective date of today's rule.

The listing description for EDC/VCM wastewater treatment sludges finalized in today's rulemaking includes sludges that are placed on the land prior to final disposal in a landfill. EPA's long-standing policy under RCRA subtitle C is that wastes generated in surface impoundments are subject to regulation while actively managed in the impoundment (not just when the sludges are removed from the unit) (see 45 FR at 72024; 55 FR 39409; 55 FR 46380). Therefore, sludges resulting from treating wastewaters from the production of EDC/VCM after the effective date of today's rule, when actively managed in surface impoundments in which they are generated, fall within the scope of today's listing determination for EDC/VCM wastewater treatment sludges (K174).

With regard to the regulatory status of surface impoundments used to treat EDC/VCM wastewaters prior to the effective date of the today's rule, EPA has articulated in prior rulemakings certain circumstances where a surface impoundment, in which newly-regulated wastes were generated prior to the effective date of the listing, would not become subject to subtitle C management standards (see 55 FR 39410 and 55 FR 46380). In the November 2, 1990 rulemaking finalizing the hazardous waste listings for F037 and F038, EPA provided that in cases where wastes become defined as hazardous as a result of new listing determinations, if the wastes are removed from the impoundment prior to the effective date of the rule defining them as hazardous, then the impoundment does not become subject to Subtitle C.

In the **Federal Register** notice published on September 27, 1990, EPA clarified the regulatory status of surface impoundments containing sludges newly defined as hazardous that were deposited in an impoundment prior to the effective date of the rule defining the waste as hazardous, and where the impoundment ceased to receive hazardous wastes on or before the effective date of the rule. In that notice, EPA stated: If (1) the newly identified hazardous waste remains in the surface impoundment after the effective date of the rule, and (2) the impoundment does not receive or generate any other hazardous wastes after the effective date, and (3) the impoundment is the final disposal site for the waste, then the impoundment is not subject to RCRA subtitle C. Additionally, the Agency clarified that if newly-listed wastes are removed from an impoundment as part of a one-time removal, including a one-time removal after the date on which the waste becomes defined as hazardous, the impoundment will not be subject to RCRA subtitle C. The Agency also clarified in the September 27, 1990 rulemaking that EPA will not view the one-time removal of waste as part of a closure as changing the status of the surface impoundment (*i.e.*, subjecting the impoundment to RCRA subtitle C), as long as there is no ongoing management of the waste in the impoundment after the effective date of the hazardous waste listing.

Therefore, if a facility ceases to manage EDC/VCM process wastewater sludge in surface impoundments prior to the effective date of today's listing determination, and the facility undertakes a one-time removal of the newly-listed waste, the surface impoundment will not be subject to RCRA subtitle C. The sludges removed from an impoundment as part of a one-time removal after the effective date of today's listing (that were derived from the previously managed chlorinated aliphatic wastewaters), will be defined as K174, unless the waste meets the conditions for exclusion from the hazardous waste listing. If the sludge does meet these conditions (*i.e.*, it is

disposed in a subtitle C landfill or a non-hazardous waste landfill permitted or licensed by a state, and it is not placed on the land other than in such a landfill after it is removed from the impoundment), it will be exempt from the listing. After the one-time removal of sludge generated from the chlorinated aliphatic wastewaters, and as long as no additional chlorinated aliphatic wastewaters are managed in the impoundment, sludges generated in the impoundment will not meet the listing description for K174. In other words, the impoundment would not become regulated. In addition, sludges removed in subsequent removals (*e.g.*, as part of routine maintenance activities) will not be considered EDC/VCM wastewater treatment sludge (K174), as long as chlorinated aliphatic wastewaters were not managed in the impoundment after the effective date of the rule.

The above discussion pertains to facilities that choose to continue operating their surface impoundments as non-hazardous waste units after the effective date of today's rule. However, a facility could choose to continue to manage chlorinated aliphatic wastewaters in surface impoundments after the effective date of today's rule. In this case, the sludge generated in the impoundments will meet the K174 listing description and the surface impoundments will become subject to RCRA subtitle C. Any newly listed EDC/VCM wastewater treatment sludges that are managed in a newly regulated surface impoundment (i.e., an impoundment that becomes subject to RCRA regulation as a result of the new waste listing) may continue to be managed in the impoundment for up to four years, provided that the impoundment is in compliance with the groundwater monitoring requirements of 40 CFR part 265, Subpart F within 12 months after promulgation of the new waste listing (40 CFR part 268.14).[34] Surface impoundments also may continue to treat wastes that do not meet LDR treatment standards if the surface impoundments are in compliance with 40 CFR 268.4 (the surface impoundment exemption), or if facilities obtain no-migration variances for the units (40 CFR 268.6, 264.221(b), 265.221(c)). Under the surface impoundment exemption, owners or operators must follow specific sampling and testing, removal, subsequent management, and recordkeeping requirements. Some impoundments may be granted a delay of closure (see 40 CFR 265.113 and 40 CFR 264.113) and thus will be allowed to remain in operation, providing that hazardous waste is removed and the impoundment is used for non-hazardous wastes (see section VIII.B for a discussion of permitting requirements and compliance dates applicable to the management of newly-listed wastes). Facilities that currently manage EDC/VCM wastewater treatment sludges in surface impoundments must meet the terms of these regulations or discontinue their use for the management of these sludges prior to the effective date of the listing and land disposal restrictions.

viii. Contingent Management Approach

A few commenters asserted that a contingent management approach to listing EDC/VCM wastewater treatment sludges is not appropriate. Commenters pointed out that such an approach would allow the waste to be land disposed without treatment in compliance with the land disposal restrictions requirements. One commenter stated that RCRA does not provide EPA with the statutory authority to list a waste as hazardous on the basis of how the waste is or is not managed. Another commenter stated that the management process should not decide whether a waste is hazardous or not. The commenter further stated that waste management practices only should ensure that the waste is properly treated.

Given the Agency's finding (discussed in Section VI.B.1. of this preamble) that the predominant approach for managing EDC/VCM wastewater treatment sludges does not pose a substantial hazard to human health and the environment, we see no reason to include sludges managed in this manner in the scope of the hazardous waste listing. In fact, the Agency knows of only two facilities that manage these sludges in a manner other than landfilling. It does not make sense to list the bulk of EDC/VCM wastewater treatment sludges managed safely in landfills based upon the management approaches used by two facilities. On the other hand, we do not believe that it is appropriate to promulgate a no-list determination, given the Agency's finding (discussed in Section VI.B.1. of this preamble) that EDC/VCM sludges pose a substantial hazard to human health and the environment when managed in a land treatment unit. Therefore, the Agency is promulgating a contingent management listing to ensure that EDC/VCM wastewater treatment sludges are managed only in a manner that EPA has shown does not pose a substantial hazard to human health and the environment.

Because the Agency has made a finding that the waste does not pose a substantial hazard to human health and the environment if disposed in a landfill, without being treated prior to disposal, we do not agree with commenters' regarding the necessity of imposing treatment requirements under RCRA subtitle C. Our finding that treatment is not necessary to insure protection of human health and the environment is a major factor supporting the contingent management approach. In addition, the land disposal restrictions apply to hazardous wastes only. Since the Agency has determined that EDC/VCM wastewater treatment sludges, when managed in a landfill, are not hazardous wastes, the treatment standards are not necessary to ensure protection of human health and the environment.

A contingent management listing approach is within EPA's statutory authority. Section 3001(a) requires the Administrator to promulgate criteria for identifying and listing wastes that ''should'' be subject to the requirements of RCRA. The word ''should'' in section 3001(a) calls for an exercise of judgment and, therefore, confers discretion upon EPA to determine whether listing is warranted. RCRA sections 3002, 3003 and 3004 direct the Agency to issue regulations ''necessary to protect human health and the environment.'' Accordingly, the decision whether a waste should be regulated under RCRA turns upon EPA's assessment of whether such regulation is necessary to protect human health and the environment. Because a hazardous waste is by definition a solid waste that poses ''a substantial threat to human health and the environment when improperly treated, stored, transported, or disposed of, or otherwise managed,'' (RCRA section 1004(5)) EPA concludes that where a waste might pose a hazard only under limited management scenarios, and other regulatory programs already address such scenarios, the Agency is not required to list a waste as hazardous.

The Agency's decision with regard to whether a waste should be regulated under subtitle C turns upon EPA's assessment of whether RCRA regulation is necessary to protect human health and the environment. In particular, in *Military Toxics Project* v. *EPA*, 146 F.3d 948 (D.C. Cir. 1998) the court found that, if EPA concludes that a waste might pose a hazard only under limited management scenarios, EPA can reasonably and permissibly determine that the waste should be regulated as

[34] RCRA § 3005(j)(6) provides that facilities managing wastes in surface impoundments that are newly brought into the subtitle C system by a new listing or characteristic have four years to retrofit or close impoundments receiving newly identified or listed wastes (and no other hazardous wastes).

hazardous only under those scenarios. In the Military Toxics Project case, EPA reasonably determined that waste munitions would not pose a hazard if managed in accordance with existing military munitions handling regulations. Similarly, with regard to EDC/VCM wastewater treatment sludges in today's rulemaking we have reasonably determined that the waste will not pose a hazard if managed in hazardous waste landfills or non-hazardous waste landfills licensed or permitted by a state. We base this conclusion on the results of the Agency's risk assessment and in view of existing state and federal controls for non-hazardous waste landfills. We note that the finding by the court in Military Toxics Project did not hinge upon EPA deferring to a comprehensive regulatory program, but only to programs that address the appropriate waste management scenarios in a manner that EPA determined is necessary to protect health and the environment. Given the results of the Agency's risk assessment, we find that the management of these wastes in non-hazardous waste landfills licensed or permitted by a state is protective of human health and the environment. On the basis of this conclusion and in light of the Military Toxics Project decision, we conclude that EPA has the authority to promulgate a conditional listing for this waste.

3. Rationale for Final Listing Determination: Summary of the Impact of Public Comments on the Proposed Listing Determination for EDC/VCM Wastewater Treatment Sludges

The Agency decided to finalize a contingent management listing for EDC/VCM wastewater treatment sludges based on the EPA's finding that these wastes posed a substantial hazard to human health and the environment when managed in a land treatment unit, but did not pose this hazard when managed in a landfill. As discussed above, commenters argued that EPA's risk estimates for the landfill and land treatment unit were in error. After reviewing and carefully considering all information provided by commenters, we re-evaluated our risk assessment results. Based on information provided by commenters, we decided it was appropriate to adjust our proposed risk estimate, 2E–04, for the land treatment unit. As mentioned above in response to a commenter's concerns regarding the expected productivity of EPA's modeled agricultural field, EPA's risk estimate for the land treatment unit almost entirely was due to a farmer's ingestion of beef and dairy products from cattle that consume dioxin-contaminated forage and pasture soil. That is, the risk estimate is 2E–04 even when the portion of risk associated with cattle consumption of grain and silage are eliminated. Correcting the risk estimate to account for both cooking and post-cooking loss of beef and an overestimate of risk attributable to the erosion pathway analysis would reduce the risk estimate to 1E–04. Accounting for a more reasonable pasture size would reduce this risk estimate (1E–04) to approximately 7E–05. Moreover, adjusting the TCDD slope factor downward as recommended by the commenter, and removing 1,2,3,6,7,9- and 1,2,3,7,8,9-HxCDD from the risk assessment *completely,* would reduce this risk estimate only to 5E–05. Although EPA does not support making these adjustments to the toxicity values, doing so demonstrates that accepting the commenter's recommendation would not reduce the risk estimate to a value that, after consideration of other factors as described in Section VI.B.1. of this preamble, would change the Agency's finding that these wastes pose a substantial hazard to human health and the environment. Our analysis of the comments did not reveal any justification for modifying our proposed risk estimate for the landfill scenario.

Therefore, the Agency is listing EDC/VCM wastewater treatment sludges as EPA Hazardous Waste Number K174, unless the sludges are managed in a subtitle C landfill, or a non-hazardous waste landfill permitted or licensed by a state. The Agency believes that allowing the waste to continue to be managed under a low risk management scenario (i.e., non-hazardous waste landfilling) outside of the subtitle C system achieves protection of human health and the environment, and that little additional benefit would be gained by requiring that all EDC/VCM wastewater treatment sludges be managed in accordance with RCRA subtitle C management standards. Given the Agency's finding that the level of risk posed from managing EDC/VCM wastewater treatment sludges in a landfill is not at a sufficient level to support a hazardous waste listing determination, the Agency sees no reason to include sludges managed in this manner in the scope of the hazardous waste listing. Additionally (and after consideration of the predicted risk differential between land treatment and landfilling), because only one facility employs land treatment for these wastes, this practice is somewhat anomalous compared with land disposal. It does not make sense to apply a traditional listing approach (i.e., list all wastes regardless of management practice) based upon a practice occurring at one facility, especially if a more tailored listing can prevent potential risks from the practice.

Under the contingent management listing approach finalized today for EDC/VCM wastewater treatment sludges, EDC/VCM sludges will be hazardous wastes unless they are disposed in a landfill. EDC/VCM wastewater treatment sludges that are handled in compliance with the contingent management approach will be considered nonhazardous from the point of generation. Such sludges will not be subject to RCRA subtitle C management requirements for generation, transport, or disposal (including the land disposal restrictions), if the waste is destined for disposal in a landfill and is not placed directly on the land prior to disposal in a landfill. If the waste is not disposed of in a subtitle C landfill or a state-licensed non-hazardous waste landfill, then the waste meets the listing description and must be managed in compliance with subtitle C management standards from the point of generation.

In addition to requiring that EDC/VCM wastewater treatment sludges be disposed in a subtitle C landfill or a state-licensed landfill to meet the contingent management listing, the Agency also is restricting the placement of EDC/VCM wastewater treatment sludges directly on the land prior to disposal in a landfill (*e.g.,* storage in surface impoundments, storage in waste piles, spills). EPA wants to ensure that these wastes are managed in the manner found to be protective of human health and the environment. Under the terms of the listing, storage of EDC/VCM wastewater treatment sludge in tanks or containers, or in any manner other than direct placement on the land, prior to disposal will not constitute a violation of the conditions for exclusion from the hazardous waste listing.

Generators, and other parties involved in the management of EDC/VCM wastewater treatment sludges, claiming that their wastes fall outside the scope of the hazardous waste listing must be able to document or demonstrate that sludges excluded from the listing description are being managed in accordance with the conditions for being excluded from the listing. This means that parties claiming the waste falls outside the scope of subtitle C must be able to demonstrate that (1) previously generated and managed waste (which is being claimed as not meeting the K174 listing) was disposed of in a landfill; and (2) waste currently

being managed is not being stored, or otherwise managed, on the land (*e.g.,* waste piles, surface impoundments) as well as demonstrate that the waste is disposed of in a landfill. We note that the Agency is not imposing any specific recordkeeping requirements as part of today's final rule. Instead the Agency is finalizing, as part of the listing description, a more flexible performance standard similar to the documentation requirement provided in 40 CFR 261.2(f) for documenting claims that materials are not solid wastes. Generators and other handlers of EDC/VCM that claim the waste is not a hazardous waste must merely demonstrate that the generator or handler has, and continues to handle the waste in compliance with the contingent management conditions. One of the simplest ways to make such a demonstration may be to provide a compliance or enforcement official, upon request, with a copy of a signed contract with a state-licensed landfill. In cases where such a contract does not exist, other documentation of past and on-going disposal practices such as signed non-hazardous waste manifests, shipping papers, and/or invoices should provide an appropriate demonstration of proper management. The Agency points out that a generator's or handler's ability to demonstrate recent and/or on-going shipments of EDC/VCM wastewater treatment sludges to appropriate disposal facilities will serve as sufficient demonstration of intent to continue such management practices for wastes being stored on-site in tanks or containers (or in any other manner other than direct placement on the land) and not yet offered for off-site shipment.

The Agency points out that should EDC/VCM wastewater treatment sludges meet a listing description for another listed hazardous waste, or if the wastewater treatment sludges exhibit one or more of the characteristics of hazardous waste, the sludges must be managed as hazardous wastes and are not exempt from regulation, due to the fact that they may be characterized as EDC/VCM wastewater treatment sludge.

C. Wastewater Treatment Sludges and Wastewaters From the Production of VCM–A

1. Wastewater Treatment Sludges From VCM–A Production

The EPA is listing as hazardous wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM–A). This wastestream meets the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous because it may pose a substantial or potential hazard to human health or the environment. The Agency identified significant potential risks to consumers of groundwater due to the release of mercury from this waste when managed in a landfill. We are not promulgating the proposed alternative option of conditionally listing this waste (*i.e.,* listing the waste only if it is not managed in a subtitle C landfill) because after reviewing comments we remain convinced that the current management practice of disposing of untreated forms of this waste in a subtitle C landfill, even after taking into account landfill controls, can pose significant risk as explained in more detail below.

K175—Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.

In the August 25, 1999 **Federal Register** we proposed to list VCM–A wastewater treatment sludge due to the potential risk from consuming groundwater containing concentrations of mercury, arising from the landfill disposal of the VCM–A sludge, that exceed the Maximum Contaminant Limit (MCL).[35] At proposal, we considered risks arising from both an unlined landfill disposal and a subtitle C landfill disposal management scenario, because at that time we believed both scenarios were plausible forms of managing this waste. Under the unlined landfill scenario, we used the mercury TCLP analytical results for the VCM–A sludge (0.26 mg/L; facility split sample was 0.654 mg/L) and calculated a predicted groundwater concentration at a receptor well using a dilution and attenuation factor (DAF) of 40.[36] The predicted receptor well groundwater concentration exceeded the mercury MCL by a factor of three based on a mercury leachate concentration of 0.26 mg/L (obtained from a sample of the waste analyzed by EPA), and by a factor of eight using the mercury leachate concentration from the facility's split sample of 0.654 mg/L (64 FR at 46510).

Under the subtitle C landfill scenario, we took into account additional information regarding the increased mobility of mercuric sulfide (the form of mercury in the VCM–A sludge) under higher pH environments, and the degree to which subtitle C landfill controls (e.g., liner systems) would have to perform to prevent releases that exceed the MCL in groundwater at a modeled receptor well (64 FR at 46511). We documented that the pH measured in leachate from the subtitle C disposal cell where this waste is currently managed is greater than 9, which is in all likelihood due to the presence in the landfill of alkaline materials commonly used to stabilize many types of hazardous wastes. We also cited analytical results from a draft treatability study on the VCM–A waste, indicating that mercuric sulfide is less stable in a higher pH environment, and that the leachate resulting from a constant pH leach test at pH=10 contained 1.63 mg/L of mercury. We concluded that mercury in the VCM–A waste would be significantly mobilized under the conditions found in the subtitle C landfill scenario, and at proposal we said that ''* * * even assuming a low probability of [liner] failure * * * there may still be a release of mercury that results in an accedence of the MCL. While there are uncertainties in this assessment, it still illustrates that the mercury concentrations in the receptor well may be close to, and could even be higher than the MCL'' (64 FR 46511). In other words, with a leachate concentration of 1.63 mg/L at pH=10 and a DAF of 40, the modeled receptor well mercury concentration is 0.041 mg/L when no credit is given to the liner system (*i.e.,* assuming an unlined landfill). Assuming that no mercury is released to groundwater if a liner system is 100% effective, one only has to reduce the ''effectiveness'' of the subtitle C liner system by a small margin, to 95%, to predict a mercury concentration in a modeled receptor well equal to the MCL for mercury.[37] The issue of the uncertainty with engineered liner systems is discussed in more detail further below.

Therefore, we presented at proposal two plausible management scenarios upon which we based our proposed listing, an unlined landfill and a subtitle C landfill. As discussed below in section VI.C.1.a, because we received information after proposal indicating that the unlined landfill scenario was not plausible, our final decision today to list the VCM–A sludge as hazardous is based only upon the subtitle C landfill scenario described above.

[35] The Maximum Contaminant Level Goal (MCLG) for mercury is 0.002 mg/L because EPA has determined that drinking water below this level of protection would not cause any adverse health effects. The MCL for mercury is also 0.002 mg/L, and is an enforceable standard set as close to the MCLG as possible, considering the ability of public water systems to detect and remove contaminants using suitable treatment technologies.

[36] As noted at proposal, the DAF of 40 for mercury was developed for the 1995 proposed Hazardous Waste Identification Rule (60 FR 66344, December 21, 1995) for landfill leachate.

[37] (0.05)(0.041 mg/L) = 0.002 mg/L

a. Response to Major Comments Received on Proposed Rule for VCM–A Wastewater Treatment Sludges

VCM–A sludge is generated by only one facility in the United States, Borden Chemical and Plastics (BCP) in Geismar, Louisiana; therefore, the industry comments relating directly to this waste stream were from BCP. Environmental groups and waste treatment industry representatives also commented on the EPA's proposal to list this wastestream as hazardous.

i. Risk Assessment Submitted by BCP

In response to the Agency's proposed decision to list wastewater treatment sludges from the production of VCM–A, BCP provided the Agency with a groundwater pathway exposure and risk analysis for mercury in VCM–A wastewater treatment sludges managed in landfills, conducted by a contractor on their behalf. BCP concludes, based upon their risk assessment, that there would be no human health risks to consumers of groundwater resulting from releases of mercury from VCM–A waste managed in a landfill.

BCP's analysis was designed to parallel the manner in which EPA conducts contaminant fate and transport modeling when evaluating landfills. Specifically, BCP stated that its ''methods and assumptions followed to the extent possible those presented in [EPA's] Chlorinated Aliphatics Risk Assessment document when feasible.'' However, rather than using EPA's groundwater fate and transport model, EPACMTP, BCP's analysis used a simpler analytical groundwater transport model, AT123D. This model is not specifically designed to simulate leachate migration from land disposal units; although, when used appropriately, AT123D should be able to produce results that are protective and comparable to those obtained with EPACMTP. However, after carefully reviewing the risk assessment submitted by BCP, EPA found that there are significant deficiencies associated with certain aspects of the modeling and risk assessment and therefore is not persuaded by the conclusions drawn from BCP's analysis. These deficiencies are described below:

• EPA's most significant concern regarding the way in which BCP conducted its groundwater modeling is that BCP limited the period of time that the contaminant plume is allowed to migrate to 70 years from the time mercury was introduced into the groundwater. BCP's assumption has the effect of considering only exposure and hazard to current receptors and ignores potential hazard to future generations. In fact, in the case of release of leachate from a landfill, the greatest risk is often to future generations. This is because wastes initially are accumulated in landfills for many years prior to landfill closure, then, subsequent to landfill closure, leachate generation and migration in groundwater can occur for additional tens, hundreds, or thousands of years.

• EPA disagrees with the way that BCP considered the area of the landfill in its modeling efforts. Although the area of the waste management unit is not input directly into the AT123D model employed by BCP, the model does require an equivalent source length and width. In its analysis, BCP modeled an areal source with an area of one meter by one meter, and a depth (thickness) of 6 meters. The analysis submitted by BCP does not provide the area of the actual landfill in which the VCM–A sludge is disposed, but a source area equal to 1 m^2 does not represent a realistic landfill size, since industrial landfills are typically on the order of 50,000 to 100,000 m^2. Moreover, a landfill of the size modeled by BCP ($6m^3$) would not be large enough to contain the quantity of sludge that we estimate BCP generates in 1 year, $109m^3$), let alone the quantity we estimate BCP might generate over a 30 year period ($3,273m^3$).

• In its AT123D modeling efforts, BCP assumed an aquifer hydraulic conductivity of 1E–04 centimeters per second (cm/s). The median hydraulic conductivity value that we would have selected to correspond to the location of the landfill where BCP disposes of their waste is 8E–03 cm/s.[38] In the context of BCP's analysis, it does not appear that the hydraulic conductivity value used was protective. On the contrary, BCP's conclusion that: ''* * * in the 70-year time span evaluated, mercury would move no further than between approximately 37–46 meters * * *.'' was supported in part through use of a hydraulic conductivity value that was 80 times less than the median hydraulic conductivity value that EPA would have selected, potentially resulting in an underestimate of the predicted groundwater flow rate. This could result in a significant underestimation of predicted contaminant migration.

• The value BCP used for the parameter that defines the dispersion of the contaminant plume (the dispersivity) was unrealistically large for the transport distances that BCP evaluated. Dispersion causes a contaminant plume to spread both ahead of the bulk flow of groundwater (longitudinally) and perpendicular to the bulk flow of groundwater (transversely and vertically). The effect of dispersion is to cause the leading edge of the plume to travel more rapidly and spread more widely than the bulk (average) groundwater flow. Dispersion also will cause the plume to become more diluted due to mixing with ambient (uncontaminated) groundwater. This dilution effect will be most pronounced at the periphery of the plume. BCP's methodology for estimating dispersivity was based on designating where the concentration value for the plume will be measured (that is, the location of the receptor well) and calculating an appropriate dispersivity value for that location, since dispersivity increases with distance from the source. Accordingly, BCP calculated dispersivity values corresponding to the location of a receptor well 152 meters from the landfill source. EPA acknowledges that this approach is consistent with generally accepted practices, and does not disagree with the approach in principle; that is, the dispersivity values used in BCP's modeling would have been appropriate to characterize the effect of hydrodynamic dispersion on plume concentrations at the location of the designated receptor well (152m from the source). BCP's error occurred when they elected to use the modeled concentration at a distance of 37m (the predicted leading edge of the contaminant plume) as the basis for their calculation of mercury hazard. BCP did not modify their estimate of plume dispersion to correspond to a closer distance to the source. By not correctly accounting for distance from the source, BCP's groundwater modeling analysis significantly overestimated the effect of dispersion at the edge of the plume, and the resulting dilution of the plume due to dispersive mixing. Consequently, the mercury concentration (and associated hazard) that BCP predicted to correspond to the edge of the plume was much lower than it would have been had they accurately estimated dispersion. More appropriately, BCP should have extended their modeling timeframe, as discussed above, such that they could have more accurately predicted contaminant concentrations at their designated receptor well distance.

BCP concluded from their analysis that essentially no migration of mercury would occur in groundwater, and that mercury concentrations in groundwater are below levels of concern. Because BCP limited their analysis to the evaluation of current receptors, potentially underestimated the hydraulic conductivity of the aquifer, overestimated aquifer dispersivity, and grossly underestimated the area of the landfill, EPA does not believe BCP's risk analysis can be used to support a listing decision for VCM–A sludge.

ii. Plausibility of Unlined Landfill Management Scenario

In the proposed rule, EPA stated that disposal of Borden's VCM–A sludge in a non-hazardous, unlined landfill was plausible, based upon gaps in the record, particularly prior to 1990. BCP commented that in all of the time it had responsibility for the operation of the VCM–A plant (which records indicate is since the early 1980's) Borden always managed its VCM–A sludge at a facility that was ''constructed and operated in

[38] The source of our hydraulic conductivity data is a database prepared by the American Petroleum Institute (Newell, Charles J., Loren P. Hopkins, and Philip B. Bedient, 1989. Hydrogeologic Database for Ground Water Modeling. API Publication No. 4476, American Petroleum Institute, Washington, D.C.). The range of values from which the median is derived is 1E–05 to 4E–01 cm/s.

accordance with the hazardous waste regulations that existed at the time of disposal.'' Upon consideration of BCP's claim that the specific inventory of VCM–A waste, cited by EPA as having been stored on site in 1985, was in fact disposed of as hazardous waste between March and May of 1985, there is no evidence the waste has ever been disposed of in an unlined, non-hazardous landfill. Moreover, given BCP's record of disposal of this waste in a hazardous waste landfill during the 1990's, and its comments that this is where BCP will continue to send the waste in the future, we see no compelling information to suggest the company would do otherwise. Accordingly, we agree that disposal in an unlined landfill is not plausible.

iii. Constant pH Leach Results Versus TCLP

BCP took issue with our overall approach to determining that the VCM–A waste poses significant risk when mismanaged. Specifically, BCP disagreed with EPA's assertion that the VCM–A waste, which is in the form of mercuric sulfide, leaches mercury more readily at higher pH conditions. In particular, BCP criticized our reliance on the results of a preliminary EPA-sponsored study [39] indicating (using only one sample) a leachate concentration for mercury at 1.63 mg/L at pH=10, and that the pH conditions of the landfill cell where this waste is presently disposed indicate an elevated pH as well (pH=9.48 to 9.7 as reportedly measured in the leachate collected from this landfill cell). Furthermore, BCP questioned our application of these analytical results to the circumstances surrounding the disposal of the VCM–A waste. BCP also argued that it appears that because we stated in the proposed rule that the TCLP may not be a reliable indicator of mercury mobility under these conditions, that EPA has ''invalidated its own regulatory procedures for this particular [waste] stream'' by relying on the waste-specific pH results discussed above, instead of relying on the existing TCLP method for defining whether or not the VCM–A sludge is hazardous. BCP was concerned that EPA's reliance on a waste-specific approach to determining the hazard of the VCM–A waste, rather than relying instead on the existing toxicity characteristic to determine hazardousness, was an ''unconventional method to single out this particular waste stream'' and was therefore arbitrary and capricious. BCP is arguing that it is inappropriate for EPA to assess the hazard of mercury in a waste when there is already an existing toxicity characteristic for mercury, and that by doing so for one specific waste EPA is selectively ''changing the rules'' for that waste.

EPA disagrees with BCP's comment that EPA should rely on the existing TCLP, and that doing otherwise unfairly or inappropriately singles out its waste. First, because EPA has undertaken a listing determination for a certain category of wastes (chlorinated aliphatic wastewater treatment sludges), and has further identified VCM–A sludge as a reasonable subcategory due to the markedly different manufacturing process from which the waste is generated, it is entirely reasonable for us to assess the hazards of this specific waste in the context of this listing determination. The fact that only one facility in the United States currently is generating the waste in this subcategory is irrelevant to the sound technical conclusion that it merits separate consideration. Second, in making a specific listing determination EPA is not limited to looking only at whether the waste is hazardous under the existing characteristics approach to defining hazardous waste. While the listing criteria in 40 CFR 261.11(a)(3)(i) do require EPA to consider whether a waste is characteristically hazardous, there are other criteria in § 261.11(a)(3) that the EPA also addresses in making listing determinations, which include a determination as to whether the waste poses significant risk based on a waste-specific evaluation.

Additionally, the toxicity characteristic regulation is a regulation of general applicability; that is, it potentially applies to all non-exempt solid waste generated. The TCLP leaching test was designed to represent likely leaching potential of waste in an MSW landfill, which was considered plausible worst-case management conditions for industrial solid waste generally. BCP's comments expressed concern that the Agency is singling this waste out for assessment under an approach different (and more stringent) than that applied to other wastes or to evaluation of solid waste under the TC regulation. The Agency is considering the pH dependency of mercury sulfide solubility, and considering other data on this key waste constituent, including both the changes in likely leachability under conditions different from the TCLP test but matching those of the landfill where the waste is actually disposed. In doing so, the Agency is not singling this waste out for more stringent assessment. Rather, the Agency is attempting to more fully consider all the scientific data on the waste, its constituents, and its actual management conditions, and applying these data in an assessment of the likely risks from the waste as it is actually managed. The whole point of a listing determination is to decide, on a wastestream-specific basis, whether the existing characteristics adequately address risks from the waste.

Regarding BCP's comment questioning the results from the EPA/ORD study on mercury mobility, while BCP claims to not necessarily dispute the results, it pointed out that the results were from a preliminary study that had not yet been peer reviewed, and that any decision EPA makes should be based upon peer-reviewed, final analytical reports with all QA/QC data available. BCP also commented that it attempted to duplicate the extraction of the VCM–A waste at varying pH (6, 8, and 10) but found very little difference in the resultant mercury leachate concentration, and all results were below the TCLP limit of 0.2 mg/L. BCP points out that contradicting results cast doubt on EPA's conclusions that mercury is more mobile at elevated pH when in the mercuric sulfide state.

EPA continues to believe that available evidence supports the conclusion that the solubility of mercuric sulfide increases with increasing pH, and that this conclusion is supported by scientific literature cited in the proposed rule [40] as well as additional scientific literature and EPA calculations presented below. A recently published study on mercury speciation in the presence of polysulfides agrees with our finding that there is an increase in the solubility of cinnabar (mercury sulfide) in the presence of elemental sulfur, particularly at high pH.[41] This same study also indicated that at a pH of 10, mercury can solubilize from mercuric sulfide at concentrations very similar to what was reported in the draft EPA/ORD study. EPA performed additional calculations using the geochemical assessment model MINTEQA2. We calculated the solubility of mercuric

[39] Paul Bishop, Renee A. Rauche, Linda A. Rieser, Markram T. Suidan, and Jain Zhang; ''Stabilization and Testing of Mercury Containing Wastes,'' Draft, Department of Civil and Environmental Engineering, University of Cincinnati, March 31, 1999.

[40] H. Lawrence Clever, Susan A. Johnson, and M. Elizabeth Derrick, The Solubility of Mercury and Some Sparingly Soluble Mercury Salts in Water and Aqueous Electrolyte Solutions, J. Phys. Chem. Ref. Data, Vol. 14, No. 3, 1985, page 652.

[41] Jenny Ayla Jay, Francois M. M. Morel, and Harold F. Hemond, Mercury Speciation in the Presence of Polysulfides, Environmental Science and Technology, 2000, Vol. 34, No. 11, pages 2196–2200.

sulfide using conditions reported for the VCM–A waste (*e.g.,* pH reported for subtitle C landfill leachate where waste is disposed, sulfide concentration of VCM–A waste) and found the calculated mercury solubility agreed well with the mercury concentration data for the landfill leachate (originally included in the docket to the proposed rule). This further supports our assertion that sulfide and pH are controlling factors in the solubility of mercuric sulfide, and that this conclusion reasonably can be applied to the VCM–A waste as well.[42] Therefore, while we did indicate at proposal that the EPA/ORD study was preliminary, we believed it was important to present these results as evidence because they represented direct studies on the instant waste being evaluated for listing. EPA has received no specific information in comment that effectively contradicts this evidence, and has identified specific information in the scientific literature that supports it.

Regarding the results from BCP's own leach testing experiment, which BCP claims did not show a strong correlation between pH and mercury solubility, BCP stated that it had attempted to replicate EPA's study ''in the absence of any information regarding how the EPA contractor samples were extracted.''[43] While EPA does not have any information on BCP's experiment (other than a summary of the findings) to explain why there might be differences between Borden's results and those from the EPA study, EPA's results are consistent with literature sources regarding the relationship between pH and mercury solubility from the mercuric sulfide form; therefore EPA does not agree that BCP's results indicate that EPA's conclusions are invalid.[44] Again, even absent the draft EPA/ORD study, the effect of pH on the solubility of mercury in mercuric sulfide is established independently in the scientific literature, as discussed above.

iv. Liner Effectiveness

EPA requested comment on the basis for listing as hazardous the VCM–A waste that is presently being disposed in a lined subtitle C landfill. BCP stated that EPA's reliance on some degree of liner failure as part of predicting the release of mercury to groundwater from a subtitle C landfill amounts to a ''repudiation of existing standards for * * * landfill management of hazardous waste.'' BCP argues that EPA's statement that there is ''inherent uncertainty'' associated with liner integrity in a subtitle C landfill is no greater with respect to its VCM–A waste than it is for any other waste currently disposed in C landfills. BCP continues by making numerous arguments that subtitle C liner systems are designed to be compatible with the wastes being disposed, and that the regulatory requirements applicable to these systems (*e.g.,* groundwater monitoring, leak detection, leachate collection, post-closure care and maintenance, etc.) are all designed to ensure system integrity in both the short- and long-term.

EPA has acknowledged the uncertainty associated with liner systems in the past. Taking this uncertainty into account when evaluating the potential risk from this specific waste stream is in no way a repudiation of EPA's reliance on liner systems overall. Indeed, the premise of the statutory land disposal restrictions requirements—one of the core features of RCRA—is precisely that liners and other containment systems, no matter how well designed, are inherently uncertain and cannot be relied upon alone to fully mitigate threats posed by hazardous wastes. In general, we believe releases from landfills are significantly reduced by well-constructed, monitored, and maintained liner and cap systems. However, we recognize that there is still uncertainty associated with liner performance, both in the near term as well as in the long term. While some studies indicate that engineering properties of liners may last for many (perhaps several hundred) years, there are a variety of factors that may influence longevity and performance, such as poor construction, installation, or geologic movement below the liner that can cause holes, tears, or larger failures. Some defects are likely to have little to moderate effect on the leakage rate. Other defects may have a significant effect and may necessitate corrective action (64 FR at 31582).

We are only considering this uncertainty to the extent that, as discussed previously in section VI.C.1, even if a liner system is capable of preventing 95% of releases over the long-term, the waste likely will present substantial risk to consumers of groundwater due to a release of mercury from the landfill unit (i.e., exceedance of the MCL). We are not saying we believe that liners will necessarily fail. What we are saying is that given the specific evaluation we have made of the VCM–A waste, a liner system can be 95% effective and we still would predict a release to groundwater that potentially poses risk (exceedance of the mercury MCL at a modeled receptor well). We think that over the long term such a change in effectiveness is sufficiently plausible to merit consideration in this listing decision. We emphasize that this assessment is specific to a waste containing a highly toxic, very persistent constituent coupled with the possibility of a small degree of liner degradation, and does not mean that EPA would choose to list any wastes voluntarily put into a subtitle C landfill.

Despite the uncertainty noted above on predicting how well liners will perform over periods of say, 100, 1000, or 10,000 years, and the fact that the oldest subtitle C units are less than 30 years old, EPA is nevertheless obligated in this listing determination to make a judgment whether waste disposed of in these units ''is capable of posing a substantial present or potential hazard to human health and the environment.'' Given that landfill controls would have to be 95% effective forever to prevent substantial risks from this highly concentrated, toxic, and persistent waste, EPA concludes that the waste is capable of posing a substantial hazard. While EPA cannot say how effective these units will be over the long term, we believe it is plausible that at least some will not be 95% effective forever. The alternative course would be for EPA to conclude the waste is not capable of posing a substantial hazard, by concluding that a Subtitle C landfill will most likely be 95% effective forever. But, we conclude that that is an unreasonable and unsupportable conclusion and are acting upon what seems like the more reasonable conclusion under the circumstances.

EPA also points out that under RCRA, the subtitle C management standards provide that hazardous wastes that are land disposed must be treated to reduce the risk of hazardous constituents being released to the environment as well as be disposed in landfills equipped with liners and leak detection. The existing standards for the safe management of hazardous wastes rest on more than the landfill management requirements, or liner integrity. The legislative history to RCRA 3004(m) states that this section of the statute ''makes Congressional intent clear that land disposal without prior treatment of these wastes with significant concentrations of highly persistent, bioaccumulative constituents

[42] Memorandum from John Austin to Ross Elliott, May 12, 2000.

[43] EPA notes that there was a summary description of the constant pH leaching procedure in Section 4.4 of the draft EPA report, which was part of the proposed regulatory docket.

[44] EPA also points to data in the proposed rule record from BCP's analysis of their mercuric sulfide sludge at three different pH values, which were all above the current TCLP limit and did vary with pH. See Appendix 1, Reclassification Petition Submitted to LDEQ, September 1987.

is not protective of human health and the environment.'' (130 Cong. Rec. S 9178; daily ed. July 25, 1984). Mercury is exactly the type of ''highly persistent, bioaccumulative constituent'' to which Congress was directing this statutory mandate.

v. pH Conditions of Disposal Environment

BCP questioned EPA's conclusions that the disposal conditions at the subtitle C landfill cell where the VCM–A waste is presently disposed are at elevated pH levels, based upon the recorded pH measurements EPA obtained for the leachate collected from this same cell. BCP also cited several factors that it stated led to the conclusion that the VCM–A waste will not be subjected to elevated pH conditions when disposed in the subtitle C cell where it currently is sent. BCP described several factors that would limit the influence of other co-disposed wastes on the VCM–A waste (and thus, BCP appears to be saying, reduce the likelihood of the VCM–A waste being subject to elevated pH conditions). BCP points out that the volume of the VCM–A waste disposed in the cell since 1985, which is relatively minor, compared with the large volume of other hazardous wastes in the disposal cell, the supposed absence of free liquids in a subtitle C landfill, the lower pH and resultant buffering capacity of the VCM–A waste, and the fairly solid nature of the VCM–A waste, all reduce the influence that other co-disposed wastes may have on the potential for mercury to leach from the disposed VCM–A sludge.

EPA disagrees that these factors would change the conclusion that is drawn from the measured elevated pH of the leachate removed from this landfill cell. In addition to the leachate pH measurements cited in the proposed rule for the same cell where BCP's VCM–A sludge is disposed, additional information from the landfill facility confirms these leachate pH measurements are consistent with the nature of the landfill leachate for this facility.[45] In fact, to the extent that these factors affect the pH of the landfill environment, we believe it is reasonable to conclude that the measured leachate pH provided by the landfill operator reflects the sum total of these various factors. Borden's comments give us no reason to believe that the leachate collected from this cell is not indicative of elevated pH conditions within the unit. We thus conclude that BCP's waste, while in the same disposal cell and coming into contact with leachate, would be exposed to the type of alkaline conditions that result in higher mercury mobility when in the sulfide form.

vi. Other Comments

BCP commented that should EPA decide to list the VCM–A waste as hazardous, we should select the alternative option proposed which would result in the VCM–A waste only being listed if sent anywhere other than to a subtitle C landfill (and provided the waste does not exhibit the toxicity characteristic for mercury). EPA proposed this alternative option in the event that we received comment persuading us that our assumptions were incorrect regarding mercury being more mobile in the presence of sulfides in a higher pH environment, or that our assessment of liner uncertainty is insufficient to predict a risk to consumers of groundwater. As discussed above, EPA remains convinced that mercuric sulfide is less stable under the elevated pH conditions of disposal in a subtitle C landfill, and that a liner system can be 95% effective and we still would predict a release to groundwater that potentially poses risk.

BCP also requested that should EPA proceed with a decision to list the VCM–A waste as hazardous, that we re-phrase the K175 listing description so it only applies to mercuric sulfide forms of sludge. The commenter said that this was so future technologies could be developed that are ''better'' and the sludge would no longer meet the listing if these changes are employed. Aside from suggesting that the reference to mercuric sulfide be removed, the commenter did not provide any specific potential changes that might occur, or how these changes would make the wastewater treatment sludge significantly different or less risky. The listing description proposed refers to the manufacturing process that uses mercuric chloride catalyst, and the commenter did not suggest changing that part of the listing; therefore EPA concludes that the commenter would still be faced with a wastewater treatment sludge containing very high levels of total mercury (to comply with regulatory limits on the amount of mercury in the discharged wastewater). Absent any specific examples, EPA can think of one possible change that could result in a sludge that could pose a greater potential risk. It is possible that the facility could continue to use the mercuric chloride catalysts (as is currently the case for the acetylene-based process), but alter the wastewater treatment process to produce a mercuric oxide sludge, in order to make the sludge more amenable to retorting for mercury recovery. Sludge from such a process might pose a greater risk, because the mercury would be more soluble than the current sulfide. We believe that the current listing description is appropriate, because it appropriately describes the waste subject to our evaluation.

b. Summary

In conclusion, EPA is listing as hazardous the VCM–A wastewater treatment sludge described above because this wastestream meets the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous. Our analysis that showed potential risk to consumers of groundwater due to a predicted exceedance of the MCL takes into account the toxicity and concentration of mercury in the waste (criteria at 40 CFR 261.11(a)(3)(i) and (ii)). This is because the mercury MCL is based upon toxic human health effects from ingestion of mercury, and because the high mercury concentration in the waste results in the predicted MCL at the modeled receptor well. We also determined that the potential of mercury to migrate from the waste into the environment under a plausible disposal scenario (criteria at 40 CFR 261.11(a)(3)(iii) and (vii)) and mercury's persistence and lack of degradation into non-harmful constituents (criteria at 40 CFR 261.11(a)(3)(iv) and (v)) also supported a decision to list this waste. This is because there is increased solubility of mercury in this waste at the elevated pH conditions in the landfill cell where the waste is disposed, and only a relatively small degradation of liner performance results in unacceptable risk to potential groundwater consumers. In addition, mercury is a persistent contaminant and therefore will not degrade before any predicted impact to groundwater occurs.

Listing criteria that the EPA considered but which did not form the basis for listing this waste include the ability of mercury to bioaccumulate in ecosystems, the nature and severity of human health or environmental damage from improper management of these wastes, and actions taken by other governmental agencies or regulatory programs. (40 CFR 261.11(a)(3)(vi), (ix), and (x)). Bioaccumulation of mercury is not relevant to the exposure pathway EPA assessed (ingestion of groundwater). Although no documented damage incidents were found for this particular waste, EPA believes that on balance this fact alone does not

[45] See Memorandum from Ross Elliott, U.S. EPA Office of Solid Waste, to RCRA Docket, ''Summary of Phone Call Between EPA and Carl Carlsson, Chemical Waste Management Inc.,'' July 12, 2000.

persuade us to make a finding that this waste should not be listed, when weighed against the other criteria described in this section that support a decision to list this wastestream. No governmental or regulatory actions [46] were identified that would lead EPA to decide to list this waste or conclude that waste was already sufficiently controlled to render further regulation moot.

Finally, EPA did consider certain ''other factors as may be appropriate'' together with the quantities of this waste generated (criteria at 40 CFR 261.11(a)(3)(xi) and (viii)) in a ''weight-of-evidence'' approach to reach a decision to list this waste as hazardous. As discussed in the Land Disposal Restrictions section of today's preamble (section VI.I.3), EPA believes that this waste can be disposed in a manner that helps ensure the mercury is more stable and less likely to leach. Because this waste is already being sent to a hazardous waste landfill, one important effect of today's listing is the assurance that the waste is properly treated (or otherwise meets specific standards as generated) and is disposed in a manner to reduce the likelihood of mercury releases to groundwater, releases that may result in unacceptable risk to consumers of groundwater. Given the reported amount of this waste generated per year (120 metric tons), and the high total concentration of mercury in the waste (approximately one percent mercury by weight), the total loading to the landfill is approximately one metric ton of mercury per year. Ensuring that this amount of mercury is disposed of in a form that minimizes releases of mercury was considered by EPA when making its final listing decision.

2. Wastewaters From VCM–A Production

a. Summary of Agency's Listing Determination for VCM–A Wastewaters

The EPA is not listing as hazardous wastewaters generated from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process (VCM–A). This wastestream does not meet the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous, for the reasons described below.

b. Discussion of Agency's Listing Determination

As discussed above, only one facility in the United States operates an acetylene-based VCM production process, which uses mercuric chloride catalysts in the production of VCM. The management of spent mercuric chloride catalyst used in the VCM–A production process results in the generation of a wastewater containing mercuric chloride, as well as vinyl chloride. EPA proposed not to list this wastewater due to the fact that the wastewater already is identified as hazardous waste. As explained in the preamble to the proposed rule, the wastewater exhibits the toxicity characteristic for mercury and vinyl chloride. EPA received only one comment addressing the Agency's proposed decision not to list VCM–A wastewaters. This comment favored EPA's proposed decision.

The Agency bases its decision not to list VCM–A wastewaters as hazardous on the fact that the wastewaters already are identified as hazardous wastes under the toxicity characteristic. In fact, the concentration of mercury in a sample of this wastestream analyzed by EPA was over 40 times above the TC regulatory limit for mercury. Therefore, it is highly probable that the wastewater routinely contains levels of mercury which cause this wastestream to be defined consistently as characteristically hazardous waste. Therefore, EPA concludes that the TC adequately defines this wastestream as hazardous.

Additionally, the facility's dedicated wastewater treatment system is designed and optimized expressly for the removal of mercury, the source of which is the mercuric chloride catalysts, to comply with regulations promulgated under the Clean Water Act. The criteria in 40 CFR 261.11(a)(3) for evaluating whether or not a solid waste is a hazardous waste provide that EPA should consider how the waste (and potential risk) is affected by other regulatory programs (i.e., 261.11(a)(3)(x)). In the case of the VCM–A wastewaters, EPA notes that the Agency's decision not to list this wastewater as hazardous is based on the fact that the waste already is defined as a hazardous waste because it exhibits the toxicity characteristic and the potential risks posed by the wastestream are regulated both under RCRA and other programs. With respect to the discharge of the wastewater, the facility treats and discharges the wastewater in compliance with the conditions of a NPDES permit issued under the authority of the Clean Water Act. Regarding any air emissions of vinyl chloride from these wastewaters, vinyl chloride is a hazardous air pollutant; therefore the facility is subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) requirements specific to vinyl chloride emissions (40 CFR 61.65), as well as the Hazardous Organic NESHAP for the synthetic and organic chemical manufacturing industry sector (40 CFR Part 63, subpart G)(59 FR 19468, April 22, 1994).

Given that this waste currently is regulated as hazardous because it exhibits the TC and given the fact that management of the wastestream is adequately regulated under a number of environmental regulatory programs, the Agency is promulgating a decision not to list VCM–A wastewaters as hazardous waste.

D. Wastewater Treatment Sludges from the Production of Methyl Chloride

1. Summary of Agency's Listing Determination for Methyl Chloride Wastewater Treatment Sludges

EPA is not listing as hazardous sludges from the treatment of wastewaters generated from methyl chloride production processes. The Agency has determined that this wastestream does not meet the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous.

2. Discussion of Agency's Listing Determination

Only one facility generates a non-hazardous wastewater treatment sludge from the production of methyl chloride. The facility generates less than 800 metric tons of the sludge annually and disposes of the sludge in an on-site landfill. As discussed in the preamble to proposed rule (64 FR 46516), EPA conducted a risk assessment of this waste, modeling one management scenario (the on-site landfill). The Agency's analysis of potential risks due to volatile emissions from the landfill found negligible risks (i.e., estimated risks less than 1E–6) to individuals in the surrounding area. The Agency also conducted a bounding (*i.e.,* worst case) risk analysis to estimate potential risks to groundwater consumers. This analysis used the leachate concentration measured from a sample of the facility's methyl chloride wastewater treatment sludge, and assumed the direct ingestion of this leachate by an adult for a period of 58 years. This bounding analysis resulted in a risk of 5E–5 for one constituent, arsenic. This estimate of individual risk, together with additional factors described below in

[46] Although we noted at proposal that the facility had obtained a ''reclassification'' of the waste as non-hazardous from the State of Louisiana, this determination did not appear to be a blanket exemption from hazardous waste requirements, for example, should a process change result in a waste that fails the toxicity characteristic for mercury, the waste would have to be handled as hazardous waste).

EPA's response to specific comments, led the Agency to conclude that this waste did not pose a substantial risk to human health and the environment.

3. Response to Major Comments Received on the Proposed Listing Determination for Methyl Chloride Wastewater Treatment Sludges

Two commenters questioned why the Agency proposed not to list the wastewater treatment sludges from methyl chloride production as hazardous, given that the individual cancer risk level from arsenic, via the groundwater pathway, is within the range of risk values that EPA generally associates with potential candidacy for listing the waste as hazardous. The commenters argued that EPA should not ignore the potential risks from the arsenic in the wastewater treatment sludges and should list the waste as hazardous.

EPA did not ignore the potential risk from arsenic. The estimated risk described by the commenter was the result of the Agency conducting a bounding analysis using worst case assumptions. Given that the Agency's assumptions were very conservative (*i.e.,* an adult receptor would drink leachate generated from the disposal of the methyl chloride wastewater treatment sludges for 58 years), and taking into account additional factors described below, the Agency determined that there is no substantial hazard to human health and the environment on which to base a decision to list the waste as hazardous.

As described in more detail in Section VI.B.1. of this preamble, EPA's policy for listing wastes as hazardous (originally outlined in the in 1994 Dyes and Pigments proposal, 59 FR 66077) is that wastestreams with risks in the range of 1E–6 to 1E–4 may be either listed or not listed after taking into account additional factors. Generally, our benchmark level for listing is the middle of the range (1E–05), but, as described in the preamble to the Dyes and Pigments proposal, we use a ''weight of evidence'' approach that considers other factors. In the case of our listing determination for methyl chloride wastewater treatment sludges, these additional factors include the conservative assumptions that resulted in the groundwater risk estimate for arsenic, along with additional information available to the Agency regarding the manner in which the waste is currently managed (*i.e.,* in a landfill). We also evaluated our risk assessment results in conjunction with additional information available to the Agency with regard to the constituent of concern (*i.e.,* arsenic).

If the Agency assumes a less direct pathway of ingestion (i.e., taking into account some dilution and attenuation expected with a landfill scenario, so that a person drinks groundwater contaminated with leachate, rather than the leachate directly), and applying a DAF of 5 (which would be a reasonable assumption for an unlined landfill), the predicted risk becomes 1E–5. However, the Agency also notes that assuming a DAF of 5 (as was described in the proposed rule) is likely too conservative, given that the landfill in which the methyl chloride sludge is disposed has a 24-inch clay liner and a leachate collection system. Therefore, the actual risk from arsenic in this waste will be much lower than the risk level predicted by the bounding analysis, given that the landfill currently used by the single facility generating this waste is lined and has a leachate collection system.

To further illustrate why assuming a DAF of 5 would be a very conservative assumption, in our assessment of risk from the EDC/VCM wastewater treatment sludge presented elsewhere in today's rule, arsenic was an initial constituent of potential concern. To support our analysis of potential groundwater risks from the landfilling of EDC/VCM wastewater treatment sludges, we modeled arsenic releases and obtained estimates of DAFs for arsenic (assuming an unlined landfill) of 13 for the high-end risk estimate, and a DAF of 93 for the central tendency estimate. Thus, even if the Agency does not take into account the liner and leachate collection system in the one landfill where currently non-hazardous methyl chloride sludge is managed, applying reasonable estimates of DAFs lowers the estimated risk to the lower end of the range of risks where the Agency may or may not list a waste; and upon consideration of the very conservative approach used in generating the arsenic risk estimate, the Agency concludes that the potential risk associated with arsenic in the waste is well below the range in which the Agency would deem the waste to pose a substantial hazard to human health and the environment. Therefore, EPA is finalizing a no list determination for wastewater treatment sludges from the production of methyl chloride.

E. Wastewater Treatment Sludges From the Production of Allyl Chloride

1. Summary of Agency's Listing Determination for Allyl Chloride Wastewater Treatment Sludges

EPA is not listing as hazardous waste sludges from the treatment of wastewaters generated from allyl chloride production processes. The Agency has determined that this wastestream does not meet the criteria set out at 40 CFR 261.11(a)(3) for listing a waste as hazardous. The Agency identified no risks of concern associated with the current management of this waste.

2. Discussion of Agency's Listing Determination

As discussed in the proposal, currently non-hazardous wastewater treatment sludges from allyl chloride production are generated at a single facility. The sludges are generated from the facility's centralized wastewater treatment system in which the facility manages wastewaters from multiple production processes and facilities. Wastewaters from the production of allyl chloride contribute less than two percent to the system's total sludge loading. According to the RCRA Section 3007 survey response from the one facility generating a non-hazardous allyl chloride sludge, the sludge generated from the facility's wastewater treatment system is incinerated on site in a non-hazardous waste incinerator.

As described in the proposed rule, during the investigations undertaken in support of the listing determinations EPA collected one sample of sludge from the facility's combined wastewater treatment system. Two duplicate TCLP analyses were performed using the sample collected. The TCLP analyses indicated the presence of no TCLP constituents above regulatory levels. The sample also was analyzed for total constituent concentrations including arsenic and dioxins and furans. The total arsenic concentration in the waste was 11.7 mg/kg, and the total dioxin (TEQ/TCDD) concentration was 11.79 ng/kg.

The Agency did not assess risks by modeling management practices and exposure pathways, since both the total arsenic level and the total dioxin level detected in the sludge are below levels of concern and well within the range of background levels of those constituents

in soils.[47 48] In addition, the waste is generated by a single facility and currently is not managed in a manner other than non-hazardous waste incineration.

Given that wastewater treatment sludges from allyl chloride production are generated by a single facility, that the sludge generated is the product of a facility-wide non-dedicated (*i.e.,* not process-specific) wastewater treatment system, and that the waste contains no constituents of concern at concentrations of concern, the Agency concludes that no significant risks are posed by the waste. The Agency is finalizing a determination not to list this waste as hazardous.

3. Response to Major Comments Received on the Proposed Listing Determination for Allyl Chloride Wastewater Treatment Sludges

One commenter questioned whether EPA had considered the fact that the one facility generating wastewater treatment sludges from the production of allyl chloride may manage this waste in a manner other than on-site combustion in the future. The commenter suggested that EPA should have conducted a risk analysis of managing the waste both in a non-hazardous waste incinerator and in an unlined landfill.

Given that the one facility generating this waste is managing the waste in an on-site incinerator and that the Agency has no information indicating that the facility has or intends to manage the waste in a manner other than on-site incineration, we believe that landfill management is not plausible for this wastestream. In the case of a waste that is generated by a single facility, we would not project a change in management practices without information or cause. EPA evaluated information provided by the facility regarding current management practices to project plausible scenarios. The Agency concluded that the facility has sufficient on-site capacity to continue to treat the waste in its non-hazardous waste incinerator. The total arsenic and total dioxin concentrations in the waste are below levels of concern.

A commenter suggested that the analytical work performed on the wastewater treatment sludge generated from allyl chloride production was inadequate, given that only one sample of the sludge was collected and analyzed by EPA.

The commenter did not provide any specific information as to why the allyl chloride sample collected by EPA was inadequate, other than it was one sample. As noted in Table 2–10 of the Listing Background Document (USEPA, 1999c), the Agency sampled 100% of the facilities producing allyl chloride, that is, EPA visited and sampled the one facility that produces this chlorinated aliphatic chemical. As discussed above and in the proposed rule, EPA is not listing this facility's allyl chloride wastewater treatment sludge because the chlorinated aliphatic production process at this facility contributes less than two percent of the total wastewater volume to the wastewater treatment process from which the sludges are generated. Given that there is only one generator of this waste and that the wastewaters from the allyl chloride production process contribute a relatively small portion to the facility's wastewater treatment system, EPA believes that our data, though perceived as limited by the commenter, is adequate to support the listing determination.

F. What is the Status of Landfill Leachate Derived-From Newly-Listed K175?

At the time of the proposed rule, information available to EPA indicated that wastewater treatment sludges from the production of VCM–A may have been managed previously in non-hazardous waste landfills. If these sludges had been managed in non-hazardous waste landfills, and if the leachate and gas condensate generated at such landfills is actively managed after the effective date of today's rule, the landfill leachate and gas condensate derived from the newly-listed VCM–A waste in such landfills could be classified as K175. As explained in the preamble to the proposed rule and in the final rule for leachate derived from newly-listed petroleum wastes (64 FR 6806), in such circumstances, we would be concerned about the potential disruption in current leachate management that could occur, and the possibility of redundant regulation (under RCRA and CWA) due to the application of the ''derived-from'' rule to the leachate. In the case of non-hazardous waste landfills receiving newly-listing hazardous wastes prior to the effective date of the listing decision, the leachate that is collected and managed from the landfills would be classified as hazardous, due to the application of the waste code for the newly-listed K175 to the leachate. As noted by a commenter in response to proposed petroleum listing determination, this could lead to vastly increased treatment and disposal costs without necessarily any environmental benefit.

In the chlorinated aliphatics proposed listing determination, EPA requested comment on whether or not VCM–A wastewater treatment sludges were previously disposed in non-hazardous waste landfills. Information provided to the Agency by the one generator of this waste indicates that this waste was not previously managed in non-hazardous waste landfills. The generator stated that they have always disposed of the VCM–A sludge in a subtitle C landfill. Since EPA has no evidence that this waste has been disposed of in non-hazardous waste landfills, the Agency sees no reason at this time to finalize the proposed temporary deferral for landfill leachate and gas condensate derived from newly-listed VCM–A wastes. Therefore, today EPA is not finalizing the proposed temporary deferral for landfill leachate as was proposed.

Although the Agency is not finalizing the proposed temporary deferral for applying the new K175 waste code to leachate from non-hazardous waste landfills that previously accepted K175, should the Agency, in the future, receive information indicating that one or more non-hazardous waste landfills did accept this waste prior to the effective date of today's rulemaking, we may re-consider our decision not to finalize the proposed deferral. The Agency notes that the proposed regulatory language for the temporary deferral, as published in the August 25, 1999 **Federal Register**, inadvertently included both the K174 and K175 waste codes. The regulatory language in the proposal only should have included the K175 waste code. Given that the Agency is finalizing the conditional listing approach for K174 (and thus EDC/VCM sludge disposed in a licensed landfill will not be listed hazardous waste) there is no reason to include (nor did EPA intend to include at proposal) the K174 waste code in the temporary deferral for the application of waste codes to leachate from non-hazardous waste landfills that previously accepted newly-listed wastes (40 CFR 261.4(b)(15)).

[47] Alkhatib, Eid, and O'Connor, Timothy, ''Background Levels of Priority Pollutant Metals in Soil, *American Environmental Laboratory,* Vol. 10, No. 3, April, 1998.

Hunter, Philip M., ''Air-Force Wide Background Concentrations of Inorganics Occurring in Ground Water and Soil,'' *Proceedings from the Fourteenth Annual Waste Testing and Quality Assurance Symposium,* Pp. 73–77, 1998.

Welch, Alan H., Lico, Michael S., and Hughes, Jennifer L., ''Arsenic in Ground Water of the Western United States,'' *Ground Water,* Vol. 26, No. 3, May/June, 1988.

[48] See Table 4–4 of ''Risk Assessment Technical Background Document for the Chlorinated Aliphatics Listing Determination,'' EPA, June 25, 1999a.

G. Population Risks

As discussed previously, our proposed and final listing determinations were based upon estimates of individual risk. For the EDC/VCM wastewater treatment sludges, the projected population risks are low. We relied on individual risk estimates (excess lifetime cancer risk), and not population risk estimates, because we are concerned about risks to individuals who are exposed to releases of hazardous constituents. EPA concludes that, under certain waste management practices, these wastes are capable of posing a substantial present or potential hazard to human health or the environment. We have determined that using individual risk as a basis for this listing determination, which is consistent with past practices, also is appropriate because the Agency must protect against potential, as well as present hazards that may arise due to the generation and management of particular wastestreams. EPA acknowledges that in cases where small populations are exposed to particular wastes and waste management practices, population risk estimates may be very small. EPA finds it is important to address the current or potential substantial hazards to individuals living in small communities. Where individuals may be subject to substantial risks, EPA finds that such individuals deserve protection. In promulgating the final listing determinations for EDC/VCM and VCM–A wastewater treatment sludges, it is the increased risk for currently or potentially exposed individuals, regardless of how few individuals are exposed, against which EPA is reasonably protecting.

In the proposed rule, in addition to presenting the results of our risk assessments estimating individual risks, we also discussed the potential risk posed to populations from the management of chlorinated aliphatic wastewaters managed in tanks, and EDC/VCM sludges managed in land treatment units and landfills. We requested comment on whether or not it is appropriate to give weight to population risk in making our final listing determinations. We also invited comment on the effect of such an approach with respect to the Agency's environmental justice goals, including our goal of protecting human health in rural areas.

In response to the proposal, we received comments both supporting the use of population risk estimates in making listing determinations, and comments against this approach. Several commenters stated that the population risks estimated by EPA do not justify a decision to list as hazardous the wastes proposed for listing (chlorinated aliphatic wastewaters, EDC/VCM wastewater treatment sludges, VCM–A wastewater treatment sludges). Commenters argued that consideration of the risks posed by the management of these wastes to the entire population potentially exposed would lead to the conclusion that these residuals do not pose substantial hazards to human health. Therefore, the wastes should not be listed as hazardous. Commenters argued that EPA's failure to give serious consideration to the low levels of population risk is at odds with the RCRA statute, the listing criteria, and regulatory precedent within the federal government. Some commenters claimed that, due to the low population risk estimates, EPA cannot conclude that any of the residuals ''is capable of posing a substantial present or potential hazard to human health or the environment,'' as required in 40 CFR 261.11, and therefore EPA should not list any of the residuals.

In response, EPA notes that the use of ''population risk'' is not explicitly required nor prohibited in either the RCRA statute or the hazardous waste listing criteria in 40 CFR 261.11. EPA does not believe it is appropriate to allow contamination from waste management units to potentially cause substantial hazards to nearby residents simply because there are few individuals or wells in the immediate area. As stated above, our decision to list EDC/VCM and VCM–A wastewater treatment sludges is based on our concern about the present and potential hazards to those individuals who may be significantly exposed, even if there are few of them. In addition, the regulations clearly state that wastes are to be listed as hazardous, if they are ''capable of posing a substantial present or potential hazard'' (emphasis added). Therefore, it is the Agency's past and current view that as a policy matter, the Agency considers the threats to individuals, whether they exist today or in the future. EPA's discretion to base its hazardous waste listing decisions upon substantial risks to individuals, even if risk to the overall population is low or near zero, recently was upheld by the U.S. Court of Appeals for the District of Columbia Circuit in *American Petroleum Institute, et al.* v. *EPA* (No. 94–1683).

Specific comments received in response to the proposed rule included several commenters who argued that the legal standard in the RCRA statute for whether a waste is hazardous—that is, that the waste poses a ''substantial present or potential hazard to human health or the environment''—cannot be met unless EPA establishes that a large number of people are likely to have increased cancer risk due to exposure to the hazardous constituents in the waste, *i.e.*, the so-called ''population risk'' is high. We disagree with these commenters. EPA concludes in this listing (and has concluded in previous listings) that even if relatively few people may be subject to substantial hazards, those individuals still deserve protection. Accordingly, consistent with our past practice, we have based the EDC/VCM hazardous waste listing determination on the substantial hazard to currently or potentially exposed individuals, rather than on the increased number of cancer cases in the population at-large. The D.C. Circuit Court in *American Petroleum Institute, et al.*, v. *EPA* upheld EPA's practice in a previous listing decision to base the decision on its concern for substantial risks to individuals.

EPA points out that the use of the word ''substantial'' in the RCRA statute (*i.e.,* ''* * * substantial present or potential hazard * * *'') need not be restricted to a quantitative meaning or applied exclusively to population risk. In the case of the wastes being listed as hazardous wastes today, we have determined that risks to individuals are ''substantial.'' The estimated increased risk of cancer for the exposed individual is greater than 1 in 100,000. Consistent with EPA policy (see 59 FR 66072, at 66077), wastestreams for which the calculated high-end individual cancer risk level is 1 in 100,000 or higher generally are considered initial candidates for a listing decision. Wastestreams for which these risks are calculated to be 1 in 10,000 or higher will generally be listed as hazardous waste, although even for some of these wastestreams, there can be in some cases factors which could mitigate the high hazard presumption. Listing determinations for wastestreams with calculated high-end individual lifetime cancer risks falling into the range of 1 in 10,000 and 1 in 1,000,000 are also potentially listable but always involve an assessment of additional factors.[49] For specific discussion of how EPA

[49] ''The Superfund program has always designed its remedies to be protective of all individuals * * * that may be exposed at a site.'' 55 F.R. 8666, 8710 (Mar. 8, 1990). EPA's Superfund regulations at 40 C.F.R. § 300.430(e)(2)(i)(A)(2) establish remediation goals at levels that represent an excess upper bound lifetime cancer risk to an individual cancer risk to an individual at between 10^{-4} and 10^{-6}.

addressed these factors for EDC/VCM sludge see Section VI.B.1. of today's preamble.

In addition to comments arguing the legality of basing hazardous waste listing decisions on estimated risks to individuals, rather than population risks, we received comments claiming that the individual risk approach used by EPA was ''overly conservative and unrealistic.'' These commenters stated that EPA needs to use population risk estimates as a ''reality check'' on individual risk estimates. Two commenters also said that we should use individual central tendency risk estimates as a more meaningful or realistic estimate of potential risk.

EPA disagrees with commenters' assertions that the highly-exposed individual risk approach used in the risk assessment supporting today's listing determinations was overly conservative and unrealistic. In today's notice, as well as in the Response to Comment Document accompanying today's rule, we address specific comments regarding the risk assessment. Even though our listing decisions in today's rule are based upon predicted risks to highly-exposed individuals, we believe that these risks are within the distribution of risks that could reasonably be expected to exist in the population. In support of this conclusion, we note that as part of the analyses to support the notice of proposed rulemaking, we also conducted probabilistic modeling to more directly evaluate the anticipated distribution of risk levels. The high end deterministic risk estimate for the adult farmer under the EDC/VCM land treatment unit scenario fell at the 95th percentile of the probabilistic distribution. EPA's Guidance For Risk Characterization (USEPA, 1995) states: ''Conceptually, high end exposure means exposure above about the 90th percentile of the population distribution, but not higher than the individual in the population who has the highest exposure.''

One commenter cited a 1987 study of 13 regulatory determinations where low population risk was cited as a reason not to regulate, and noted that the study suggests that EPA should not establish regulatory controls on the management of wastes, if the population burden is less than one cancer in 100 years.[50] The commenter described where the individual risk levels in the proposed chlorinated aliphatics listings fell in comparison to the individual risk levels in these other regulatory decisions.

EPA does not find this study leads it to change today's listing decisions. As already noted, the Agency has the discretion to base its listing decisions on the substantial hazard to highly exposed individuals, even if there is only a small number of them, as upheld by the U.S. Court of Appeals for the D.C. Circuit in *American Petroleum Institute* v. *EPA.* The study itself, however, has a number of flaws which lead EPA to reject its use. It deals with no RCRA decisions, but instead deals with a number of other statutes that have different mandates. This study also is outdated in that it was conducted a number of years ago when Agency risk assessment was less sophisticated than it is now. In particular, the study notes that at the time federal agencies overestimated risk assuming maximum exposures. Since issuance of EPA's 1992 ''Guidance on Risk Characterization for Risk Managers and Risk Assessors,[51] EPA has modified its risk assessment approach to determine a plausible high-end exposure analysis, which is intended not to overestimate risks to highly exposed individuals. Moreover, EPA's current guidance acknowledges that in situations where small populations are exposed ''individual risk estimates will usually be a more meaningful parameter for decision-makers.'' [52]

The study merely presents a listing of decisions made by various federal agencies under different statutory requirements. It does not suggest any rationale for the regulatory decisions other than the fact that they occurred. It seems to suggest that, because we decided against specific regulations in the past that coincided with a particular individual risk level (*e.g.,* 1×10^{-4}) and low numbers of cancer cases avoided, we are somehow obligated to make that same decision now. The commenter does not offer any other rationale for determining at what point the number of cancer cases avoided would support an Agency decision to list a waste as hazardous.

For several additional reasons, EPA disagrees with the suggestion that the Agency base today's listing decisions on total population risk or total number of cancer cases. In the first place and as previously noted, we believe we should not ignore substantial risks to individuals, if that might consign individuals to substantial risks, simply because only a few individuals potentially will be exposed. In addition, risk estimates alone do not dictate any particular listing decision. Even if EPA finds an individual risk of 1×10^{-5} or greater, for example, the Agency considers other factors and may decide to list or not list a waste as hazardous, based upon the consideration of all relevant factors. In finalizing today's listing determinations, the Agency is basing its decisions on the listing policy described in the December, 1994 proposed listing determination for dyes and pigment industry wastes (59 FR 66072). Furthermore, the Agency does not think that it is adequate to base a hazardous waste listing determination upon a comparison of potential risks posed by wastes covered by one rulemaking relative to risks posed by other wastes and potentially unrelated rulemakings. The Agency considers relevant factors particular to a waste and the plausible management practices affected when making each regulatory decision. As we have discussed thoroughly in this preamble and in the accompanied background documents, in this case we think the individual risk estimates and our consideration of other factors provide an adequate justification for listing both EDC/VCM and VCM–A wastewater treatment sludges as hazardous wastes.

Other comments received by the Agency include comments that stated that society does not have unlimited resources to address risks unless they are ''clearly substantial,'' as indicated by population risk. We point out however that the regulations state that EPA may list a waste if it is ''capable'' of posing a hazard and the underlying RCRA statutory language states that hazardous wastes are those that ''may * * * pose'' a hazard. Thus, the Agency disagrees that risks must be ''clearly'' substantial to be subject to RCRA regulation. Further, EPA disagrees that ''clearly substantial'' risk (or even a risk that ''may'' occur) must be indicated by a high population risk estimate. The statutory standard for listing a waste is ''substantial hazard.'' Where EPA finds that a waste poses a substantial hazard to highly exposed individuals, EPA will list the waste to protect those individuals potentially exposed.

Other commenters supported the Agency's use of individual risk estimates as the appropriate criteria for making hazardous waste listing determinations. For example, one commenter said that EPA should weigh individual risk more than population risk because the commenter believes there is greater uncertainty in population risk estimates than in

[50] Travis, Curtis C., 1987. Environment Science and Technology, Vol. 21, No. 5.

[51] 1992 Memorandum from the then Deputy Administrator F. Henry Habicht, ''Guidance on Risk Characterization for Risk Managers and Risk Assessors.''

[52] 1995 Guidance for Risk Characterization (section III.C.2), page 17.

individual risk estimates. No information was provided by the commenter as to why this would necessarily be the case. EPA agrees with the commenter that individual risk is an appropriate decision parameter, for the reasons already stated above.

Another commenter who supports the use of individual risk over population risk, argued that EPA is not compelled by governing regulation or statue to define ''substantial hazard'' in terms of population risk. The commenter also stated that EPA should take into account risks to populations from more than just the industry under study, since populations are potentially impacted by risks from many different facilities. For example, in parts of the country concerns have been raised previously about certain minority and poor populations bearing a disproportionate amount of risk for a variety of industries and wastes.

We agree that we are not compelled by governing regulation or statue to define ''hazard'' in terms of population risk. We may define ''hazard'' on the basis of substantial risk to individuals even when population risk estimates are low. Although population risk is one of many factors that has been considered in some Agency decisions, there are numerous precedents where the Agency has taken action, for example at Superfund sites and in previous listing determinations, when there are relatively few people potentially affected. Superfund is a particularly apt example since it, like RCRA, deals with protecting human health and the environment from harm arising from the mismanagement of waste. The D.C. Circuit Court particularly noted the consistency with Superfund in *American Petroleum Institute et al.,* v. *EPA* described above. While a different statute, the Agency has stated that the key objective of the CERCLA National Contingency Plan (NCP) is to protect individuals at contaminated sites (see 55 FR at 8710), and rejected using population risk as the point of departure for setting clean-up levels (see 55 FR at 8718). In addition, the CERCLA regulations (see 300.430(e)(2)(I)(A)(2), and 55 FR at 8848) direct EPA to establish preliminary remediation goals for carcinogens based on ''cancer risks to an individual.''

The Agency disagrees with the commenter's claim that potential risks from other industries should be estimated or accounted for in estimating potential risks from a particular wastestream generated by one specific industry. The benefits of this listing are the risks avoided from management of the newly-listed wastes. The Agency has no reason to factor in risks from other industrial wastes, unless a synergetic effect can be identified, which the commenter does not claim.

The Agency is committed to addressing environmental justice concerns and does consider risks to minority and disadvantaged populations in its decision making. Our goal is to ensure that no segment of the population bears a disproportionally high risk as a result of our decision making. The hazardous waste listing determinations promulgated today are based upon analyses conducted with a goal of protecting all potentially exposed individuals. No segment of the overall population will be placed at a disadvantage as a result of today's rulemaking.

Finally, the Agency is also concerned that land use patterns can change over time. For example, when evaluating a waste that adversely impacts groundwater, the Agency also is concerned about the potential contamination of future drinking water supplies, and of groundwater which may have other uses (*e.g.,* livestock watering, irrigation, aquaculture). If regulatory decisions were based solely on population risks at a particular point in time, beneficial uses could be precluded or, if the future users were unaware of the contamination, unacceptable risks could occur. This same objective, the protection of reasonably anticipated land use is an integral part of the Agency's Superfund remedy selection process.[53] Under Superfund, it is not sufficient only to consider potential risks to populations surrounding a particular site at the time of contamination or remediation; reasonably anticipated future land use patterns and future populations (*i.e.,* future receptors) are considered in risk assessments supporting remedy decision making and in selecting the final remedy.[54] In fact, the extensive experience with the Superfund program bears out these concerns. There are Superfund sites, for example, where residential developments were placed over former landfills that have turned out to be dangerous to the new populations, leading not only to risks to the population but expensive and time-consuming cleanups.

[53] Memorandum EPA Regional Waste Management Division Directors from Elliott P. Laws, ''Land Use in the CERCLA Remedy Selection Process,'' OSWER Directive No. 9355.7–04.

[54] See ''Risk Assessment Guidance for Superfund (RAGs), Volume I—Human Health Evaluation Manual, Part A,'' (Chapter 6), 1989.

H. Which Constituents Are Being Added to Appendix VIII to 40 CFR Part 261?

1. Summary of Agency's Decision To Add Two Constitutents to Appendix VIII

Two of the constituents of concern that are present in the EDC/VCM wastewater treatment sludges (K174) that will be designated as listed hazardous wastes as a result of today's rule do not currently appear on the list of hazardous constituents at 40 CFR part 261, Appendix VIII. Therefore, EPA is adding these two constituents, octachlorodibenzo-p-dioxin (OCDD) and octachlorodibenzofuran (OCDF), to Appendix VIII.

2. Discussion of Agency's Decision To Add Constituents to Appendix VIII

OCDD and OCDF are members of the large family of polychlorinated dioxins and furans. Certain of these compounds, most notably, 2,3,7,8 -TCDD, have been shown to be toxic. The Agency found substantial hazard associated with the presence of dioxins in EDC/VCM wastewater treatment sludges, when these sludges are managed in land treatment units. In our risk assessment, dioxin/furan risk was reported on a TCDD TEQ basis. As previously discussed in today's final rule, as well as in the proposal, TCDD TEQ concentrations are calculated by multiplying each 2,3,7,8 substituted congener by the appropriate TEF, and then summing the resultant concentrations to come up with a TCDD TEQ value. OCDD and OCDF are included in this calculation.

Several studies, as noted in the response to comments below, show that OCDD and OCDF have toxic effects on life forms. Therefore, we have concluded, based upon the results presented in these scientific studies, that OCDD and OCDF should be added to Appendix VIII of 40 CFR part 261.

3. Response to Major Comments Addressing Agency's Decision To Add Constituents to Appendix VIII

One commenter opposed the addition of OCDD and OCDF to Appendix VIII of 40 CFR part 261 on the basis that OCDD and OCDF contribute very little to the actual risk attributable to dioxin compounds. The commenter also contended that the assignment of non-zero TEFs to OCDD and OCDF cannot form the basis for a regulatory decision to list the compounds as hazardous constituents, since TEFs are intended only to be used as a tool to aid risk managers in thinking about potential health risks associated with the compounds. The commenter argued that

TEFs are not intended to provide a scientific basis for drawing the conclusion that OCDD or OCDF are toxic, carcinogenic, mutagenic, or tetratogenic. The commenter also argued that OCDD and OCDF do not meet the criteria in 40 CFR 261.11(a) for listing a substance on the Appendix VIII hazardous constituent list.

The commenter contends that the 1988 study by Couture, Elwell, and Birnbaum, although it led to a raising of the TEF for OCDD/OCDF to 0.001 by NATO/CCMS, does not support a non-zero TEF for OCDD/OCDF. A reevaluation of the study resulted in a downgrading of the TEF to 0.0001 by the World Health Organization. The commenter further contends that few statistically significant physiological effects have been observed in the study and that they are transitory in nature and are of uncertain toxicological significance. The commenter also points out that a longer-term subchronic study has been reported which dramatically demonstrates that dioxin-like effects are not produced by OCDD in animals even at high dose levels.

The commenter concludes that an extensive body of data exists that does not support the conclusion that OCDD is a toxicant, carcinogen, mutagen, or teratogen. In addition, the commenter states that essentially no toxicological data has been published for OCDF supporting the listing of the compound in Appendix VIII.

EPA disagrees with the commenter's arguments for several reasons. First, the Agency notes, in response to issues raised by the commenter, that as a preliminary matter, dioxin TEFs are irrelevant to EPA's decision to list OCDD and OCDF in Appendix VIII. The criteria in 40 CFR 261.11(a) for listing a substance on the list of hazardous constituents in Appendix VIII are that the constituents be ''shown in scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms.'' The Agency has determined that OCDD and OCDF meet these criteria, independent of any TEF calculation.

There are data from subchronic studies for both OCDD and OCDF which demonstrate dioxin-like effects (Couture *et al.*, 1988; DeVito *et al.*, 1997). Couture *et al.* (1988) is one of the best studies of OCDD and describes not only the effects but the importance of study design in examining the effects of OCDD. Couture *et al.* (1988) demonstrate toxic response of OCDD following subchronic exposures. In addition, this study also provides tissue concentrations at which these effects are observed. Couture *et al.* (1988) demonstrate that the absorption of OCDD is dependent upon both dosing volume and concentration of the solution. The higher the concentration the lower the absorption and the larger the volume (up to 5 ml/kg) the greater the absorption. Hence, high dose single exposures are unlikely to induce significant effects due to the limited absorption of OCDD. In contrast, low dose repeated exposures will allow for the bioaccumulation of OCDD, which eventually leads to biological effects. This is clearly demonstrated in the Couture *et al.* study (1988). The repeated exposure to 1 ug/kg of OCDD in a dose volume of 5 ml/kg produces time dependent effects that also are associated with increasing tissue accumulation of OCDD. OCDD induces hepatic CYP1A1 activity and increases CYP1A1 and CYP1A2 protein. Induction of CYP1A1 occurred as early as two weeks after treatment, and this response increased with time and with hepatic OCDD accumulation. Induction of CYP1A1 is a dioxin-like effect and is indicative of activation of the Ah receptor. Hepatic cytoplasmic vacuolization in the livers was also induced in a time dependent manner, first occurring after 40 doses and increasing in incidence and severity after 65 does of OCDD.

The Agency disagrees with the commenter's argument that these effects are transitory or of uncertain toxicological significance. First, the cytoplasmic vacuolization (lesions) in the liver increased in incidence and severity in a time dependent manner. The increased incidence and severity of these lesions were associated with increasing hepatic concentrations of OCDD. Animals at the last time point examined in the study of Couture *et al.* (1988) demonstrated the highest incidence and severity of these lesions; it is difficult to describe them as ''transitory'' as the commenters suggest, given that the effects worsened over the last five weeks of the study. Indeed, hepatotoxicity can be considered as part of a continuum of events leading to necrosis or carcinogenicity. Demonstration of events early in this continuum, such as cytoplasmic vacuolization, are cause for concern. The commenter also attributes the liver effects to ''nutritional, metabolic or hormonal imbalances.'' Indeed, dioxins are endocrine disruptors and hormonal imbalances are expected to be induced by OCDD and other dioxins. These hormonal imbalances should be considered adverse responses based on our understanding of the endocrine disrupting actions of these chemicals.

The commenter neglects to mention that not only was enzyme activity induced by OCDD in the rats, but CYP1A1 and CYP1A2 protein were also increased as demonstrated by western blot analysis (Couture *et al.*, 1988). These proteins have been implicated in playing important roles in oxidative damage and porphyria (Sinclair *et al.*, 2000). According to Nebert and colleagues ''metabolism of endogenous and exogenous substrates by perhaps every P450 enzyme, but certainly CYP1A1 and CYP1A2 (which are located, in part, in the mitochondrion), have been shown to cause reactive oxygenated metabolite (ROM)-mediated oxidative stress'' (Nebert *et al.*, 2000). Ames and colleagues have clearly demonstrated the role of CYP1A1 in oxidative stress (Park *et al.*, 1996).

The commenter cites a number of studies which suggest that OCDD is not toxic, in contrast to the studies of Couture *et al.* The studies cited are generally inadequately designed to address the toxicity of OCDD. Several studies have demonstrated that, while OCDD is poorly absorbed in biological systems (Norback *et al.* Birnbaum and Couture, 1988; Couture *et al.*, 1988) it can bioaccumulate through repeated exposures to low concentrations. In addition, in the Couture *et al.*, study, it took at least 40 doses over approximately nine weeks before enough of the chemical could accumulate to produce alterations in liver histology. Acute, single exposures to high concentrations of OCDD are unlikely to result in significant accumulation to induce a toxic response since very little of the dose shall be absorbed. In fact, this is one of the conclusions in the McConnell *et al.* study (1978). Hence, the acute studies on the effects of OCDD demonstrated none of the typical signs of dioxin-like toxicity due to the limited absorption of the chemical. Other studies have to a lesser or greater degree attempted subchronic exposures. However, these studies either are too short (Holsapple *et al.* (1986)) or use too concentrated a dosing solution (Norback *et al.*, 1975). In either case, too little OCDD was absorbed to induce effects.

The commenter cites a study by Wermelinger *et al.* (1990) as evidence that OCDD does not induce dioxin-like effects. The USEPA strongly disagrees with this conclusion. This manuscript was published as an extended abstract from the dioxin meetings (Organohalogen Compounds, 1:221–224). These data clearly demonstrate that both OCDD and OCDF administered in the diet result in clear dioxin-like activity. Both OCDD and OCDF resulted

in dose dependent increases in CYP1A1 activity and decreases in thymic atrophy. These responses are clearly the hallmark of dioxin-like effects in experimental animals. The Wermelinger *et al.* study clearly supports the finding of Couture *et al.*, that repeated low dose administration of OCDD results in dioxin-like effects. In addition, both Wermelinger *et al.* and Couture *et al.* provide similar estimates of the relative potency of OCDD, further supporting the inclusion of these chemicals in the TEF methodology.

The commenter cites a study by the National Toxicology Program in which a two year feeding study of OCDD produced no effects. We could not locate any reports of this study in the NTP databases. After contacting the NTP, it was determined that the study of OCDD was halted due to uncertain technical difficulties and no reports were ever prepared on any study of OCDD by the NTP. It is unclear where the commenter obtained its information, since a citation for the report was not provided.

The effects of OCDF are not as well studied as those of OCDD. Recent studies do document that subchronic exposure to OCDF demonstrates dioxin-like activities in mice (DeVito *et al.*, 1997). The subchronic exposure resulted in EROD induction in liver, lung and skin (DeVito *et al.*, 1997) and hepatic porphyrin accumulation (van Birgelen *et al.*, 1996) in these mice. These studies demonstrate that OCDF also possesses dioxin-like properties.

I. What Are the Land Disposal Restrictions Standards for the Newly-Listed Wastes?

1. What Are EPA's Land Disposal Restrictions (LDRs)?

The RCRA statute requires EPA to establish treatment standards for all wastes destined for land disposal. These are the so called ''land disposal restrictions'' or LDRs. For any hazardous waste identified or listed after November 8, 1984, EPA must promulgate LDR treatment standards within six months of the date of identification or final listing (RCRA Section 3004(g)(4), 42 U.S.C. 6924(g)(4)). RCRA also requires EPA to set as these treatment standards ''* * * levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' RCRA Section 3004(m)(1), 42 U.S.C. 6924(m)(1). Once a hazardous waste is prohibited, the statute provides only two options for legal land disposal: meet the treatment standard for the waste prior to land disposal, or dispose of the waste in a land disposal unit that satisfies the statutory no migration test. A no migration unit is one from which there will be no migration of hazardous constituents for as long as the waste remains hazardous. RCRA Sections 3004 (d), (e), (f), and (g)(5).

5. What Are the LDR Standards for K174?

In today's rule, we are adopting treatment standards for several forms of dioxins and furans as well as a treatment standard for arsenic. With respect to the dioxins and furans being regulated, our standard requires either treatment by means of combustion (denoted as CMBST in the 40 CFR 268.40 Table) *or* that the specified types of dioxins and furans meet numerical standards prior to land disposal.

For most of the specified types of dioxins and furans (*e.g.,* the hexa, penta, and tetra classes of congeners) as well as arsenic, we are adopting the existing universal treatment standards and no significant issues have been encountered. However, the setting of congener-specific numerical standards for 3 hepta and 2 octa forms of dioxin/furan warrants some additional discussion. In previous rulemakings, we have not adopted treatment standards for these isomers. Several reasons convince us that we should do so in today's rule.

First, with the K174 waste, our risk analysis indicates that, should this waste be mismanaged in a land treatment unit, the hepta- and octa-chlorinated dioxin and furan isomers present high-end deterministic risks that, as described in Section VI.B.1. of today's rule, form the basis for EPA's decision to list this waste as hazardous. Second, studies have attributed dioxin-like toxicity to both the hepta and octa isomers. Based on the TCDD cancer slope factor and TEFs used in the risk analysis for this rule, the slope factors for OCDD and OCDF are effectively 15.6 $(mg/kg\text{-}day)^{-1}$ and the slope factors for the 2,3,7,8-substituted hepta dioxin and furan isomers are effectively 156 $(mg/kg\text{-}day)^{-1}$. These are by comparison 10 and 100 times, respectively, the slope factor for arsenic, an Appendix VIII constituent and known carcinogen.

The carcinogenicity and risk levels of the 5 hepta and octa isomers and their potential conversion to even more toxic isomers by dechlorination or photolytic mechanisms lead us to conclude that adopting specific treatment standards (*i.e.,* numerical or CMBST) for these isomers is warranted for the K174 wastes. Because we typically include the same standards for new listings into those for F039 (multisource leachate) to maintain equivalence within the LDR regulatory structure, we are also adding the same treatment standards in the F039 section of the 268.40 table (see section below on conforming changes).

In summary, today, we are promulgating as final the numerical standards that were proposed for the constituents of concern in the K174 wastewater treatment sludges from the production of ethylene dichloride and vinyl chloride monomer. We are finalizing the numerical standards based on the data received and analyzed at proposal. No comments or additional data were received regarding the achievability of the proposed standards so, therefore, we are adopting the same numerical standards as final. In addition we also are promulgating the option of complying with the technology standard of combustion (CMBST) for the organic constituents present in K174. The final treatment standards are presented in the following table.

TABLE I–1.—TREATMENT STANDARDS FOR K174

Regulated harzardous constituent		Wastewaters	Nonwastewaters
Common name	CAS[2] No.	Concentration in mg/L[1], or technology code[2]	Concentration in mg/kg[3] unless noted as ''mg/L TCLP'', or technology code
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin	35822–39–4	0.000035 or CMBST[4]	0.0025 or CMBST[4]
1,2,3,4,6,7,8-Heptachlorodibenzofuran	67562–39–4	0.000035 or CMBST[4]	0.0025 or CMBST[4]
1,2,3,4,7,8,9-Heptachlorodibenzofuran	55673–89–7	0.000035 or CMBST[4]	0.0025 or CMBST[4]
HxCDDs (All Hexachlorodibenzo-p-dioxins)	34465–46–8	0.000063 or CMBST[4]	0.001 or CMBST[4]
HxCDFs (All Hexachlorodibenzofurans)	55684–94–1	0.000063 or CMBST[4]	0.001 or CMBST[4]

TABLE I–1.—TREATMENT STANDARDS FOR K174—Continued

Regulated harzardous constituent		Wastewaters	Nonwastewaters
Common name	CAS [2] No.	Concentration in mg/L[1], or technology code [2]	Concentration in mg/kg [3] unless noted as "mg/L TCLP", or technology code
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268–87–9	0.000063 or CMBST [4]	0.005 or CMBST [4]
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001–02–0	0.000063 or CMBST [4]	0.005 or CMBST [4]
PeCDDs (All Pentachlorodibenzo-p-dioxins)	36088–22–9	0.000063 or CMBST [4]	0.001 or CMBST [4]
PeCDFs (All Pentachlorodibenzofurans)	30402–15–4	0.000035 or CMBST [4]	0.001 or CMBST [4]
TCDDs (All tetrachlorodi-benzo-p-doxins)	41903–57–5	0.000063 or CMBST [4]	0.001 or CMBST [4]
TCDFs (All tetrachlorodibenzofurans)	55722–27–5	0.000063 or CMBST [4]	0.001 or CMBST [4]
Arsenic	7440–36–0	1.4	5.0 mg/L TCLP

[1] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.
[2] Concentration standards for wastewaters are expressed in mg/L and are based on analysis of composite samples.
[3] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1—Technology Codes and Descriptions of Technology-Based Standards.
[4] For these wastes, the definition of CMBST is limited to: (1) Combustion units operating under 40 CFR 266, (2) combustion units permitted under 40 CFR Part 264, Subpart O, or (3) combustion units operating under 40 CFR 265, Subpart O, which have obtained a determination of equivalent treatment under 268.42(b).

Regarding the use of combustion (CMBST) for the regulated organic constituents, commenters requested that we allow combustion as an alternative to the proposed (and now final) numerical treatment standards. This is consistent with the approach taken for F024, a set of previously listed chlorinated aliphatic wastes (62 FR 26000–3, May 12, 1997). We agree and are promulgating the requested change. As a consequence, facilities treating K174 wastes will have the option of complying with either the numerical standards promulgated or the technology standard of CMBST for the regulated organic constituents.

Adopting combustion as an alternative to the numerical standards serves a general LDR programmatic interest as well. We typically promulgate numerical performance standards to allow facilities maximum flexibility in determining for themselves how best to achieve compliance with the LDR treatment standards. If we promulgate a technology-specific treatment standard (such as combustion) instead, this flexibility is lost. In today's rule, by promulgating combustion as an alternative compliance option, we are not disturbing the degree of flexibility afforded to facilities; rather, we are maintaining or enhancing it.

However, when we specify a treatment technology like CMBST as the LDR standard, the analytical elements of compliance change. Typically, when we specify a method of treatment (like CMBST), no testing and analysis of treatment residuals is required because we are confident that use of the specified technology will reduce the level of target constituents (organics in the case of CMBST) to levels that minimize threats to human health and the environment. For K174, the regulated organic constituents of concern are dioxin/furan congeners, which, if combustion is used for treatment, will not be individually analyzed in the treatment residue (*e.g.,* the ash).

Several factors suggest that such individual constituent analysis is not necessary and that specifying CMBST is appropriate. First, if combustion in well designed and operated units is used to treat K174, the structural features of dioxin/furan congeners (*e.g.,* the presence of the oxygen in the ring formation) suggest that all dioxins and furans in K174 should be substantially destroyed by the high temperature combustion process that would have to be used.

Second, we ensure that combustion will occur in well designed, operated, and highly regulated units. Part of the CMBST standard itself (as modified in today's rule for K174 waste) is that combustion of K174 must occur either in units subject to the standards in 40 CFR part 264 subpart O or 40 CFR part 266, subpart H, or in interim status incinerators where the owner/operator has made a specific demonstration that the unit can operate in a manner equivalent to a part 264 or part 266 combustion unit. The type of facilities that can combust K174 is thereby restricted to highly-regulated RCRA units (or, after the current transition period, Clean Air Act permitted units subject to MACT standards). This will ensure that combustion is done only in a closely-regulated facility and in a manner that provides protection for human health and the environment. More specifically, combustion will occur only in units subject to the recently upgraded dioxin/furan emission standards of the MACT Hazardous Waste Combustion Rule as well as standards for other hazardous air pollutants, such as metals (64 FR 52828, September 30, 1999). Given this level of regulation and permitting oversight, we do not find the need to impose additional and, with respect to other dioxin/furan congeners, unique analytical burdens on the regulated community regarding these 5 hepta and octa congeners.

Of course, K174 does have metal constituents of concern, which would not be treated by the combustion process and that would remain in the combustion treatment residuals (*e.g.,* ash and scrubber water). We therefore are retaining metal treatment standards for all circumstances, *i.e.,* whether or not the treatment used by a facility involves combustion. When combustion is used to treat the organics to achieve LDR compliance, facilities still will need to conduct compliance testing and analysis for all regulated metal constituents in the combustion treatment residuals prior to disposal. This approach is patterned after EPA's promulgation of a similar alternative treatment standard for F024 (wastes from production of chlorinated aliphatics) and also for F032 (wastes from wood preserving processes). See 55 FR 22580–22581, June 1, 1990. See also 62 FR 26000–26003, May 12, 1997.

Another issue warranting brief discussion concerns a related, but in reality quite different, issue. Commenters, in general, oppose the regulation of the additional congeners individually, and state that the existing dioxin and furan congeners covered under UTS standards are sufficient to serve as surrogates for the effective treatment of the 5 hepta and octa

congeners. These commenters would omit the 5 hepta and octa congeners entirely from list of regulated hazardous constituents for which LDR treatment standards are set.

We do not agree with this approach. Absent a specific requirement that hepta and octa congeners be treated (*i.e.,* by including them as regulated hazardous constituents for K174 in the table in 268.40), generators would not be obliged to determine the presence of these congeners. Without such a determination, it is certainly possible that generators would not engage in any organic-oriented treatment at all. For example, if the other dioxin/furans are below treatment levels, generators would not have to combust the K174 waste. Given our concern about the potential threats posed to human health and the environment by dioxins and furans, we are choosing to require treatment wherever harmful congeners are present above the treatment standard. Also, the formation pathways for dioxins and furans are highly waste specific, such that we have no way of knowing the concentration of one isomer based on the presence or absence of another.

We conclude that a surrogate approach without compliance testing for the 5 hepta and octa isomers, such as that which would be the consequence of the commenters' views, would not be adequate. Therefore, with today's rule, we are promulgating treatment standards for each of the 5 hepta and octa dioxin and furan isomers identified in the proposal.

3. What Are the LDR Treatment Standards for K175?

We proposed two options for establishing treatment standards under the LDRs for the mercury-bearing waste to be listed as K175 (64 FR 46521). The first option would have included three treatment standards that would essentially be the same as those for other mercury-bearing wastes. These standards are:

(1) for K175 wastes containing greater than 260 mg/kg total mercury, the treatment would be recovery of the waste's mercury content via roasting and retorting (RMERC);
(2) for K175 RMERC residues containing less than 260 mg/kg total mercury, the residues would have to meet a numerical standard of 0.2 mg/L TCLP mercury prior to land disposal; and
(3) for K175 wastes and non-RMERC treatment residues containing less than 260 mg/kg total mercury, these wastes and treatment residues would have to meet a numerical standard of 0.025 mg/L TCLP mercury prior to land disposal

We also proposed that wastes and residues in this last category be treated so that a pH of 6.0 or less is achieved prior to land disposal, and that disposal of these wastes and residuals be restricted to landfill cells where only wastes with similar pH properties are co-disposed.

Because of the potential difficulty in roasting and retorting K175 waste, the Agency requested performance data, and solicited comment on a second treatment standard option. This option would require that K175 waste exhibit no more than 0.025 mg/L TCLP mercury for disposal without any requirement that the waste be roasted or retorted.

The K175 wastes are typically much greater than 260 mg/kg mercury, ranging from approximately 3,000 to 17,700 mg/kg mercury, and are greater than one percent in total organic constituents.[55] As noted in the proposal (64 FR at 46521), when these wastes (high mercury and 1% or more organics) exhibit the toxicity characteristic, they would already be subject to requirements of either RMERC (roasting and retorting) or IMERC (incineration in units operated in accordance with RCRA incinerator standards).

Commenters questioned the ability and willingness of commercial retorting and roasting treatment facilities to accept K175 wastes, citing two factors. First, with a K175 mercury content of approximately one percent, commercial retorters may not recover enough mercury to be cost-effective, and second, most commercial retort facilities may not be able to accept wastes in excess of 500 ppm Appendix VIII organics and still comply with their RCRA permitting limits (USEPA, 1999c).[56] This information suggests that adopting an RMERC standard for K175 may present significant practical difficulties that could not be overcome in the near term.

In addition to the practical points made by commenters, no roasting and retorting performance information for the subject waste or even a similar waste was submitted in comment. Since the Agency itself lacks data on the properties of the subject waste following roasting and retorting, we are not able to persuasively conclude that this type of treatment technology can achieve the level of mercury removal desired. In addition, we have no firm basis for determining whether the RMERC residues from treating K175 could meet the existing 0.2 mg/L TCLP total mercury standard so that the RMERC residues could be land disposed. We are therefore disinclined to adopt a K175 treatment standard that involves mandatory roasting and retorting.

Conversely, with respect to the second option proposed for K175 treatment standards, several factors suggest that this is a better approach to adopt. First, as discussed above, the commercial roasting and retorting alternatives may not exist. Second, the physical properties of the waste indicate that the waste can readily achieve 0.025 mg/L TCLP mercury. Testing conducted for EPA shows the waste sample tested readily achieved 0.025 mg/L TCLP mercury, as the sample tested leached only 0.0027 and 0.0058 mg/L total mercury at pH 4 and 6 respectively.[57]

Third, at this point in time, the Agency is reviewing the appropriateness of thermal treatment and recovery of mercury in all forms of hazardous waste, not solely K175. See 64 FR 28949, May 28, 1999. Therefore, requiring RMERC for K175 at this juncture may prove to be somewhat premature even if adequate data and assurance of commercial treatment capacity were to exist. Because we have an acceptable and effective treatment alternative, we are able to postpone having to make a policy judgment about promoting or requiring mercury recovery and recycling in today's rule (which would just apply to K175) until we are better prepared to resolve the longer term issues of mercury recovery in a comprehensive and more environmentally effective manner.

Based on all these factors, the Agency has selected stabilization as the appropriate technology upon which to base our K175 treatment standard, and is setting 0.025 mg/L TCLP mercury together with control of the pH of co-disposed wastes (as discussed below) as the land disposal restrictions for K175. This standard may be achieved by any technology (other than impermissible dilution), and does not prohibit roasting/retorting should it be shown to achieve the performance standard. While no data were provided in response comment on this proposal, subsequently a vendor has indicated a willingness to demonstrate that the

[55] See 64 FR at 46510; see also Table 4–14 from Listing Background Document for Chlorinated Aliphatics Listing Determination (Proposed Rule) (USEPA, 1999c).

[56] In accordance with 40 CFR 266.100, a ''metals recovery'' unit such as a commercial mercury retorter is conditionally excluded from most RCRA permit requirements provided that the facility complies with certain operating restrictions, one being a prohibition against accepting wastes in excess of 500 ppm Appendix VIII organics.

[57] Paul Bishop, Renee A. Rauche, Linda A. Rieser, Markram T. Suidan, and Jain Zhang; ''Stabilization and Testing of Mercury Containing Wastes,'' Department of Civil and Environmental Engineering, University of Cincinnati, March 31, 1999.

waste could be retorted successfully.[58] Should subsequent testing demonstrate that retorting produces a waste form better suited for stabilization and having less potential for long-term mercury release, the standards promulgated today could potentially be adjusted as part of the ongoing re-evaluation of mercury waste treatment technologies. See 64 FR 28949, May 28, 1998. Any modification of today's promulgation would be the subject of a future proposal.

Other comments focused upon the proposed requirement that disposal of K175 wastes and treatment residues which are less than 260 mg/kg total mercury be restricted to landfill cells into which disposal of wastes in excess of pH 6.0 is prohibited. Commenters noted that the waste could readily be treated to a pH <6.0 but stated that, given the relative small quantity of waste generated, monofill disposal of K175 or co-disposal only with similar wastes would not be feasible. One commenter suggested macroencapsulation of the K175 waste as is currently performed for debris would provide a viable alternative to achieve isolation of the waste from surrounding, potentially adverse landfill conditions. Subsequent discussions with Chemical Waste Management Inc. confirm that acidic wastes make up only a small portion of hazardous wastes and that it would not be feasible to manage a small cell for only K175 or for K175 and only similar wastes of pH <6.0.[59]

Control of the disposal site conditions is essential to ensure that the mercury present in this waste remains immobile so that long-term threats to human health and the environment are minimized. The solubility measurements conducted on the waste for EPA are consistent both with results found in the mercury literature[60] as well as with calculations from a geochemical stability model for mercury sulfide complexes.[61] The testing and subsequent solubility calculations confirm that above pH 6.0, increased mobility of mercury as mercuric sulfide/hydrogen sulfide complexes occurs with increasing pH and sulfide concentration.

Therefore, we find that to minimize the potential future threats from mercury mobilization, our treatment standard must ensure that pH is maintained at 6.0 or less for K175 waste. Because we agree with the commenter's suggestion about the practical advantages of macroencapsulation in some situations, we are finalizing treatment standards that require, prior to land placement: (1) Wastes to be at pH 6.0 or less, and placement is restricted to landfill cells in which disposal of other wastes in excess of pH 6.0 is prohibited; or (2) wastes to be at pH 6.0 or less, and macroencapsulation per the requirements of 40 CFR 268.45. The pH restriction in the latter standard is to ensure that mercury is not in a mobile form should the macroencapsulation vessel fail over time. This additional level of protection is part of the best demonstrated and available treatment (BDAT) needed to minimize the threats posed by potential mobilization of the mercury within a landfill over the long-term. Furthermore, macroencapsulation itself is not viewed as BDAT (except in unusual cases such as debris) because it merely isolates the waste from the environment for a period of time and does not actually effect any treatment. We have amended the regulations promulgated today accordingly.

Affected parties and other stakeholders should note that we may revisit the requirement for macroencapsulation should we determine, at some future date, that the generation rate of materials requiring disposal at low pH has increased to the point where maintaining a separate cell for these wastes is an operationally feasible option for a landfill.

We did not pursue to regulatory conclusion other potential avenues by which mercury mobilization could be affected for a number of reasons. Two avenues would be to regulate the sulfide content of the waste itself or the sulfide concentration in the disposal environment, or both. These approaches are fraught with technical and implementation difficulties. For example, chemical and biological processes within the disposal unit may reduce sulfate to sulfide at varying rates depending on in situ conditions. Also, current test methods do not readily distinguish free sulfide from that bound as mercuric sulfide in the waste. Hence, adopting sulfide limits on incoming K175 wastes or mandating in situ sulfide levels would likely not be reliable or implementable means of ensuring mercury immobility. On the other hand, pH can readily be determined using the existing procedure SW–846 Method 9045C. Thus, practical considerations also favor limitation of waste pH at the time of disposal as a more viable option to control potential mobilization of mercury once the wastes are disposed.

In summary, for K175 waste, we are finalizing a treatment standard requiring that, prior to land disposal: (1) The waste must meet a TCLP leachate concentration of 0.025 mg/L mercury or less, (2) the waste must be at or below a pH 6.0 when disposed, and (3) the wastes must be macroencapsulated or, if not, placement is restricted to landfill cells in which disposal of other wastes in excess of pH 6.0 is prohibited. We are promulgating these land disposal restriction requirements for K175 to ensure the long term protection of human health and the environment.

4. What Are the Conforming Changes to F039 and Universal Treatment Standards?

We proposed that the constituents 1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin; 1,2,3,4,6,7,8-heptachlorodibenzofuran; 1,2,3,4,7,8,9-heptachlorodibenzofuran; 1,2,3,4,6,7,8,9-octachlorodibenzo-p-dioxin (OCDD); and 1,2,3,4,6,7,8,9-octachlorodibenzofuran (OCDF) be added to the list of regulated constituents in hazardous waste F039 multisource leachate. The F039 waste code applies to hazardous waste landfill leachates in lieu of the original waste codes when multiple waste codes would otherwise apply. F039 wastes are subject to numerical treatment standards equivalent to UTS. We proposed these additions to the constituents regulated by F039 to maintain the implementation benefits of having one waste code for multisource leachate.

Commenters correctly noted that the Agency did not add the constituents of the carbamate waste listing to F039 (61 FR 15566), an issue not directly within the purview of this rulemaking. As a result, multisource F039 leachates that also contain one of the listed carbamate wastes must be treated to comply with carbamate hazardous waste codes to meet the 40 CFR 268.48(c) requirement for treatment to achieve the lowest treatment standard for constituents of concern. Therefore, such wastes would be subject to multiple codes; the very situation F039 sought to eliminate. The Agency's intent upon promulgating F039 was that the single F039 waste code would replace the multiple codes to which such wastes were then subject (52 FR 22619, June 1, 1990). To limit

[58] Personal communication with SepraDyne Corporation representatives.

[59] Memorandum from Ross Elliott, U.S. EPA Office of Solid Waste, to RCRA Docket, "Summary of Phone Call Between EPA and Carl Carlsson, Chemical Waste Management Inc.," July 12, 2000.

[60] See 64 FR at 46522. See also Jenny Ayla Jay, Francois M. M. Morel, and Harold F. Hemond, Mercury Speciation in the Presence of Polysulfides, Environmental Science and Technology, 2000, Vol. 34, No. 11, pages 2196–2200.

[61] Memorandum from John Austin to Ross Elliott, May 12, 2000.

any further proliferation of circumstances where treatment standards in addition to F039 may apply, we are promulgating the additional K174 dioxin and furan constituents of concern as proposed. Resources permitting, conforming changes may be proposed for the carbamate waste constituents at some future date.

We also proposed that the numerical standards derived for 1,2,3,4,6,7,8-heptachlorodibenzo-p-dioxin; 1,2,3,4,6,7,8-heptachlorodibenzofuran; 1,2,3,4,7,8,9-heptachlorodibenzofuran; OCDD; and OCDF be added to the Table of Universal Treatment Standards (UTS) at 40 CFR 268.48. These constituents contribute to the overall risks that formed the basis for EPA's decision the EDC/VCM sludges pose a substantial risk to human health and the environment, as shown in the risk assessment accompanying this rule. Their presence in other hazardous wastes should be mitigated by effective treatment to avoid similar risks after land disposal. By adding these numerical standards for five dioxin and furan congeners, we are ensuring that treatment of hazardous waste addresses these risks.

Following the adoption of today's rule, all characteristic wastes that have these constituents as underlying hazardous constituents above the UTS levels will require treatment of these additional constituents before land disposal. This is in direct accord with our mandate under the LDR treatment program to ''substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' [62]

Commenters in general objected to changes to UTS because of their perceived cost of the analysis and concerns over available treatment capacity, which will be discussed in the following section. We were not persuaded by the commenters' arguments. Waste generators must already comply with treatment requirements for tetra-, penta-, and hexa- chlorinated dibenzo-p-dioxin and dibenzofuran congeners. Much of the labor and cost of analysis of the currently regulated congeners can not be separated from the costs associated solely with the hepta and octa congeners because the analysis of these 5 additional isomers is accomplished intrinsically as part of the overall method and is not separable. Hence, sample preparation, labor, and instrument time are not increased by including these 5 additional congeners.

Commenters also suggest that treatment and control of the existing regulated dioxin/furan congeners provides adequate protection against potential risks associated with the hepta and octa congeners. Commenters appear to recognize that the hepta- and octa-dioxin/furan congeners contribute significantly to the overall carcinogenicity of K174 wastes and waste treatment residues, and that they also must be controlled if human health and the environment are to be protected. In essence, these commenters would have us make broad assumptions for all situations about the ancillary impacts of treating and controlling certain dioxin and furan congeners, but not others that nevertheless present significant risks to human health and the environment.

We are not in a position to make such broad assumptions regarding our degree of control over dioxin and furan congeners that present significant risks. We have chosen to take a more conservative tack, providing treatment standards that, when met, ensure that long-term threats to human health and the environment are minimized (RCRA Section 3004(m)). For reasons noted earlier (*e.g.,* carcinogenicity of these congeners, dechlorination or photolytic changes to more toxic congeners, and assuring treatment if these congeners are present), we conclude that direct control of these 5 hepta and octa congeners is warranted.

For these reasons, the Agency is promulgating the proposed additions to the Table of Universal Treatment Standards (UTS) at 40 CFR 268.48 and to the list of regulated constituents for F039, multisource leachate from hazardous waste, in 40 CFR 268.40.

J. Is There Treatment Capacity for the Newly-Listed Wastes?

1. Introduction

Under the land disposal restrictions (LDR) determinations, the Agency must demonstrate that adequate commercial capacity exists to manage listed hazardous wastes in compliance with BDAT standards before the Agency can restrict the listed waste from further land disposal. The Agency performs capacity analyses to determine the effective date of the LDR treatment standards for the proposed listed wastes. This section summarizes the results of EPA's capacity analysis for the wastes covered by today's rule. For a detailed discussion of capacity analysis-related data sources, methodology, and detailed responses to comments for each waste covered in this rule, see USEPA, 2000f [63] (*i.e.,* the Capacity Background Document).

EPA's decisions on whether to grant a national capacity variance are based on the availability of alternative treatment or recovery technologies capable of achieving the prescribed treatment standards. Consequently, the methodology focuses on deriving estimates of the quantities of newly-listed hazardous waste that will require either commercial treatment or the construction of new on-site treatment or recovery as a result of the LDRs. The resulting estimates of required commercial capacity are then compared to estimates of available commercial capacity. If adequate commercial capacity exists, the waste is restricted from further land disposal unless it meets the LDR treatment standards prior to disposal. If adequate capacity does not exist, RCRA Section 3004(h)(2) authorizes EPA to grant a national capacity variance for the waste for up to two years or until adequate alternative treatment capacity becomes available, whichever is sooner.

2. Capacity Analysis Results for Newly Identified Wastes

In conducting the capacity analysis for the wastes newly-listed by today's rule, EPA examined data on waste characteristics and management practices gathered for the purpose of the chlorinated aliphatics hazardous waste listing determinations and on available treatment or recovery capacity for these wastes. The data sources for the analyses are primarily the 1992 RCRA Section 3007 survey, the follow-up survey specific to these wastes conducted in 1997 (see the docket for this rule for more information on these survey instruments), the available treatment capacity data submission that was collected in the mid-1990's, and the 1997 Biennial Report (BR). EPA analyzed the capacity-related information from these data sources, reviewed the public comments received in response to the proposed rule, and corresponded or met with several commenters to obtain more specific information.

We identified the following annual quantities of the newly-listed wastes that are generated and therefore the quantities of waste that potentially could require commercial treatment. Information available to the Agency indicates that up to 6,100 tons of K174 per year could potentially require

[62] RCRA Section 3004(m).

[63] U.S. EPA. 2000f. Background Document for Capacity Analysis for Land Disposal Restrictions: Newly Identified Chlorinated Aliphatics Production Wastes (Final Rule), September.

commercial treatment capacity. The Agency notes, however, that because EPA is finalizing a conditional listing approach for the K174 wastewater treatment sludges under which these wastes are not hazardous if disposed of in a subtitle C or a non-hazardous waste landfill, it is possible that little or no hazardous waste treatment capacity will be required for this waste. In addition, approximately 130 tons of K175 are generated annually and potentially could require commercial treatment capacity. EPA has determined that there is adequate commercial treatment or recovery capacity available to treat both of these wastes.

For wastewaters from chlorinated aliphatic production processes (proposed as K173), some commenters requested a national capacity variance for this waste in response to the proposed rule. Since EPA is finalizing a decision not to list wastewaters from chlorinated aliphatic production processes as hazardous (as discussed in section VI.A), there is no need for a capacity variance determination for this waste stream.

EPA proposed not to grant a capacity variance for K174 waste (EDC/VCM wastewater treatment sludge). No comments were received regarding the variance determination, available treatment or disposal capacity, or the quantity of the waste potentially requiring treatment, either in nonwastewater or wastewater forms. As described in section VI.I above, we are finalizing the proposed numerical treatment standards as well as an alternative treatment standard of hazardous waste combustion. We estimate that the commercially available sludge and hazardous waste combustion capacity is at least 300,000 tons per year (see details in the Capacity Background Document) and therefore sufficient to treat any K174 hazardous wastes that could require treatment.

As discussed earlier in this preamble, EPA has identified (as a result of public comments) that one facility may generate K174 in a surface impoundment as a result of today's rule. The facility may remove K174 waste before the effective date of the new listing and therefore may not be subject to LDR requirements.[64] The impoundment can also be retrofitted, closed, or replaced with tank systems. If the impoundment continues to be used to actively manage K174 waste, the unit will be subject to subtitle C requirements. In addition, any hazardous wastes that are actively managed in an impoundment (other than wastes removed from an impoundment as part of a one-time removal) after the effective date of today's rule are subject to the land disposal prohibitions.[65] EPA expects that the one facility currently managing chlorinated aliphatic wastewaters in surface impoundments (and which therefore may potential manage EDC/VCM sludges in impoundments after the effective date of today's rule) will cease to do so before the effective date of this rule.

However, as described earlier in this preamble (see section VI.B.2.b.vii) regarding the listing determination for EDC/VCM wastewater treatment sludges, this facility (or others) could manage newly-listed K174 in surface impoundments, provided they are in compliance with the appropriate standards for impoundments (40 CFR parts 264 and 265 subpart K) and the special rules regarding surface impoundments (40 CFR 268.14). EPA notes that those provisions require (by reference) basic groundwater monitoring (40 CFR parts 264 and 265 subpart F), management, and recordkeeping, but are afforded up to 48 months to retrofit to meet minimum technological requirements (see RCRA Section 3005(j)(6)(A)).

Based on the foregoing, EPA concludes that sufficient treatment or disposal capacity is available to manage K174 waste generated after the effective date of the LDR treatment standards either on site or offsite, even if generators seek offsite management for all K174 wastes in a permitted subtitle C disposal or treatment unit. Therefore, EPA is finalizing its decision not to grant a capacity variance for wastewater and nonwastewater forms of K174.

With respect to K175 waste, several commenters raised issues with regard to permitting requirements and constraints of commercial treatment facilities, including the ability of commercial facilities to accept nonwastewater forms of K175 waste and comply with the proposed land disposal restrictions of RMERC. As discussed earlier, EPA is finalizing a numerical treatment standard for this waste (in conjunction with other pH-related restrictions and macroencapsulation), which has been demonstrated to be achievable using stabilization. Sufficient commercial stabilization, pH, and macrocapsulation treatment capacity exists to treat and dispose of mercury-containing wastes and to meet the final treatment standards adopted today. In addition, the one facility generating K175 uses a sulfide precipitation technology and therefore may be able to meet the numerical mercury concentration standard upon generation of the waste. Depending on their ability to control pH and to perform on-site macrocapsulation, no other commercial treatment might be necessary prior to off-site hazardous waste landfilling. EPA notes that generators can use any treatment technology (except impermissible dilution) to meet the numerical mercury concentration and pH standards promulgated today.

EPA proposed that the K175 waste (about 130 tons per year) be co-disposed in a landfill with other wastes with similar pH (6.0 or less). Commenters did not indicate the existence of any technical difficulties in meeting the additional pH requirement. Furthermore, they did not provide any data or information on the issue of available monofill disposal capacity for this waste or landfill co-disposal with similarly acidic (pH 6.0 or less) wastes. Based on previous activities in the commercial sector as well as the lack of adverse comment, we find no reason to doubt that owners of commercial landfills can and at some point will create a special cell based on customer's needs, compliance conditions, and contract negotiation.

However, as noted earlier, we understand from one stakeholder that facilities with hazardous commercial landfill capacity may not have sufficient volumes of similarly acidic wastes to make it cost-effective to designate an entire unit or cell for disposal of only low pH wastes. We have therefore adopted an alternative that allows land disposal in other types of landfill cells following macroencapsulation of the waste (assuming the waste meets other applicable standards, such as Hg concentration and pH 6.0 or less). Based on a discussion with a hazardous waste management facility,[66] we find that macroencapsulation of K175 waste can be made readily available for K175 waste. Based on available data and analyses, EPA has therefore determined that sufficient commercial treatment and disposal capacity exists to manage K175 waste to meet the LDR standards, and we are today finalizing our decision not to grant a capacity variance for

[64] If the waste is actively managed in unretrofitted impoundments (*i.e.,* impoundments not satisfying the minimum technology requirements specified in RCRA sections 3004(o) and 3005(j)(11)) after the effective date of today's rule, it would be land disposed in a prohibited manner.

[65] See RCRA § 3004(m)(1) ''Simultaneously with the promulgation of regulations under subsection (d), (e), (f), or (g) prohibiting one or more methods of land disposal of a particular hazardous waste * * * promulgate regulations specifying those levels or methods of treatment * * *''

[66] Personal communication with Carl Carlson, Chemical Waste Management Inc.

wastewater or nonwastewater forms of K175.

In summary, we conclude that sufficient capacity exists for the management of both wastewater and nonwastewater forms of K174 and K175. For K174 and K175 wastes, the customary time period of six months is sufficient to allow facilities to determine whether their wastes are affected by this rule, to identify onsite or commercial treatment and disposal options, and to arrange for treatment or disposal capacity if necessary. LDR treatment standards thus will become effective when the listing determinations become effective for the wastes covered under this rule—the earliest possible date. This conforms to RCRA section 3004(h)(1), which indicates that land disposal prohibitions must take effect immediately when there is sufficient treatment or disposal capacity available for the waste.

Further, for soil and debris contaminated with the newly-listed wastes, EPA proposed not to grant a national capacity variance. EPA received no comments regarding this issue. We expect that the majority of contaminated soil and debris will be managed on-site and therefore would not require substantial off-site commercial treatment capacity. Therefore, EPA is not granting a national capacity variance for hazardous soil and debris contaminated with the newly listed wastes covered under this rule. LDR treatment standards for K174 and K175 hazardous soil and debris will therefore become effective when these listing determinations become effective.

Based on the 1992 RCRA section 3007 questionnaire and the 1997 updated responses, there were no data showing underground injection of the newly-listed wastes or indicating that the newly-listed wastes are mixed with radioactive wastes or with both radioactive wastes and soil or debris. EPA did not receive comments indicating that these wastes are underground injected or that they are mixed with radioactive wastes or with both radioactive wastes and soil or debris. Therefore, EPA is not granting a national capacity variance for K174 and K175 wastes that might be underground injected, mixed with radioactive wastes, or mixed with both radioactive wastes and soil or debris. LDR treatment standards for K174 and K175 underground injected and mixed wastes (if any exists) will therefore become effective when these listing determinations become effective.

Finally, EPA may consider a case-by-case extension to the effective date based on the requirements outlined in 40 CFR 268.5, which includes a demonstration that adequate alternative treatment, recovery, or disposal capacity for the petitioner's waste cannot reasonably be made available by the effective date due to circumstances beyond the applicants' control, and that the petitioner has entered into a binding contractual commitment to construct or otherwise provide such capacity.

3. Available Treatment Capacity for Other Wastes Subject to Revised UTS and F039 Standards

Several commenters expressed concern that EPA did not adequately consider the need for alternative treatment capacity for other hazardous wastes subject to the proposed revisions to the UTS and F039 (multiple source leachate) standards. Such additional treatment would be necessary to meet the treatment standards for the five additional dioxin and furan congeners being added to the UTS table (§ 268.48) and the list of regulated constituents in F039 (§ 268.40). Commenters noted that EPA must consider the potential need for national capacity variances by determining what fraction of the hazardous wastes are required to meet these new requirements, the appropriate means of treatment (if any), and the sufficiency of national treatment capacity for these wastes.

When changing the treatment requirements for wastes already subject to LDR (including F039 and characteristic wastes), EPA no longer has authority to use RCRA section 3004(h)(2) to grant a capacity variance to these wastes. However, EPA is guided by the overall objective of section 3004(h), namely that treatment standards which best accomplish the goal of RCRA section 3004(m) (to minimize threats posed by land disposal) should take effect as soon as possible, consistent with availability of treatment capacity. Our task is therefore to balance the points raised by commenters against the clear statutory direction that treatment standards, such as those at issue here, should be imposed in the shortest feasible time provided capacity is available.

With respect to the issue of capacity availability, we find first that only a limited quantity of hazardous waste leachate is expected to be generated from the disposal of newly-listed K174 and K175 wastes and added to the generation of leachates from other multiple restricted hazardous wastes already subject to LDR. Absent any data from commenters suggesting to the contrary, we have no reason to delay imposition of the LDRs on this ground.

Second, with respect to the other, and potentially much larger volumes of, wastes that would be affected, we evaluated the universe of wastes that could be impacted by today's revisions to the lists of regulated constituents for F039 and UTS. Commenters themselves did not supply any information on these volumes in support of their generalized claims of insufficient capacity or their views that delaying the effective date of these treatment standards is warranted. However, based on 1997 Biennial Report data and some assumptions of waste compositions and their potential for land disposal, we were able to estimate the potential need for additional treatment. For example, EPA estimated an upper bound of 68,000 tons per year of the nonwastewaters mixed with other waste codes, the F039 leachate from which would be potentially impacted by the revisions to the F039 treatment standards. In a similar fashion, we estimated that no more than 130,000 tons per year of characteristic nonwastewaters potentially could be affected by the promulgated changes to the UTS.

Of course, these upper bound estimates are most likely very overstated since only a portion of each estimated waste volume may contain one or more of the five congeners at concentrations above the numerical concentrations specified in the UTS table and the F039 list. Available hazardous waste landfill leachate characterization data from EPA's Office of Water indicate that only one of 15 samples analyzed shows leachate concentration of OCDD exceeding the numerical UTS level adopted today. Any concentrations below these numerical standards would not trigger any treatment obligation or the concomitant need for treatment capacity. (See the Capacity Background Document for detailed analysis.) Furthermore, EPA does not anticipate that waste volumes subject to treatment for F039 or characteristic wastes would significantly increase because waste generators already are required to comply with the treatment requirements for tetra-, penta-, and hexa-chlorinated dioxin/furan congeners. The volumes of wastes for which additional treatment is needed *solely* due to the addition of the five new congeners to the F039 and UTS lists is therefore expected to be very small. Both of these factors indicate the highly conservative nature of our volume estimates.

However, even though our volume estimates are highly conservative and overstated, we find that there still would be no shortage of treatment capacity. Based on data submittals in the mid-1990's and the 1997 Biennial

Report, EPA has estimated that approximately 37 million tons per year of commercial wastewater treatment capacity are available, and well over one million tons per year of liquid, sludge, and solid commercial combustion capacity are available. These are well above the quantities of wastewater and nonwastewater forms of F039 or characteristic wastes potentially requiring treatment for the 5 hepta and octa isomers even under the conservative screening assumptions described above. We find therefore that there is sufficient treatment capacity for these wastes to ensure that the wastes meet today's revisions to the UTS and F039 treatment standards. For this reason, EPA is finalizing its decision not to delay the effective date for adding the five hepta-and octa-dioxin and furan congeners to the lists of constituents for F039 and UTS. As with the other treatment standards being promulgated today, these revised F039 and UTS standards will become effective six months after the date of promulgation, the same date on which the K174 and K175 listing will become effective. This will provide sufficient time to allow facilities to determine whether their wastes are affected by this rule, to identify onsite or commercial treatment and disposal options, and to arrange for treatment or disposal capacity if necessary.

VII. What Is the Economic Analysis of Today's Final Rule?

A. What Is the Purpose of the Economic Analysis?

In 1999, the EPA presented an initial economic analysis (in the form of both a preamble discussion, and a supplementary ''Economics Background Document'(USEPA, 1999b), for public review in support of the RCRA K173/K174/K175 listing proposed rule (64 **Federal Register**, 46517–46519, August 25, 1999). The primary purpose of the 1999 economic analysis was to estimate regulatory compliance costs associated with the proposed rule. Secondary purposes were to provide (1) descriptive information about the economic sectors (*i.e.* the chemical industry) and other types of facilities potentially affected by the proposed rule, and (2) descriptive information about the economic activities involving chlorinated aliphatic hydrocarbon chemicals (CAHCs).

As a result of both public comments and changes to the rule, EPA revised the 1999 ''Economics Background Document'' (USEPA 1999b). In comparison to the 1999 economic analysis, the primary objectives of this final economic analysis are: (1) to present and respond to the public comments received about the economic analysis for the 1999 proposed rule, and (2) to estimate the impacts of the final rule. The findings for each objective are summarized below.

The Economics, Methods, and Risk Assessment Division (EMRAD) of EPA's Office of Solid Waste (OSW) conducted the economic analyses for both the 1999 proposed rule, and for this final rule. The ''Economics Background Document'' (USEPA, 2000a) [67] in support of this final rule, is available to the public from the EPA's RCRA Docket (refer to the introduction to this preamble for instructions on how to obtain a copy). References to statements below pertaining to facts, data, assumptions and other types of information, are identified in the final rule background document.

B. How Did the Public Participate in the Economic Analysis?

In conjunction with the 1999 proposed rule (64 FR 46517), EPA requested public comment on the following eleven specific information elements pertaining to the data, assumptions, design, accuracy, representativeness and completeness of the initial ''Economic Background Document'' (dated 30 July 1999, 127pp., which is available over the Internet at *http://www.epa.gov/epaoswer/hazwaste/id/chlorali/economic.pdf*): (1) Economic study design, (2) industry facility universe, (3) affected waste volumes/sources, (4) industry sector profile, (5) baseline (current) waste management practices, (6) regulatory compliance waste management, (7) compliance facility process modifications, (8) waste management costs, (9) regulatory impact financial benchmarks, (10) economic analysis data sources, and (11) other impact considerations. As described elsewhere in this preamble, EPA received a total of 20 sets of public comments on the 1999 proposed rule, of which 14 commenters offered a total of 61 remarks on the 1999 economic analysis. EPA presents and addresses each comment in the ''Response to Public Comments'' background document (USEPA, 2000g) [68], also available from the EPA RCRA Docket.

For purpose of summary here, the 61 remarks made by the 14 commenters who targeted the 1999 economic analysis may be grouped according to six topics: (1) K173 compliance cost estimates, (2) K174 compliance cost estimates, (3) K175 compliance cost estimates, (4) economic analysis framework, (5) overall magnitude of rule cost, and (6) industry characterization. Many of the commenters made remarks about multiple economic analysis topics (as well as about other aspects of the proposed rule, such as preamble language and risk analysis). Forty-two of the 61 remarks were directed at the EPA's K173 compliance cost estimate, stating that EPA's 1999 estimate was too low for a variety of reasons, including lack of complete descriptive information about all possible wastewater tanks affected, as well as incomplete assessment of all potential costs involved in retrofitting wastewater tanks with covers and tank air emission control devices. However, because the K173 listing is dropped from the final rule, EPA has dropped the K173 cost estimate from the economic analysis, rather than revise it. Otherwise, EPA has incorporated into the final rule economic analysis, information contained in other public comments addressing the K174 listing, K175 listing, economic analysis framework, and industry characterization. Four of the comments also contained remarks about the K174 listing, questioning the magnitude of its associated recordkeeping burden, and claiming that EPA did not consider other impacts arising from RCRA's ''mixture and derived-from'' clause. One commenter challenged EPA's assertion of the current market availability of K175 waste retorting treatment. The 14 commenters made nineteen remarks questioning the industrial scope of the listing, whether the rule would impact other types of facilities/wastes, and the appropriateness of EPA's cost annualization and future industry waste generation parameters. The 14 commenters also offered thirty-three remarks about the cost-effectiveness of the rule, the total industry cost of the rule, and challenged EPA's assertion that the proposed rule was not economically ''significant'' according to the $100 million annual effect threshold established in Executive Order 12866 (30 September 1993). Finally, commenters offered seven remarks raising questions about EPA's count of the affected number of facilities, EPA's characterization of the size of wastewater tanks in the affected industry, and EPA's characterization of the affected industry's annual sales and growth rate.

[67] U.S. EPA. 2000a. Economics Background Document. Office of Solid Waste. September.

[68] U.S. EPA. 2000g. Response to Public Comments on Proposed Listing Determination for Chlorinated Aliphatic Wastes. Office of Solid Waste. September.

C. What Are the Expected Economic Impacts of This Final Rule?

As of the late 1990s, 39 facilities in the US manufacture chlorinated aliphatic hydrocarbon chemicals. Eighteen of these are potentially subject to the rule, 17 as generators of K174 waste, and one as a generator of K175 waste. None of these 18 facilities are owned by small-sized companies. The 21 remainder facilities do not currently manufacture the types of chemicals and associated industrial wastes which are listed as RCRA ''hazardous'' industrial wastes by the rule.

The anticipated economic impacts associated with the final rule primarily consist of industry compliance costs, likely to be incurred by three of the 18 relevant waste generators (two K174 and one K175), and by four commercial waste handlers.

Because of the facts that: (1) Many of the CAHC manufacturing facilities and commercial industrial waste handlers are currently regulated under RCRA (via the existing RCRA F024 and F025 wastecodes, among others), (2) some CAHC manufacturing facilities currently manage some wastewater sludges as hazardous waste, (3) the K174 listing is targeted upon a subset of chlorinated aliphatic production processes, and/or (4) the K174 final rule is ''conditional'' upon only certain waste management practices, the incremental impact of this listing is expected to be substantially less than it otherwise would be if all waste generators fitting the listing descriptions, or if all 39 chemical class manufacturers, were affected. Consequently, the incremental impact of the final rule is expected to be less than it otherwise could be (*e.g.,* impacts could be higher under a listing affecting all facilities across the industry sector, rather than the final targeted and ''conditional'' listing approach which affects only a few facilities).

EPA estimates that the average annualized national cost of this rule will be between $0.42 and $4.05 million per year (consisting of $0.53 to $7.21 million in initial costs and $0.35 to $3.25 million in recurring annual costs), if one generator of EDC/VCM wastewater treatment sludge (K174) is able to make arrangements for the apparent lower-cost option for managing its affected industrial wastewaters. But if that generator is not able to make the appropriate waste management arrangements prior to the effective date for the final rule, such that the one facility might find it cannot make arrangements for a lower cost means of managing its affected wastewater (from which the EDC/VCM wastewater treatment sludges are derived), then it could face relatively high monthly costs for temporarily transporting its wastewater offsite to a commercial hazardous waste management facility, until it can complete an alternative (and lower-cost) waste management arrangement for its wastewaters. For the purpose of reflecting EPA's uncertainty about this facility's actual cost impacts, as well as other cost estimation parameters, EPA included other higher cost waste management options and industry compliance cost contingencies (such as possible surface impoundment corrective action costs) in the economic analysis for the final rule (Economics Background Document USEPA 2000a). Inclusion of all of these high-cost assumptions results in an upper-end EPA cost estimate of $23.37 million in average annualized cost (which includes up to 22 months of temporary offsite transport for the generator of EDC/VCM wastewater treatment sludge currently managing its wastewaters in a surface impoundment). EPA notes that total costs also include minor impacts on EPA regional offices and states with authorized RCRA programs to implement the new rule, as well as other ''incidental effects.'' The reader is referred to the ''Economics Background Document'' for additional details about all cost items included in EPA's estimate of national cost.

VIII. When Must Regulated Entities Comply With Today's Final Rule?

A. Effective Date

The effective date of today's rule is May 7, 2001.

B. Section 3010 Notification

Pursuant to RCRA section 3010, the Administrator may require all persons who handle hazardous wastes to notify EPA of their hazardous waste management activities within 90 days after the wastes are identified or listed as hazardous. This requirement may be applied even to those generators, transporters, and treatment, storage, and disposal facilities (TSDFs) that have previously notified EPA with respect to the management of other hazardous wastes. The Agency has decided to waive this notification requirement for persons who handle wastes that are covered by today's hazardous waste listings and already have (1) notified EPA that they manage other hazardous wastes, and (2) received an EPA identification number. The Agency has waived the notification requirement in this case because it believes that most, if not all, persons who manage the wastes listed as hazardous in today's rule already have notified the Agency and received an EPA identification number. However, any person who generates, transports, treats, stores, or disposes of these newly listed wastes and has not previously received an EPA identification number must obtain an identification number pursuant to 40 CFR 262.12 to generate, transport, treat, store, or dispose of these hazardous wastes by February 6, 2001.

C. Generators and Transporters

Persons who generate newly identified hazardous wastes may be required to obtain an EPA identification number if they do not already have one (as discussed in section VIII.B, above). If generating or transporting these wastes after the effective date of this rule, generators of the wastes listed today will be subject to the generator requirements set forth in 40 CFR Part 262. These requirements include standards for hazardous waste determination (40 CFR 262.11), compliance with the manifest (40 CFR 262.20 through 262.23), pretransport procedures (40 CFR 262.30 through 262.34), generator accumulation (40 CFR 262.34), record keeping and reporting (40 CFR 262.40 through 262.44), and import/export procedures (40 CFR 262.50 through 262.60). We note that the generator accumulation provisions of 40 CFR 262.34 allow generators to accumulate hazardous wastes without obtaining interim status or a permit only in certain specified units; the regulations also place a limit on the maximum amount of time that wastes can be accumulated in these units. If these wastes are actively managed in surface impoundments or other units that are not tank systems, containers, drip pads, or containment buildings as outlined in 40 CFR 262.34, accumulation of these wastes is subject to the permitting requirements of 40 CFR Parts 264 and 265, and the generator is required to obtain interim status and seek a permit (or modify interim status or a permit, as appropriate). Also, persons who transport newly identified hazardous wastes will be required to obtain an EPA identification number (if they do already have one) as described above and will be subject to the transporter requirements set forth in 40 CFR Part 263. [NOTE: Generators of EDC/VCM wastewater treatment sludge who manage the waste in compliance with the requirements of the conditional listing (*i.e.,* dispose of the waste in a landfill and do not store the waste directly on the land prior to landfilling, are not subject to the hazardous waste

generator requirements at 40 CFR Part 262.]

D. Facilities Subject to Permitting

Today's rule is issued pursuant to HSWA authority. Therefore, EPA will regulate the management of the newly identified hazardous wastes until states are authorized to regulate these wastes. EPA will apply Federal regulations to these wastes and to their management in both authorized and unauthorized states.

1. Facilities Newly Subject to RCRA Permit Requirements

Facilities that treat, store, or dispose of wastes that are subject to RCRA regulation for the first time by this rule (that is, facilities that have not previously received a permit pursuant to Section 3005 of RCRA and are not currently operating pursuant to interim status), might be eligible for interim status (see Section 3005(e)(1)(A)(ii) of RCRA). To obtain interim status based on treatment, storage, or disposal of such newly identified wastes, eligible facilities are required to comply with 40 CFR 270.70(a) and 270.10(e) by providing notice under Section 3010 and submitting a Part A permit application no later than May 7, 2001. Such facilities are subject to regulation under 40 CFR Part 265 until a permit is issued.

In addition, under Section 3005(e)(3) and 40 CFR 270.73(d), not later than November 8, 2001, land disposal facilities newly qualifying for interim status under section 3005(e)(1)(A)(ii) also must submit a Part B permit application and certify that the facility is in compliance with all applicable groundwater monitoring and financial responsibility requirements. If the facility fails to submit these certifications and a permit application, interim status will terminate on that date.

2. Existing Interim Status Facilities

Pursuant to 40 CFR 270.72(a)(1), all existing hazardous waste management facilities (as defined in 40 CFR 270.2) that treat, store, or dispose of the newly identified hazardous wastes and are currently operating pursuant to interim status under section 3005(e) of RCRA, must file an amended Part A permit application with EPA no later than the effective date of today's rule (*i.e.,* May 7, 2001). By doing this, the facility may continue managing the newly listed wastes. If the facility fails to file an amended Part A application by that date, the facility will not receive interim status for management of the newly listed hazardous wastes and may not manage those wastes until the facility receives either a permit or a change in interim status allowing such activity (40 CFR 270.10(g)).

3. Permitted Facilities

Facilities that already have RCRA permits must request permit modifications if they want to continue managing newly listed wastes (see 40 CFR 270.42(g)). This provision states that a permittee may continue managing the newly listed wastes by following certain requirements, including submitting a Class 1 permit modification request by the date on which the waste or unit becomes subject to the new regulatory requirements (*i.e.,* the effective date of today's rule), complying with the applicable standards of 40 CFR Parts 265 and 266 and submitting a Class 2 or 3 permit modification request within 180 days of the effective date.

Generally, a Class 2 modification is appropriate if the newly listed wastes will be managed in existing permitted units or in newly regulated tank or container units and will not require additional or different management practices than those authorized in the permit. A Class 2 modification requires the facility owner to provide public notice of the modification request, a 60-day public comment period, and an informal meeting between the owner and the public within the 60-day period. The Class 2 process includes a ''default provision,'' which provides that if the Agency does not reach a decision within 120 days, the modification is automatically authorized for 180 days. If the Agency does not reach a decision by the end of that period, the modification is permanently authorized (see 40 CFR 270.42(b)).

A Class 3 modification is generally appropriate if management of the newly listed wastes requires additional or different management practices than those authorized in the permit or if newly regulated land-based units are involved. The initial public notification and public meeting requirements are the same as for Class 2 modifications. However, after the end of the 60-day public comment period, the Agency will grant or deny the permit modification request according to the more extensive procedures of 40 CFR part 124. There is no default provision for Class 3 modifications (see 40 CFR 270.42(c)).

Under 40 CFR 270.42(g)(1)(v), for newly regulated land disposal units, permitted facilities must certify that the facility is in compliance with all applicable 40 CFR part 265 groundwater monitoring and financial responsibility requirements no later than May 7, 2001. If the facility fails to submit these certifications, authority to manage the newly listed wastes under 40 CFR 270.42(g) will terminate on that date.

4. Units

Units in which newly identified hazardous wastes are generated or managed will be subject to all applicable requirements of 40 CFR part 264 for permitted facilities or 40 CFR part 265 for interim status facilities, unless the unit is excluded from such permitting by other provisions, such as the wastewater treatment tank exclusions (40 CFR 264.1(g)(6) and 265.1(c)(10)) and the product storage tank exclusion (40 CFR 261.4(c)). Examples of units to which these exclusions could never apply include landfills, land treatment units, waste piles, incinerators, and any other miscellaneous units in which these wastes may be generated or managed.

5. Closure

All units in which newly identified hazardous wastes are treated, stored, or disposed after the effective date of this regulation that are not excluded from the requirements of 40 CFR parts 264 and 265 are subject to both the general closure and post-closure requirements of Subpart G of 40 CFR parts 264 and 265 and the unit-specific closure requirements set forth in the applicable unit technical standards Subpart of 40 CFR part 264 or part 265 (*e.g.,* Subpart N for landfill units). In addition, EPA promulgated a final rule that allows, under limited circumstances, regulated landfills, surface impoundments, or LTUs to cease managing hazardous waste but to delay subtitle C closure to allow the unit to continue to manage non-hazardous waste for a period of time prior to closure of the unit (see 54 FR 33376, August 14, 1989). Units for which closure is delayed continue to be subject to all applicable 40 CFR 264 and 265 requirements. Dates and procedures for submittal of necessary demonstrations, permit applications, and revised applications are detailed in 40 CFR 264.113(c) through (e) and 265.113(c) through (e).

IX. How Will This Rule Be Implemented at the State Level?

A. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer the RCRA hazardous waste program within the State. See 40 CFR part 271 for the overall standards and requirements for authorization. Following authorization, the State

requirements authorized by EPA apply in lieu of equivalent Federal requirements and become Federally enforceable as requirements of RCRA. EPA maintains independent authority to bring enforcement actions under RCRA sections 3007, 3008, 3013, and 7003. Authorized States also have independent authority to bring enforcement actions under State law. A State may receive authorization by following the approval process described under 40 CFR part 271.

After a State receives initial authorization, new Federal requirements promulgated under RCRA authority existing prior to the 1984 Hazardous and Solid Waste Amendments (HSWA) do not apply in that State until the State adopts and receives authorization for equivalent State requirements. The State must adopt such requirements to maintain authorization.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), new Federal requirements and prohibitions imposed pursuant to HSWA provisions take effect in authorized States at the same time that they take effect in unauthorized States. Although authorized States are still required to update their hazardous waste programs to remain equivalent to the Federal program, EPA carries out HSWA requirements and prohibitions in authorized States, including the issuance of new permits implementing those requirements, until EPA authorizes the State to do so.

Authorized States are required to modify their programs only when EPA promulgates Federal requirements that are more stringent or broader in scope than existing Federal requirements. RCRA section 3009 allows the States to impose standards more stringent than those in the Federal program. See also 40 CFR 271.1(i). Therefore, authorized States are not required to adopt Federal regulations, both HSWA and non-HSWA, that are considered less stringent.

B. Effect on State Authorizations

EPA is promulgating this rule (with the exception of the changes to Part 302) pursuant to sections 2002(a), 3001(b), 3001(e)(2), and 3007(a) of the Solid Waste Disposal Act, which are HSWA provisions. We will add the new requirements to Table 1 at 40 CFR 271.1, which identifies Federal program requirements promulgated pursuant to HSWA. Because this rule is promulgated pursuant to the HSWA, after its effective date EPA will implement it rule in all States, including authorized States. Once authorized States modify their programs to adopt equivalent rules and receive authorization for such rules from EPA, those rules will become RCRA subtitle C requirements that apply in that States in lieu of the equivalent federal requirements.

Because this rule is promulgated pursuant to HSWA, a State submitting a program modification may apply to receive either interim or final RCRA authorization under RCRA 3006(g) or (b) on the basis that State regulations are, respectively, substantially equivalent or fully equivalent to EPA's regulations. The procedures and schedule for State programs modifications for either interim or final authorization are described in 40 CFR 271.21 and 271.24. Note that all HSWA interim authorizations will expire on January 1, 2003 (see 40 CFR 271.24(c)).

X. What Are the Reportable Quantity Requirements for Newly-Listed Wastes (K174 and K175) Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)?

A. What Is the Relationship Between RCRA and CERCLA?

CERCLA defines the term ''hazardous substance'' to include RCRA hazardous wastes. When EPA lists a hazardous waste under RCRA, the waste is also a hazardous substance pursuant to CERCLA 101(14), and the Agency adds the waste to the table of CERCLA hazardous substances in the CFR. EPA establishes a reportable quantity or RQ for each CERCLA hazardous substance. EPA provides a list of the CERCLA hazardous substances along with their RQs in Table 302.4 at 40 CFR 302.4. If you are the person in charge of a vessel or facility that releases a CERCLA hazardous substance in an amount that equals or exceeds its RQ, then you must report that release to the National Response Center (NRC). You also may have to notify State and local authorities.

B. Is EPA Adding Chlorinated Aliphatic Wastes to the Table of CERCLA Hazardous Substances?

Yes. Today, EPA is adding the newly listed chlorinated aliphatic wastes (K174 and K175) to the list of CERCLA hazardous substances. As discussed below, EPA also is finalizing adjusted RQs for these wastes.

C. How Does EPA Determine Reportable Quantities?

Under CERCLA, all new hazardous substances generally have a statutory one-pound RQ. EPA adjusts the RQ of a newly added hazardous substance based on an evaluation of its intrinsic physical, chemical, and toxic properties. These intrinsic properties—called ''primary criteria''—are aquatic toxicity, mammalian toxicity (oral, dermal, and inhalation), ignitability, reactivity, chronic toxicity, and potential carcinogenicity. EPA evaluates the data for a hazardous substance for each primary criterion. To adjust the RQs, EPA ranks each criterion on a scale that corresponds to an RQ value of 1, 10, 100, 1,000, or 5,000 pounds. For each criterion, EPA establishes a tentative RQ. A hazardous substance may receive several tentative RQ values based on its particular intrinsic properties. The lowest of the tentative RQs becomes the ''primary criteria RQ'' for that substance.

After the primary criteria RQs are assigned, EPA further evaluates substances for their susceptibility to certain degradative processes. These are secondary adjustment criteria. The natural degradative processes are biodegradation, hydrolysis, and photolysis (BHP). If a hazardous substance, when released into the environment, degrades rapidly to a less hazardous form by one or more of the BHP processes, EPA generally raises its RQ (as determined by the primary RQ adjustment criteria) by one level. Conversely, if a hazardous substance degrades to a more hazardous product after its release, EPA assigns an RQ to the original substance equal to the RQ for the more hazardous substance.

The standard methodology used to adjust the RQs for RCRA hazardous waste streams differs from the methodology applied to individual hazardous substances. The procedure for assigning RQs to RCRA waste streams is based on the results of an analysis of the hazardous constituents of the waste streams. The constituents of each RCRA hazardous waste stream are identified in 40 CFR part 261, Appendix VII. EPA first determines an RQ for each hazardous constituent within the waste stream using the methodology described above. The lowest RQ value of these constituents becomes the adjusted RQ for the waste stream. When there are hazardous constituents of a RCRA waste stream that are not CERCLA hazardous substances, the Agency develops an RQ, called a ''reference RQ,'' for these constituents in order to assign an appropriate RQ to the waste stream (see 48 FR 23565, May 25, 1983). In other words, the Agency derives the RQ for waste streams based on the lowest RQ of all of the hazardous constituents, regardless of whether they are CERCLA hazardous substances.

D. When Do I Need To Report a Release of K174 or K175 Under CERCLA?

Today, EPA is promulgating adjusted statutory RQs for newly-listed hazardous wastes K174 and K175 waste streams of one pound based on their hazardous constituents. EPA also is adjusting the RQ at one pound for K174 based on its hazardous constituents, chlorinated dibenzo-p-dioxins (CDDs) and chlorinated dibenzofurans (CDFs). EPA is promulgating an adjusted RQ of one pound for newly-listed waste K175 based on its hazardous constituent, mercury. However, in determining when to report a release of K174 or K175, EPA will allow you to apply the mixture rule, codified in 40 CFR 302.6, using the maximum observed concentrations of the hazardous constituents within the respective waste streams.

The mixture rule provides that when you know the quantities of all hazardous constituents of a mixture or solution, you must notify of releases of an RQ or more of such constituents (40 CFR 302.6). Therefore, if you know the concentration of the hazardous constituents of a hazardous waste, you can calculate the amount of waste released needed to reach the RQ for the constituents. By using the maximum observed concentration that EPA is promulgating today, you may apply the mixture rule, even if you do not know the concentration of constituents released. That is, if you are the person in charge, you must immediately report the release as soon as you know that you have released K174 or K175 in an amount that will reach the RQ for any of the hazardous constituents. This approach is reasonable and conservative because the sampling data presented in the Listing Background Document (USEPA, 1999c) accurately identify the maximum observed concentrations of the hazardous constituents in the chlorinated aliphatics waste streams. Table X–1 below identifies the hazardous constituents for each waste stream, their maximum observed concentrations in parts per million (ppm), and their constituents' RQs or reference RQs.

TABLE X–1.—MAXIMUM OBSERVED CONCENTRATION AND CORRESPONDING RQ FOR HAZARDOUS CONSTITUENTS THAT ARE BASIS FOR NEWLY-LISTED K174 AND K175

Waste	Constituent	Max. concentration (ppm (mg/kg))	RQ (lb)
K174	2,3,7,8-TCDD	0.000039	1
	1,2,3,7,8-PeCDD	0.0000108	1
	1,2,3,4,7,8-HxCDD	0.0000241	1
	1,2,3,6,7,8-HxCDD	0.000083	1
	1,2,3,7,8,9-HxCDD	0.000062	1
	1,2,3,4,6,7,8-HpCDD	0.00123	1
	OCDD	0.0129	1
	2,3,7,8-TCDF	0.000145	1
	1,2,3,7,8-PeCDF	0.0000777	1
	2,3,4,7,8-PeCDF	0.000127	1
	1,2,3,4,7,8-HxCDF	0.001425	1
	1,2,3,6,7,8-HxCDF	0.000281	1
	1,2,3,7,8,9-HxCDF	0.00014	1
	2,3,4,6,7,8-HxCDF	0.000648	1
	1,2,3,4,6,7,8-HpCDF	0.0207	1
	1,2,3,4,7,8,9-HpCDF	0.0135	1
	OCDF	0.212	1
K175	Mercury	9200	1

For example, if K174 is released from your facility and you do not know the actual concentrations of its constituents, you may assume that the concentrations are those identified in Table X–1. Thus, if K174 is released from your facility and you do not know the actual concentrations of its constituents, you may apply the mixture rule to the assumed maximum concentrations indicated in the table. You would have to release 4,716,981 pounds of K174 to reach the RQ for this waste (based on the maximum observed concentration of OCDF). If K175 is released from your facility and you do not know the actual concentration of mercury, you may assume that the concentration is 9200 ppm. Applying the mixture rule, you would have to release 108.7 pounds of K0175 to reach the RQ.

E. What if I Know the Concentration of the Constituents in My Waste?

If you know the concentration levels of all the hazardous constituents in a particular chlorinated aliphatic waste, you may apply the mixture rule (see 40 CFR 302.6(b)) to the actual concentrations. You would need to report a release of either waste when an RQ or more of any of their respective hazardous constituents is released.

F. How Did EPA Determine the RQs for K174 and K175 and Their Hazardous Constituents?

The hazardous constituents identified as the basis for listing K174 as hazardous waste include chlorinated dibenzo-p-dioxins (CDDs) and chlorinated dibenzofurans (CDFs). Previously, EPA had established an adjusted RQ of one pound for 2,3,7,8-TCDD (see 54 FR 33426). EPA has not established adjusted RQs for the other CDD and CDF congeners. However, EPA recognizes that a number of these congeners exhibit dioxin-like toxicity and has established ''reference RQs'' of one pound for these congeners to support the development of the adjusted RQs for K174.

The adjusted RQ for 2,3,7,8-TCDD was established as one pound based on potential carcinogenicity, considering the weight of evidence that this substance is carcinogenic, and considering its estimated carcinogenic potency. To establish reference RQs for the other CDD and CDF congeners in the waste stream, EPA applied the toxicity equivalency factors (TEFs) established for dioxin-like compounds to the potency factor used as the basis for the adjusted RQ for 2,3,7,8-TCDD. Of the 210 CDD and CDF congeners, only those with chlorine substitutions in, at least,

the 2, 3, 7, and 8 positions (a total of 17 CDD and CDF congeners) are considered to have dioxin-like toxicity. Applying the TEFs established for these 17 congeners to the potency factor established for 2,3,7,8-TCDD indicates that all of the congeners fit into RQ Potency Group 1 with a corresponding reference RQ of one pound.[69] Therefore, because each of the hazardous constituents has an RQ or reference RQ of one pound, EPA is promulgating an adjusted RQ of one pound for K174.

The hazardous constituent identified as the basis for listing as hazardous VCM–A wastewater treatment sludges (K175) is mercury. Previously, EPA had established an adjusted RQ of one pound for mercury (see 50 FR 13456, April 4, 1985). Because the hazardous constituent used as the basis for listing K175 has an RQ of one pound, EPA is promulgating an adjusted RQ of one pound for this waste.

G. How Do I Report a Release?

To report a release of K174 or K175 (or any other CERCLA hazardous substance) that equals or exceeds its RQ, you must immediately notify the National Response Center (NRC) as soon as you have knowledge of that release. The toll-free telephone number of the NRC is 1–800–424–8802; in the Washington, DC, metropolitan area, the number is (202) 267–2675.

You also may have to notify State and local authorities. The Emergency Planning and Community Right-to-Know Act (EPCRA) requires that owners and operators of certain facilities report releases of CERCLA hazardous substances and EPCRA extremely hazardous substances (see list in 40 CFR part 355, Appendix A) to State and local authorities. After the release of an RQ or more of any of those substances, you must report immediately to the community emergency coordinator of the local emergency planning committee for any area likely to be affected by the release, and to the State emergency response commission of any State likely to be affected by the release.

[69] For an explanation of how potency factors are calculated and potency groups and RQs are established, see the Technical Background Document to Support Rulemaking Pursuant to CERCLA Section 102, Volume 3, July 27, 1989. This document can be viewed by calling the EPA Superfund Docket Center, 703–603–8917, and requesting document number 102 RQ 273C.

H. Is CERCLA Reporting Required for Spills of EDC/VCM Wastewater Treatment Sludge That (Prior to the Spill) Does Not Meet the Listing Description for K174?

Commenters to the proposed rule asked whether spills of EDC/VCM wastewater treatment sludge, where prior to being spilled the sludge does not meet the K174 listing because of the manner in which it is being managed, would have to be reported in compliance with the CERCLA RQ reporting requirements. The Agency notes that we are finalizing a contingent management listing for EDC/VCM wastewater treatment sludges under which these sludges would be regulated as K174 wastes unless they are destined for management in a subtitle C landfill or a non-hazardous waste landfill licensed or permitted by a state. As part of the listing description, once the EDC/VCM wastewater treatment sludge is placed on the land it meets the listing description. Therefore, contrary to the commenter's suggestion, spills of EDC/VCM sludges would not be excluded from the K174 listing. A spill of EDC/VCM wastewater treatment sludges would constitute the release of a CERCLA hazardous substance, and provided that an amount equal to or exceeding the RQ had been released, would be subject to CERCLA notification requirements.

I. What Is the Statutory Authority for This Program?

Section 101(14) of CERCLA defines the term hazardous substance by referring to substances listed under several other environmental statutes, as well as those substances that EPA designates as hazardous under CERCLA section 102(a). In particular, CERCLA section 101(14)(C) defines the term hazardous substance to include ''any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act.'' CERCLA section 102(a) gives EPA authority to establish RQs for CERCLA hazardous substances. CERCLA section 103(a) requires any person in charge of a vessel or facility that releases a CERCLA hazardous substance in an amount equal to or greater than its RQ to report the release immediately to the federal government. EPCRA section 304 requires owners or operators of certain facilities to report releases of CERCLA hazardous substances and EPCRA extremely hazardous substances to State and local authorities.

XI. What Are the Administrative Assessments?

A. Executive Order 12866

Under Executive Order 12866 (September 30, 1993), EPA must determine whether a regulatory action is ''significant'' and, therefore, subject to OMB review and the other provisions of the Executive Order. A significant regulatory action is defined by Executive Order 12866 as one that may:

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

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

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

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to the terms of Executive Order 12866, EPA has determined that this rule is a ''significant regulatory action'' because of point four (4) above: The rule includes a novel legal or policy issue arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Today's final rule, which includes an alternative listing approach for one of the newly-listed wastestreams, deviates from the Agency's standard or historic listing approach in that the Agency is listing as hazardous only those quantities of the waste that are managed in a manner that reflects unacceptable risks. This differs from the Agency's traditional approach to listing a waste as hazardous, in which the listing determination captures the entire quantity of a targeted wastestream that poses unacceptable risks to human health and the environment when managed in one or more particular manners.

Due to the Agency's decision to promulgate a listing approach that deviates from our historical hazardous waste listing approach, the Agency is deeming today's action to be ''significant.'' Prior to finalizing today's rule, EPA submitted this proposed policy change to OMB for review. Changes made to the Agency's proposal in response to OMB suggestions or recommendations are documented in the public record.

Although today's final rule is not ''economically significant,'' the Agency prepared an Economics Background

Document (USEPA 1999b) in support of today's rule. The Agency's economic assessment addresses, among other factors, industry compliance costs, industry financial impacts, and potential for small entity impacts. A summary of findings from our economic assessment is presented in Section VII. The complete Economics Background Document (USEPA 1999b) is available for public review from the RCRA docket, according to instructions provided in the introduction to this preamble.

EPA anticipates that the final rule will primarily affect three of the 18 known US generators of K174 and K175 hazardous wastes, causing these three facilities to modify current waste management practices, according to the terms and conditions of the final rule. None of these 18 facilities are owned by small-sized companies. The 15 remainder chemical plants will incur relatively minor annual costs for documentation of current waste management practices. In addition, EPA anticipates that four industrial waste management operators will be affected by either increased or decreased annual volumes and business revenues associated with the management of wastes from the three affected chemical plants. EPA also anticipates that states with authorized RCRA programs will be affected as they will be required to implement and enforce the final rule. Finally, EPA anticipates that other Federal agencies and non-governmental organizations may be incur relatively minor costs associated with reading and propagating the final rule.

EPA estimates that the national average annual cost of the final rule will be between $0.42 to $4.05 million. Under broader cost estimation uncertainty assumptions which allow for temporary offsite trucking of affected wastes by one facility if it requires additional time beyond the final rule six-month compliance deadline to modify its current waste management practices, the upper-bound of this cost estimate increases to $23.37 million in average annual cost.

B. Regulatory Flexibility Act

Pursuant to the 1980 Regulatory Flexibility Act (RFA)(5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). However, a regulatory flexibility analysis is not required if the head of an agency certifies that the rule will not have a ''significant'' economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a ''significant'' economic impact on a substantial number of small entities. The following discussion explains EPA's determination.

EPA has examined this rule's potential effects on small entities as required by the RFA/SBREFA, and has determined that this action will not have a significant economic impact on a substantial number of small entities. This is evidenced by the fact that only one of the potentially affected, parent companies determined to be producers of chlorinated aliphatic products in the U.S., may be classified as a ''small business,'' according to the U.S. Small Business Administration's employee size standards (*i.e.,* less than or equal to 1,000 employees) and according to that company's primary Standard Industrial Classification (SIC) code (SIC 2869).

I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Paperwork Reduction Act

The information collection requirements in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document was prepared by EPA (ICR No. 1924.01) and a copy may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 1200 Pennsylvania Avenue NW.; Washington, DC 20460, by E-mail at *farmer.sandy@epamail.epa.gov,* or by calling (202) 260–2740. A copy also may be downloaded off the Internet at *http://www.epa.gov/icr.*

This final rule includes new information collection requirements subject to OMB review under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* In addition to complying with the existing subtitle C recordkeeping and reporting requirements for the newly listed waste streams, EPA is requiring that facilities generating EDC/VCM wastewater treatment sludges be able to document their compliance with the conditions provided for exclusion from the scope of the conditional hazardous waste listing promulgated today. This requirement is necessary to ensure that EDC/VCM wastewater treatment sludges are managed in a manner that is safe for human health and the environment. In addition, EPA is requiring disposal facilities that manage VCM–A wastewater treatment sludges to maintain records documenting that these sludges are co-disposed only with other wastes that have a pH level of 6.0 or lower. This requirement is necessary to ensure that the mercury contained in the waste does not leach from the waste after disposal.

The Agency estimated the burden associated with complying with the requirements in this proposed rule. Included in the ICR are the burden estimates for the following requirements for industry respondents: reading the regulations; keeping records documenting compliance with conditions for exclusion from hazardous waste listings; and keeping records documenting compliance with landfill waste disposal requirements for the disposal of VCM–A wastewater treatment sludges. Included also are the burden estimates for State respondents for applying for State authorization. The Agency determined that all of this information is necessary to ensure compliance with today's final rule.

To the extent that this rule imposes any information collection requirements under existing RCRA regulations promulgated in previous rulemakings, those requirements have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* and have been assigned OMB control numbers 2050–0009 (ICR No. 1573, Part B Permit Application, Permit Modifications, and Special Permits); 2050–0120 (ICR No. 1571, General Facility Hazardous Waste Standards); 2050–0028 (ICR No. 261, Notification of Hazardous Waste Activity); 2050–0034 (ICR No. 262, RCRA Hazardous Waste Permit Application and Modification, Part A); 2050–0039 (ICR No. 801, Requirements for Generators, Transporters, and Waste Management Facilities under the Hazardous Waste Manifest System); 2050–0035 (ICR No. 820, Hazardous Waste Generator Standards); and 2050–0024 (ICR No. 976, 1997 Hazardous Waste Report).

EPA estimates that the projected annual hour burden for industry respondents will be 93 hours, and the annual cost associated with the additional paperwork burden will be $5,254. Total estimates over three years are 279 hours and $15,762.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and use technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon state, tribal or local governments. States, tribes and local governments would have no compliance costs under this rule. It is expected that states will adopt similar rules, and submit those rules for inclusion in their authorized RCRA programs, but they have no legally enforceable duty to do so. For the same reasons, we determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments, and thus, is not subject to the requirements of sections 202 and 205 of UMRA. In addition, EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year.

E. Executive Order 13132: Federalism

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

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule directly affects the chlorinated aliphatics industry. States and local governments will not incur direct compliance costs under this rule. It is expected that states will adopt similar rules, and submit those rules for inclusion in their authorized RCRA programs, but they have no legally enforceable duty to do so. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. There is no impact to tribal governments as the result of the proposed action. In addition, this rule is required by statute (HSWA). Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective

and reasonably feasible alternatives considered by the Agency. This rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

The topic of environmental threats to children's health is growing in regulatory importance as scientists, policy makers, and village leaders continue to recognize the extent to which children are particularly vulnerable to environmental hazards. Recent EPA actions have been in the forefront of addressing environmental threats to the health and safety of children. Today's final rule further reflects our commitment to mitigating environmental threats to children.

A few significant physiological characteristics are largely responsible for children's increased susceptibility to environmental hazards. First, children eat proportionately more food, drink proportionately more fluids, and breathe more air per pound of body weight than do adults. As a result, children potentially experience greater levels of exposure to environmental threats than do adults. Second, because children's bodies are still in the process of development, their immune systems, neurological systems, and other immature organs can be more easily and considerably affected by environmental hazards.

Today's rule will reduce risks posed by the hazardous constituents found in the listed waste streams by requiring more appropriate and safer management practices. EPA considered risks to children in its risk assessment. The more appropriate and safer management practices promulgated in this rule are projected to reduce risks to children potentially exposed to the constituents of concern.

H. National Technology Transfer and Advancement Act of 1995

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

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

I. Executive Order 12898: Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

Today's rule is intended to reduce risks from the generation and management of hazardous wastes and to benefit all populations. As such, this rule is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities.

In making hazardous waste listing determinations, we base our evaluations of potential risk from the generation and management of solid wastes on an analysis of potential individual risk. In conducting risk evaluations, our goal is to estimate potential risk to any population of potentially exposed individuals (*e.g.,* home gardeners, adult farmers, children of farmers, anglers) located in the vicinity of any generator or facility handling a waste. Therefore, we are not putting poor, rural, or minority populations at any disadvantage with regard to our evaluation of risk or with regard to how the Agency makes its proposed hazardous waste listing determinations.

In promulgating decisions to list two wastes as hazardous (*i.e.,* EDC/VCM wastewater treatment sludges managed in land treatment units, and VCM–A wastewater treatment sludges), all populations potentially exposed to these wastes or potentially exposed to releases of the hazardous constituents in the wastes will benefit from the listing determinations. In addition, listing determinations are effected at the national level. The wastes proposed to be listed as hazardous will be hazardous regardless of where they are generated and regardless of where they may be managed. Although the Agency understands that the listing determinations may affect where these wastes are managed in the future (in that hazardous wastes must be managed at subtitle C facilities), the Agency's decision to list these wastes as hazardous is independent of any decisions regarding the location of waste generators and the siting of waste management facilities.

Similarly, in cases where the Agency is not listing a solid waste as hazardous because the waste does not meet the criteria for being identified as a hazardous waste, these decisions are based upon an evaluation of potential individual risks located in proximity to any facility handling the waste. In the case of wastewater treatment sludges from the production of allyl chloride and methyl chloride and in the case of EDC/VCM wastewater treatment sludges managed in landfills, we believe the potential risk levels associated with the wastes are safe for all populations potentially exposed to the wastes and their constituents.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective May 7, 2001.

List of Subjects

40 CFR 148

Administrative practice and procedure, Hazardous waste, Reporting and recordkeeping requirements, Water supply.

40 CFR 261

Environmental protection, Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 268

Environmental protection, Hazardous materials, Waste management, Reporting and recordkeeping requirements, Land disposal restrictions, Treatment standards.

40 CFR Part 271

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

40 CFR Part 302

Environmental protection, Air pollution control, Chemicals, Emergency Planning and Community Right-to-Know Act, Extremely hazardous substances, Hazardous chemicals, Hazardous materials, Hazardous materials transportation, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: September 29, 2000.

Carol M. Browner,

Administrator.

For the reasons setforth in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 148—HAZARDOUS WASTE INJECTION RESTRICTIONS

1. The authority citation for part 148 continues to read as follows:

Authority: Sec. 3004, Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

2. Section 148.18 is amended by adding paragraphs (j) and (k) to read as follows:

§ 148.18 Waste-specific prohibitions—newly listed and identified wastes.

* * * * *

(j) Effective May 8, 2001, the wastes specified in 40 CFR 261.32 as EPA Hazardous Waste Numbers K174 and K175 are prohibited from underground injection.

(k) The requirements of paragraphs (a) through (j) of this section do not apply:

(1) If the wastes meet or are treated to meet the applicable standards specified in subpart D of 40 CFR part 268; or

(2) If an exemption from a prohibition has been granted in response to a petition under subpart C of this part; or

(3) During the period of extension of the applicable effective date, if an extension has been granted under § 148.4 of this part.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

4. In § 261.32, the table is amended by adding in alphanumeric order (by the first column) the following waste streams to the subgroup ''Organic Chemicals'' to read as follows:

§ 261.32 Hazardous waste from specific sources.

Industry and EPA hazardous waste No.	Hazardous waste	Hazardous code
*	* * * * *	*
Organic chemicals:		
*	* * * * *	*
K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer (including sludges that result from commingled ethylene dichloride or vinyl chloride monomer wastewater and other wastewater), unless the sludges meet the following conditions: (i) they are disposed of in a subtitle C or non-hazardous landfill licensed or permitted by the state or federal government; (ii) they are not otherwise placed on the land prior to final disposal; and (iii) the generator maintains documentation demonstrating that the waste was either disposed of in an on-site landfill or consigned to a transporter or disposal facility that provided a written commitment to dispose of the waste in an off-site landfill. Respondents in any action brought to enforce the requirements of subtitle C must, upon a showing by the government that the respondent managed wastewater treatment sludges from the production of vinyl chloride monomer or ethylene dichloride, demonstrate that they meet the terms of the exclusion set forth above. In doing so, they must provide appropriate documentation (*e.g.,* contracts between the generator and the landfill owner/operator, invoices documenting delivery of waste to landfill, *etc.*) that the terms of the exclusion were met.	T
K175	Wastewater treatment sludges from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.	T
*	* * * * *	*

5. Appendix VII to Part 261 is amended by adding the following wastestreams in alphanumeric order (by the first column) to read as follows:

Appendix VII To Part 261—Basis for Listing Hazardous Waste

EPA hazardous waste no.	Hazardous constituents for which listed
*	* * * * * *
K174	1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD), 1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF), 1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,6,7,8,9-HpCDF), HxCDDs (All Hexachlorodibenzo-p-dioxins), HxCDFs (All Hexachlorodibenzofurans), PeCDDs (All Pentachlorodibenzo-p-dioxins), OCDD (1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin, OCDF (1,2,3,4,6,7,8,9-Octachlorodibenzofuran), PeCDFs (All Pentachlorodibenzofurans), TCDDs (All tetrachlorodi-benzo-p-dioxins), TCDFs (All tetrachlorodibenzofurans).
K175	Mercury

Appendix VIII to Part 261—Hazardous Constituents

6. Appendix VIII to Part 261 is amended by adding in alphabetical order of common name the following entries:

Common name	Chemical abstracts name	Chemical abstracts No.	Hazardous waste No.
* * *	* * *		*
Octachlorodibenzo-p-dioxin (OCDD)	1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin	3268–87–9	
Octachlorodibenzofuran (OCDF)	1,2,3,4,6,7,8,9-Octachlorodibenofuran	39001–02–0	
* * *	* * *		*

PART 268—LAND DISPOSAL RESTRICTIONS

7. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart C—Prohibitions on Land Disposal

8. Section 268.33 is revised to read as follows:

§ 268.33 Waste specific prohibitions—chlorinated aliphatic wastes.

(a) Effective May 8, 2001, the wastes specified in 40 CFR part 261 as EPA Hazardous Wastes Numbers K174, and K175, soil and debris contaminated with these wastes, radioactive wastes mixed with these wastes, and soil and debris contaminated with radioactive wastes mixed with these wastes are prohibited from land disposal.

(b) The requirements of paragraph (a) of this section do not apply if:

(1) The wastes meet the applicable treatment standards specified in subpart D of this part;

(2) Persons have been granted an exemption from a prohibition pursuant to a petition under § 268.6, with respect to those wastes and units covered by the petition;

(3) The wastes meet the applicable treatment standards established pursuant to a petition granted under § 268.44;

(4) Hazardous debris has met the treatment standards in § 268.40 or the alternative treatment standards in § 268.45; or

(5) Persons have been granted an extension to the effective date of a prohibition pursuant to § 268.5, with respect to these wastes covered by the extension.

(c) To determine whether a hazardous waste identified in this section exceeds the applicable treatment standards specified in § 268.40, the initial generator must test a sample of the waste extract or the entire waste, depending on whether the treatment standards are expressed as concentrations in the waste extract or the waste, or the generator may use knowledge of the waste. If the waste contains regulated constituents in excess of the applicable levels of subpart D of this part, the waste is prohibited from land disposal, and all requirements of part 268 are applicable, except as otherwise specified.

(d) Disposal of K175 wastes that have complied with all applicable 40 CFR 268.40 treatment standards must also be macroencapsulated in accordance with 40 CFR 268.45 Table 1 unless the waste is placed in:

(1) A Subtitle C monofill containing only K175 wastes that meet all applicable 40 CFR 268.40 treatment standards; or

(2) A dedicated Subtitle C landfill cell in which all other wastes being co-disposed are at pH≤6.0.

9. In § 268.40, the Table is amended by adding entries to F039 in alphabetical order, by adding in alphanumeric order new entries for K174 and K175, and by adding footnote 12 to read as follows:

§ 268.40 Applicability of treatment standards.

* * * * *

BILLING CODE 6560–50–P

TREATMENT STANDARDS FOR HAZARDOUS WASTES Note: NA means not applicable					
WASTE CODE	Waste Description and Treatment/Regulatory Subcategory[1]	Regulated Hazardous Constituent		Wastewaters	Nonwastewaters
		Common Name	CAS[2] Number	Concentration in mg/L[3], or Technology Code[4]	Concentration in mg/kg[5] unless noted as "mg/L TCLP", or Technology Code
* * * * *	**				
F039	Leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Subpart D of this part. (Leachate resulting from the disposal of one or more of the following EPA Hazardous Wastes and no other Hazardous Waste retains its EPA Hazardous Waste Number(s): F020, F021, F022, F026, F027, and/or F028).	* * * * * * *			
		1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	0.0025
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	0.0025
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	0.0025
		1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin (OCDD)	3268-87-9	0.000063	0.0025

		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063	0.005
* * * * *	* *				
K174	Wastewater treatment sludges from the production of ethylene dichloride or vinyl chloride monomer.	1,2,3,4,6,7,8-Heptachlorodibenzo-*p*-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035 or CMBST[11]	0.0025 or CMBST[11]
		1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035 or CMBST[11]	0.0025 or CMBST[11]
		1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035 or CMBST[11]	0.0025 or CMBST[11]
		HxCDDs (All Hexachlorodibenzo-*p*-dioxins)	34465-46-8	0.000063 or CMBST[11]	0.001 or CMBST[11]
		HxCDFs (All Hexachlorodibenzofurans)	55684-94-1	0.000063 or CMBST[11]	0.001 or CMBST[11]
		1,2,3,4,6,7,8,9-Octachlorodibenzo-*p*-dioxin (OCDD)	3268-87-9	0.000063 or CMBST[11]	0.005 or CMBST[11]
		1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001-02-0	0.000063 or CMBST[11]	0.005 or CMBST[11]

		PeCDDs (All Pentachlorodibenzo-*p*-dioxins)	36088-22-9	0.000063 or CMBST[11]	0.001 or CMBST[11]
		PeCDFs (All Pentachlorodibenzofurans)	30402-15-4	0.000035 or CMBST[11]	0.001 or CMBST[11]
		TCDDs (All tetrachlorodi-benzo-*p*-dioxins)	41903-57-5	0.000063 or CMBST[11]	0.001 or CMBST[11]
		TCDFs (All tetrachlorodibenzofurans)	55722-27-5	0.000063 or CMBST[11]	0.001 or CMBST[11]
		Arsenic	7440-36-0	1.4	5.0 mg/L TCLP
K175	Wastewater treatment sludge from the production of vinyl chloride monomer using mercuric chloride catalyst in an acetylene-based process.	Mercury[12]	7438-97-6	NA	0.025 mg/L TCLP
		pH[12]		NA	pH ≤6.0
	All K175 wastewaters	Mercury	7438-97-6	0.15	NA
* * * * *	* *				

* * * * * * *

Footnotes to Treatment Standard Table 268.40

[1] The waste descriptions provided in this table do not replace waste descriptions in 40 CFR Part 261. Descriptions of Treatment/Regulatory Subcategories are provided, as needed, to distinguish between applicability of different standards.

[2] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

[3] Concentration standards for wastewaters are expressed in mg/L and are based on analysis of composite samples.

[4] All treatment standards expressed as a Technology Code or combination of Technology Codes are explained in detail in 40 CFR 268.42 Table 1–Technology Codes and Descriptions of Technology-Based Standards.

[5] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR part 264, subpart O or 40 CFR part 265, subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

* * * * * * *

[11] For these wastes, the definition of CMBST is limited to: (1) combustion units operating under 40 CFR 266, (2) combustion units permitted under 40 CFR part 264, subpart O, or (3) combustion units operating under 40 CFR 265, subpart O, which have obtained a determination of equivalent treatment under 268.42(b).

[12] Disposal of K175 wastes that have complied with all applicable 40 CFR 268.40 treatment standards must also be macroencapsulated in accordance with 40 CFR 268.45 Table 1 unless the waste is placed in:

(1) A Subtitle C monofill containing only K175 wastes that meet all applicable 40 CFR 268.40 treatment standards; or

(2) A dedicated Subtitle C landfill cell in which all other wastes being co-disposed are at pH≤6.0.

* * * * *

10. In § 268.48 the Table is amended by adding in alphabetical sequence the following entries under the heading organic constituents: (The footnotes are republished without change.)

§ 268.48 Universal treatment standards.

(a) * * *

UNIVERSAL TREATMENT STANDARDS

[Note: NA means not applicable]

Regulated constituent common name	CAS[1] number	Wastewater standard	Nonwastewater standard
		Concentration in mg/L[2]	Concentration in mg/Kg[3] unless noted as "mg/L TCLP"
* * * * * * *			
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8–HpCDD)	35822–46–9	0.000035	0.0025
1,2,3,4,6,7,8-Heptachlorodibenzofuran (1,2,3,4,6,7,8-HpCDF)	67562–39–4	0.000035	0.0025
1,2,3,4,7,8,9-Heptachlorodibenzofuran (1,2,3,4,7,8,9-HpCDF)	55673–89–7	0.000035	0.0025
* * * * * * *			
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268–87–9	0.000063	0.005
1,2,3,4,6,7,8,9-Octachlorodibenzofuran (OCDF)	39001–02–0	0.000063	0.005
* * * * * * *			

* * * * * * *

[1] CAS means Chemical Abstract Services. When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only.

[2] Concentration standards for wastewaters are expressed in mg/L and are based on analysis of composite samples.

[3] Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of 40 CFR Part 264, Subpart O, or 40 CFR Part 265, Subpart O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements. A facility may comply with these treatment standards according to provisions in 40 CFR 268.40(d). All concentration standards for nonwastewaters are based on analysis of grab samples.

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

11. The authority citation for Part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

12. In § 271.1(j) tables 1 and 2 are amended by adding the following entries in chronological order by date of publication to read as follows.

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	**Federal Register** reference	Effective date
* * * * * * *			
September 29, 2000	Listing of Hazardous Wastes K174 and K175.	65 FR 67132	May 7, 2001.
* * * * * * *			

TABLE 2.—SELF IMPLEMENTING PROVISIONS OF THE SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	**Federal Register** reference
* * * * * * *			
May 7, 2001	Prohibition on land disposal of K174 and K175 wastes, and prohibition on land disposal of radioactive waste mixed with K174 and K175 wastes, including soil and debris..	3004(g)(4)(C) and 3004(m)	November 8, 2000. 65 FR 67132.
* * * * * * *			

* * * * *

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

13. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 9602, 9603, and 9604; 33 U.S.C. 1321 and 1361.

14. In § 302.4, Table 302.4 is amended by adding the following new entries in alphanumeric order at the end of the table to read as follows:

§ 302.4 Designation of hazardous substances.

* * * * *

TABLE 302.4—LIST OF HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITIES

[Note: All Comments/Notes Are Located at the End of This Table]

Hazardous substance	CASRN	Regulatory synonyms	Statutory			Final RQ	
			RQ	Code †	RCRA waste No.	Category	Pounds (KG)
* *	*	*	*		*		*
K174[f]	.....	.....	1*	4	K174	X	1(0.454)
* *	*	*	*		*		*
K175[f]	.....	.....	1*	4	K175	X	1(0.454)

† Indicates the statutory sources as defined by 1, 2, 3, and 4 below.
1 *—Indicates that the 1-pound RQ is a CERCLA statutory RQ.
4—Indicates that the statutory source for designation of this hazardous substance under CERCLA is RCRA Section 3001.
[f] See 40 CFR 302.6(b)(1) for application of the mixture rule to this hazardous waste.

15. Section 302.6 is amended by revising paragraph (b)(1)(iii) to read as follows:

§ 302.6 Notification requirements.

* * * * *

(b) * * *

(1) * * *

(iii) For waste streams K169, K170, K171, K172, K174, and K175, knowledge of the quantity of all of the hazardous constituent(s) may be assumed, based on the following maximum observed constituent concentrations identified by EPA:

Waste	Constituent	max ppm
K174	2,3,7,8-TCDD	0.000039
	1,2,3,7,8-PeCDD	0.0000108
	1,2,3,4,7,8,-HxCDD	0.0000241
	1,2,3,6,7,8,-HxCDD	0.000083
	1,2,3,7,8,9,-HxCDD	0.000062
	1,2,3,4,6,7,8-HpCDD	0.00123
	OCDD	0.0129
	2,3,7,8-TCDF	0.000145
	1,2,3,7,8-PeCDF	0.0000777
	2,3,4,7,8-PeCDF	0.000127
	1,2,3,4,7,8-HxCDF	0.001425
	1,2,3,6,7,8-HxCDF	0.000281
	1,2,3,7,8,9-HxCDF	0.00014
	2,3,4,6,7,8-HxCDF	0.000648
	1,2,3,4,6,7,8-HpCDF	0.0207
	1,2,3,4,7,8,9-HpCDF	0.0135
	OCDF	0.212
K175	Mercury	9200

* * * * *

[FR Doc. 00–25928 Filed 11–7–00; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Wednesday,
November 8, 2000

Part IV

Department of Transportation

Coast Guard

33 CFR Part 151

46 CFR Parts 30, 150, 151, and 153

Noxious Liquid Substances, Obsolete Hazardous Materials in Bulk, and Current Hazardous Materials in Bulk; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

46 CFR Parts 30, 150, 151, and 153

[USCG 2000–7079]

RIN 2115–AF96

Noxious Liquid Substances, Obsolete Hazardous Materials in Bulk, and Current Hazardous Materials in Bulk

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: The Coast Guard revises its rules on carriage of hazardous materials in bulk, treating the rules in three parts. This three-part revision will update the tables of hazardous materials transportable in bulk and better inform persons shipping any such materials of those materials' compatibility and of requirements for special handling. It should make the carriage of such materials safer.

DATES: This rule is effective March 8, 2001, unless a written adverse comment or a written notice of intent to file one reaches the Docket Management Facility on or before February 6, 2001. If either does reach the Facility, the Coast Guard may withdraw this rule and publish a timely notice of withdrawal in the **Federal Register**. If neither does, the Coast Guard will publish a document affirming the effectiveness of this rule. If an adverse comment applies to an amendment, a section, or a paragraph of this rule and we can withdraw that provision without defeating the purpose of this rule, we may withdraw that provision and adopt as final only the other provisions.

ADDRESSES: Please identify your comments and related material for this rulemaking by the number of the docket [USCG 2000–7079]. To make sure they do not enter the docket more than once, please submit them by only one of the following means:

(1) By mail to the Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) In person 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 Facility at 202–493–2251.

(4) Electronically through the Web site for the Docket Management System at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this rule, call Mr. Curtis G. Payne, Project Manager, Hazardous Materials Standards Division, Coast Guard, telephone 202–267–1217. For questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

The Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket. You may inspect or copy them 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 them on the Internet at http://dms.dot.gov.

SUPPLEMENTARY INFORMATION: We are revising our rules on Noxious Liquid Substances (NLSs) to include substances recently authorized for carriage by the Coast Guard or added to the Chemical Codes of the International Maritime Organization (IMO) and by making minor technical and editorial changes. We are revising our rules, tables, and lists on carriage of hazardous materials in bulk by deleting from our rules, tables, and lists commodities that are no longer liquid cargoes transportable in bulk, and by canceling the classifications of obsolete commodities not included in those rules, tables, and lists. We are revising our rules on carriage of hazardous materials in bulk by adding cargoes recently authorized for carriage by the Coast Guard or added to the Chemical Codes of the IMO and by making minor technical and editorial changes.

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the number of the docket for this rulemaking [USCG 2000–7079], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, in person, by fax, or electronically to the Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or in person, submit them in an unbound format, no larger than 81/2 by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this rule in view of them.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures for which are outlined in 33 CFR 1.05–55, because it anticipates no adverse comment. If no written adverse comment or written notice of intent to submit one reaches the Facility within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, about 30 days before the effective date, we will publish a document in the **Federal Register** stating that we received no written adverse comments or written notice and confirming that this rule will become effective as scheduled. However, if we receive either, we will publish a document in the **Federal Register** announcing withdrawal of all or part of this rule. If an adverse comment applies to an amendment, a section, or a paragraph of this rule and we can withdraw the affected provision without defeating the purpose of this rule, we may withdraw that provision and adopt as final only the other provisions. If we decide to proceed with a rulemaking even after receipt of an adverse comment, we will withdraw the direct final rule and publish a separate notice of proposed rulemaking (NPRM) and provide a new opportunity for comment.

A comment is ''adverse'' if it explains why this rule would be inappropriate, by reason of either its premise or its approach, or would be ineffective or unacceptable without a change.

Background and Purpose

Because the United States is a party to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), the Coast Guard must amend its rules to ensure that they stay consistent with the Chemical Codes of the IMO.

In this rule, we address Noxious Liquid Substances, Obsolete Hazardous Materials, and Current Hazardous Materials in Bulk.

Noxious Liquid Substances

The Coast Guard is revising its list of Category D other-than-oil-like NLSs, 33

CFR 151.47, and of Category D oil-like NLSs, 33 CFR 151.49(b).

The Coast Guard is revising its list of Category D NLSs by including in this list new entries added by Part C of this rule to Table 30.25–1 of 46 CFR and Tables 1 and 2 of 46 CFR part 153. These are chemicals recently authorized or added to two Chemical Codes of the IMO: ''International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk'' (IBC Code), and ''Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk'' (BCH Code). This rule mainly updates our lists of chemicals in 33 CFR part 151. Further, because the names of several entries have changed, we will change them in the lists.

IMO has reevaluated several of the Category D chemicals so that they now belong to Pollution Category ''III'' or count both as ''safety'' hazards and as ''pollution'' hazards. Therefore, this rule will remove those currently in the lists.

Obsolete Hazardous Materials

IMO publishes the Circular of the Marine Environmental Protection Committee (MEPC), ''Provisional Categorization of Liquid Substances,'' a list of commodities whose carriage as bulk liquid cargoes it permits but that it has not yet entered into its Chemical Codes. It reissues the Circular in December of each year. The current edition is MEPC.2/Circ.5, dated December 17, 1999. The purpose of the Circular is to publish ''* * * the lists of products, the pollution category and minimum carriage requirements of which have been established through Tripartite Agreements and registered with the Secretariat * * * '' of the Sub-Committee on Bulk Liquids and Gases (BLG) of the IMO.

Of the commodities listed in the Circular, those that have been submitted by the various Administrations to the Working Group on Evaluation of Safety and Pollution Hazards (ESPH) of Chemicals, or that are mixtures of pollutant-only materials, appear in the lists without date of expiry. All other commodities appear with dates of expiry of three years from when first published in the Circular. This grace period of three years is to allow the proposed new commodity to be submitted to the Working Group for final evaluation and inclusion in the Codes, or, as is most often the case, to allow time for any testing that may be needed to complete the data form from IMO where the data were missing in the original submission. At the end of the grace period, any commodity not submitted to the Working Group drops from the Circular and is no longer eligible for carriage in bulk. This rule identifies those commodities.

Last, the Coast Guard periodically reviews its rules, tables, and lists to determine whether any commodities in 33 and 46 CFR are no longer being either manufactured at all or moved in bulk by vessel, and are therefore appropriate for deletion. For interested parties, a preliminary list of commodities that may have become obsolete appears in supplemental material available in the docket [USCG 2000–7079] from the Docket Management Facility.

Current Hazardous Materials in Bulk

This rule updates various hazardous materials tables in 46 CFR parts 30, 150, 151, and 153 to include new chemicals and requirements authorized by international law or by other of our rules. This rule would also make other non-substantive editorial changes.

Supplemental material is available in the docket [USCG 2000–7079], again from the Docket Management Facility.

Discussion of Changes

Noxious Liquid Substances

(a) IMO has assigned the following chemicals to Pollution Category D. We will enter them in 33 CFR 151.47, Category D NLSs other than oil-like Category D NLSs that may be carried under this part.

Aluminum sulfate solution
Coconut oil fatty acid methyl ester
Copper salt of long chain (C17+) alkanoic acid
Dialkyl (C8–C9) diphenylamines
Ethoxylated long chain (C16+) alkyloxyalkanamine
Glyphosate solution (not containing surfactant)
Methyl amyl ketone
Polyolefin amide alkeneamine (C17+)
Sulfonated polyacrylate solution
Sulfurized fat (C14–C20)
Sulfurized polyolefinamide alkene (C28–C250) amine

(b) IMO has reevaluated five chemicals in Pollution Category D and assigned them as cargoes in Pollution Category ''III''. We will remove them from § 151.47. They are:

Decane
Decylbenzene
Dialkyl (C10–C14) benzenes
Lecithin (soyabean)
Zinc alkenyl carboxamide

(c) IMO has reevaluated several chemicals and has, on the basis of this, designated them as both ''safety'' hazards and ''pollution'' hazards. We will remove them from § 151.47. They are:

Diethanolamine
2–Ethoxyethanol
Ethylene glycol ethyl ether
Ethylene glycol isopropyl ether
Ethylene glycol methyl ether
Ethylene glycol monoalkyl ethers

(d) One entry, ''palm kernel oil, fatty acid methyl ester'' is obsolete. We will remove it from § 151.47.

(e) We will move names incorrectly cross-referred to under ''Polypropylene glycol methyl ether'' so they correctly cross-refer to ''Propylene glycol monoalkyl ether.''

(f) We will remove ''Diisopropyl naphthalene'' from the list of Category D oil-like NLSs in 33 CFR 151.49(b). We revised the Pollution Category for this chemical according to the Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) Hazard Profile. The new Category is ''A.'' This leaves paragraph (b) an empty set, but we will reserve it.

Obsolete Hazardous Materials

We identify below commodities canceled and deleted from the IMO Circular MEPC.2/Circ.5, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES, and also canceled and deleted from our rules, tables, and lists. We identify the commodities by the IMO Tripartite List in which they appeared with the number of the list in the right-hand column.

IMO Tripartite Lists, MEPC.2/Circ.5, Provisional Categorization of Liquid Substances

List 1: Pure or technically pure substances.

List 2: Pollutant only mixtures classified by calculation or assessed as a mixture.

List 3: Trade-named substances with safety hazards.

List 4: Pollutant only mixtures with greater than 3% unassessed components.

A diamond ''♦'' preceding the name of the cargo indicates the sponsorship of the cargo by the Coast Guard for the U.S. in the Tripartite Agreement process. The absence of a diamond indicates sponsorship of the cargo by an Administration of another country, counterpart to the Coast Guard.

In light of the foregoing, we cancel all chemicals below, referred to in one or another of the four Tripartite Lists, and delete them as bulk liquid cargoes. They are no longer transportable in bulk by the water mode.

Commodities Deleted From IMO Tripartite Lists, MEPC.2

CIRC.1, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (18 DEC. 1995)

	Commodity name (descriptor)	List
◆	A-964 (*ammonium long chain alkaryl sulfonate*).	4
◆	AL 150 (*alkyl(C18-C65) benzene*).	4
◆	Alcohol(C9-C11)(primary)ethoxylated.	1
	NOTE: This chemical has been renamed ''Alcohol(C9-C11) poly(2.5-9) ethoxylate'', which is currently a valid cargo name.	
◆	AMOCO 2400 (*zinc alkyl dithiophosphate (C3-C14) and polyolefin amide alkeneamine polyol*).	4
◆	AMOCO 8072F (*zinc alkyl dithiophosphate(C3-C14)*).	4
◆	AMOCO 9267 (*polybutyl phenol*)	4
	Antifreeze 511 (*ethylene glycol*)	4
◆	AO 5301 (*polyolefin amine*)	4
	ARCOL Polyol 1905 (*1,2,3-propane triol polymer with oxirane and methyloxirane*).	4
	Atar cresylic acid (*cresols*)	3
	BEROLAMINE 20 (*alkanolamines*).	3
	Brake fluid component 5/9 (*polyether polyols*).	4
	Brake Fluid ET 462 (*triethylene glycol methyl ether, polyether triols*).	4
◆	CALTEX CODE 599067 (*alkyl phenate sulfide*).	4
◆	CALTEX CODE 599178 (*alkyl phenate sulfide*).	4
	1-(4-Chlorophenyl)-4,4-dimethyl-3-pentanone.	1
	Co-solvent alcohol (*propyl alcohol*).	4
	Depitched tar acid (*phenols, cresols*).	3
	2-Ethylhexyl-2-(2,4-dichlorophenoxy) propionate.	1
◆	HiTEC 244 (*sulpho hydrocarbon, long chain alkyl amine mixture*).	4
◆	HiTEC 370 (*sulpho hydrocarbon, alkenyl dialkyl dithiophosphate mixture*).	4
◆	HiTEC 4782 (*methylene bridged isobutylated phenols*).	4
	Light end/Heavy end Chlorinated hydrocarbon mixture.	3
	LINCOL 86M (*1-decanol*)	4
	LM 114 (*ethoxylated nonylphenol*).	3
◆	M-50-A (*calcium and magnesium long chain alkaryl sulfonates*).	3
	MANRO SXS 40 (*alkylbenzene sulfonic acid, sodium salt solution*).	3
◆	MCP 121 (*ditridecyl adipate*)	4
◆	MCP 239B (*polyisobutenyl anhydride adduct*).	4

CIRC.1, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (18 DEC. 1995)—Continued

	Commodity name (descriptor)	List
◆	MCP 955A (*polyisobutenyl anhydride adduct*).	4
	MD-E-18 (*aliphatic C18 ethers and C19 ether alcohol*).	4
	MD-E-20 (*aliphatic C20 ethers and C21 ether alcohol*).	4
◆	MOBIL Stock 2631 (*zinc alkyl dithiophosphate(C3-C14)*).	4
◆	OGA 478 (*polyolefin amine*)	4
◆	OLOA 2564A (*polyolefin anhydride*).	4
◆	OLOA 2564B (*polyolefin anhydride*).	4
◆	OLOA 2820 (*diphenylamine reaction product with 2,2,4-trimethylpentene and zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 2990 (*calcium long chain alkyl phenate sulfide(C8-C40*).	4
◆	OLOA 6039M (*alkyl phenate sulfide*).	4
◆	OLOA 6063U (*alkyl phenol*)	4
◆	OLOA 6109 (*alkyl phenate sulfide*).	4
◆	OLOA 6121 (*alkyl phenol*)	4
◆	OLOA 6832 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 6847 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 6847D (*polyolefin amide alkeneamine polyol and zinc alkyl dithio phosphate (C3-C14)*).	4
◆	OLOA 6848 (*diphenylamines, alkylated*).	4
◆	OLOA 6853 (*zinc alkyl dithiophosphate (C3-C14) and polyolefin amide alkeneamine polyol*).	4
◆	OLOA 6854 (*diphenylamines, alkylated*).	4
◆	OLOA 6856 (*diphenylamines, alkylated*).	4
◆	OLOA 6858 (*diphenylamines, alkylated*).	4
◆	OLOA 6859 (*diphenylamines, alkylated*).	4
◆	OLOA 6859D (*polyolefin amide alkeneamine polyol and polyolefin ester*).	4
◆	OLOA 6881 (*alkyl phenate sulfide*).	4
◆	OLOA 6981 (*alkyl phenate sulfide*).	4
◆	OLOA 8167FA (*zinc alkyl dithiophosphate(C3-C14)*).	4
◆	OLOA 8167G (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8172 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8172A (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8172M (*zinc alkyl dithiophosphate (C3-C14)*).	4

CIRC.1, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (18 DEC. 1995)—Continued

	Commodity name (descriptor)	List
◆	OLOA 8177 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8177C (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8179 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8179A (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8380G (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8380V (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 857P (*alkyl phenol*)	4
◆	OLOA 8804E (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8818 (*zinc alkyl dithiophosphate (C3-C14) and polyolefin amide alkeneamine polyol*).	4
◆	OLOA 8850 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	OLOA 8858 (*diphenylamines, alkylated*).	4
	OLOA 8858B (*diphenylamine (C6-C15) alkylation product*).	4
◆	OLOA 9091 (*alkyl phenate sulfide*).	4
	OMA 431 CS(D) (*alkyl(C7-C9) nitrates*).	3
◆	ORA 502 (*polyolefin amine*)	4
◆	ORA 702 (*polyolefin amine*)	4
	OXYSOLVE 80 (*aliphatic ketones*).	4
◆	PARANOX 5277 (*zinc alkyl dithiophosphate(C3-C14)*).	4
◆	PARAPOID 48 (*alkylamine (C17+*).	4
◆	Pibsa (*polyolefin anhydride*)	4
	Polyalkyl methacrylate (C1-C20)	1
	REOFOS 65 (*isopropylated phenyl phosphate*).	4
	REOFOS 95 (*isopropylated phenyl phosphate*).	4
	SAP 9413 (*alcohol(C12-C15) propoxylate*).	4
	Sodium chromate liquor	1
◆	STOCK 1462 (*alkylamine (C17+*).	4
	Tallow nitrile (Tallow (*alkyl nitrile*).	1
◆	TLA 2400 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	TLA 2418 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	TLA 2421 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	TLA 2422 (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	TLA 2427 (*diphenylamines, alkylated and polyolefin amide alkeneamine (C28+)*).	4
◆	TLA 2906A (*zinc alkyl dithiophosphate (C3-C14)*).	4
◆	TLA 2907 (*zinc alkyl dithiophosphate (C3-C14)*).	4

CIRC.1, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (18 DEC. 1995)—Continued

	Commodity name (descriptor)	List
◆	TLA 2907A (*zinc alkyl dithiophosphate (C3-C14) and calcium long chain alkaryl sulfonate*).	4
◆	TRILIN (TRIFLURALIN (*A,A,A-trifluoro-2,6-dinitro-N,N-dipropyl-p-toluidine*)).	4
	VAMMAR D9 (*aliphatic C18 ethers and C19 ether alcohol*).	4
	VAMMAR D10 (*aliphatic C20 ethers and C21 ether alcohol*).	4
	VORANOL CP 4100 S Polyol (*polyether polyols*).	4

CIRC.2, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (17 DEC. 1996)

	Commodity name (descriptor)	List
	Aliphatic(C18-C20) ethers and alkyl(C20-C21) ether alcohols mixtures.	1
◆	2-Ethyl-6-methyl-N-(2-methoxy-1-methyl ethyl) aniline.	1
	Monomer 981 (*polyalkyl(C12-C15) methacrylates*).	3
◆	OLOA 390 (*calcium salts of fatty acids*).	4
◆	PARATEMPS 15 (*decyl alcohol*)	4
◆	PC-709 (*polyoxyalkylamine*)	4
◆	Potassium polysulfide, Potassium thiosulfate solution (41% or less).	1

CIRC.3, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (17 DEC. 1997)

	Commodity name (descriptor)	List
◆	Alkaryl polyethers (C65-C95)	1
	Arcol 1131 (*1,2,3-propanetriol polymer*).	4
	Crude Dipe (*diisopropyl ether and 2-methylpent-2-ene*).	3
	Diphenyl cresyl phosphate	1
◆	MCP 1064D (*naphthalene*)	4
◆	MOBILAD C241B (*naphthalene*)	4
◆	OGA 558R (*alkaryl polyethers (C65-C95*).	4
◆	OLOA 6741 (*methylene bridged isobutenylated phenols*).	4
◆	OLOA 758A (*calcium stearate*)	4
◆	OLOA 6743 (*methylene bridged isobutenylated phenols*).	4
	OMA 4391 (*alkyl(C7-C9) nitrates*).	3
◆	PARADYNE 740 (*mineral oil*)	4
◆	PARANOX 152 (*mineral oil*)	4
◆	PARANOX 1155 (*methylene bridged isobutenylated phenols*).	4
	Pentacosa(oxypropane-2,3-diyl)s.	1

CIRC.3, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (17 DEC. 1997)—Continued

	Commodity name (descriptor)	List
◆	POBA (*alkaryl polyethers (C65-C95)*).	4
	RGA 900 (*alkyl(C7-C9) nitrates*)	3
◆	Stock 2921.0 (*naphthalene*)	4
◆	TFA-4711 (*naphthalene*)	4
◆	TLA-2422A (*zinc alkyl dithiophosphate (C3-C14)*).	4

CIRC.4, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (17 DEC. 1998)

	Commodity name (descriptor)	List
◆	HiTEC 162 (*polyolefin (mw 300+)*).	2
◆	HiTEC 164 (*polyolefin (mw 300+)*).	2
◆	HiTEC 168 (*polyolefin (mw 300+)*).	2
◆	HiTEC 318 (*sulphohydrocarbon, long chain (C18+) alkyl amine mixture*).	2
◆	HiTEC 612 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 613 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 615 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 619 (*alkylphenol sulfide*)	2
◆	HiTEC 644 (*polyolefin amide alkeneamine (C28+)*).	2
◆	HiTEC 646 (*polyolefin amide alkeneamine (C28+)*).	2
◆	HiTEC 648 (*polyolefin amide alkeneamine borate (C28-C250)*).	2
◆	HiTEC 685 (*zinc alkyl dithiophosphate (C3-C8)*).	2
◆	HiTEC 921 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 1102 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 2403 (*mineral oil*)	2
◆	HiTEC 2769 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 2831 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 2837 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 2908 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 2933 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 2934 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 4103	2
◆	HiTEC 4105	2
◆	HiTEC 4738 (*methylene bridged isobutylated phenols*).	2
◆	HiTEC 4940 (*naphthalene*)	2
◆	HiTEC 4941 (*polyolefin phenolic amine (C28-C250)*).	2
◆	HiTEC 4949 (*naphthalene*)	2
◆	HiTEC 4950 (*naphthalene*)	2
◆	HiTEC 4961	2
◆	HiTEC 4963A (*naphthalene*)	2

CIRC.4, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (17 DEC. 1998)—Continued

	Commodity name (descriptor)	List
◆	HiTEC 4980 (*trimethylbenzene (all isomers)*).	2
◆	HiTEC 4992 (*naphthalene*)	2
◆	HiTEC 4997 (*naphthalene*)	2
◆	HiTEC 6653 (*sulphohydrocarbon (C3-C88)*).	2
◆	HiTEC 7011 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7023 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7034 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7049 (*polyolefin phenolic amine (C28-C250)*).	2
◆	HiTEC 7065 (*polyolefin phenolic amine (C28-C250)*).	2
◆	HiTEC 7084 (*sulphohydrocarbon (C3-C88)*).	2
◆	HiTEC 7100 (*polyolefin amide alkeneamine borate (C28-C250)*).	2
◆	HiTEC 7160 (*calcium long chain alkyl phenate (C8-C40)*).	2
◆	HiTEC 7169 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7198 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7222	2
◆	HiTEC 7239 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7243 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7303 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7304 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7305 (*zinc alkyl dithiophosphate (C3-C14) and polyolefin phenolic amine (C28-C250)*).	2
◆	HiTEC 7333 (*zinc alkyl dithiophosphate (C3-C14) and polyolefin phenolic amine (C28-C250)*).	2
◆	HiTEC 7334 (*calcium long chain alkyl phenate (C8-C40)*).	2
◆	HiTEC 7365 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7383 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7405 (*zinc alkyl dithiophosphate (C3-C14) and calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7410 (*diphenylamines, alkylated*).	2
◆	HiTEC 7465 (*calcium long chain alkyl phenate (C8-C40)*).	2
◆	HiTEC 7562 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7569 (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7576 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7635 (*magnesium long chain alkaryl sulfonate (C11-C50)*).	2

CIRC.4, PROVISIONAL CATEGORIZATION OF LIQUID SUBSTANCES (17 DEC. 1998)—Continued

	Commodity name (descriptor)	List
◆	HiTEC 7636 (*magnesium long chain alkaryl sulfonate (C11-C50)*).	2
◆	HiTEC 7650 (*polyolefin (mw 300+) in mineral oil*).	2
◆	HiTEC 7714 (*polyolefin amide alkeneamine borate (C28-C250)*).	2
◆	HiTEC 7720 (*polyolefin amide alkeneamine borate (C28-C250)*).	2
◆	HiTEC 7741 (*polyolefin phenolic amine (C28-C250)*).	2
◆	HiTEC 7744 (*polyolefin phenolic amine (C28-C250)*).	2
◆	HiTEC 7829 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	HiTEC 7957 (*diphenylamines, alkylated*).	2
◆	HiTEC 9268 (*polybutyl phenol*)	4
◆	HiTEC 9290 (*aryl polyolefin (C11-C50)*).	2
◆	HiTEC 9298 (*aryl polyolefin (C11-C50)*).	2
◆	LUBRIZOL 3580P (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4720A (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4723B (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4837W (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4856J (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4887 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4898S (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4911F (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4912 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 4923	2
◆	LUBRIZOL 4975G (*diphenylamines, alkylated*).	2
◆	LUBRIZOL 73725 (*mineral oil*) ..	2
◆	LUBRIZOL 74888 (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	LUBRIZOL 74890 (*diphenylamines, alkylated*).	2
◆	LUBRIZOL 78008 (*oleylamine*)	2
◆	LUBRIZOL 8888Z (*zinc alkyl dithiophosphate (C3-C14)*).	2
◆	MOBILAD 232 (*decyl alcohol (all isomers)*).	2
	Natural (animal/vegetable) fatty acids, (C16-C20) sat/unsat., methyl esters and triglycerides, sulfurized.	1
◆	t-Octylamine	1
◆	OLOA 246B (*calcium long chain alkaryl sulfonate (C11-C50)*).	2
	SAP 3333 (*calcium long-chain alkyl salicylate (C13+)*).	1
◆	TFA-4655 (*xylene-toluene mixture and polyolefin amine)*).	2

The commodities entered below are ones that we have evaluated for carriage but have not included in this rule, and ones that information we hold indicates no longer to be valid bulk liquid cargoes. We are removing them from our rules, tables, and lists. They are:

Caustic and petroleum residue (dated 30 Mar 90)
Contaminated waste water (dated 20 Mar 85)
Pond waste water (dated 23 Mar 87)
Rainwater contaminated with pink/red water (dated 19 Oct 83)
Waste water (aniline production) (dated 28 Sep 90)
Waste water, Bottom sediment sludge (wood preserving process) (dated 25 Feb 83)
Waste water (coal tar distillation) (dated 20 Apr 94)
Waste water (pond waste water) (dated 11 Sep 97)
Waste water (Santos, Brazil) (dated 15 Jan 93)

The commodities entered below are ones that we had evaluated for carriage and had included in our rules but ones that information we hold indicates no longer to be valid bulk liquid cargoes. We are removing them from our rules, tables, and lists. Again, they are:

Potassium polysulfide, Potassium thiosulfate solution (41% or less)
Propanil, Mesityl oxide, Isophorone mixture
Trifluralin in Xylene

The following commodities, being ones whose classifications the IMO cancelled or ones the Coast Guard believes are no longer viable bulk liquid cargoes, are no longer transportable by the water mode as cargoes in bulk.

A–964
AL 150
Alkaryl polyethers (C65–C95)
Alcohol(C9–C11)(primary)ethoxylated
AMOCO 2400
AMOCO 8072F
AMOCO 9267
Antifreeze 511
AO 5301
Arcol 1131 (1,2,3-propanetriol polymer)
ARCOL Polyol 1905
Atar cresylic acid
BEROLAMINE 20
Brake fluid component 5/9
Brake Fluid ET 462
CALTEX CODE 599067
CALTEX CODE 599178
Caustic and petroleum residue (dated 30 Mar 90)
1-(4-Chlorophenyl)-4,4-dimethyl-3-pentanone
Contaminated waste water (dated 20 Mar 85)
Co-solvent alcohol
Crude Dipe
Depitched tar acid
Diphenyl cresyl phosphate
2-Ethylhexyl-2-(2,4-dichlorophenoxy) propionate
HiTEC 162
HiTEC 164
HiTEC 168
HiTEC 244
HiTEC 318
HiTEC 370
HiTEC 612
HiTEC 613
HiTEC 615
HiTEC 619
HiTEC 644
HiTEC 646
HiTEC 648
HiTEC 685
HiTEC 921
HiTEC 1102
HiTEC 2403
HiTEC 2769
HiTEC 2831
HiTEC 2837
HiTEC 2908
HiTEC 2933
HiTEC 2934
HiTEC 4103
HiTEC 4105
HiTEC 4738
HiTEC 4782
HiTEC 4940
HiTEC 4941
HiTEC 4949
HiTEC 4950
HiTEC 4961
HiTEC 4963A
HiTEC 4980
HiTEC 4992
HiTEC 4997
HiTEC 6653
HiTEC 7011
HiTEC 7023
HiTEC 7034
HiTEC 7049
HiTEC 7065
HiTEC 7084
HiTEC 7100
HiTEC 7160
HiTEC 7169
HiTEC 7198
HiTEC 7222
HiTEC 7239
HiTEC 7243
HiTEC 7303
HiTEC 7304
HiTEC 7305
HiTEC 7333
HiTEC 7334
HiTEC 7365
HiTEC 7383
HiTEC 7405
HiTEC 7410
HiTEC 7465
HiTEC 7562
HiTEC 7569
HiTEC 7576
HiTEC 7635
HiTEC 7636
HiTEC 7650
HiTEC 7714
HiTEC 7720
HiTEC 7741
HiTEC 7744
HiTEC 7829
HiTEC 7957
HiTEC 9268
HiTEC 9290
HiTEC 9298
Light end/Heavy end Chlorinated hydrocarbon mixture

LINCOL 86M
LM 114
LUBRIZOL 3580P
LUBRIZOL 4720A
LUBRIZOL 4723B
LUBRIZOL 4837W
LUBRIZOL 4856J
LUBRIZOL 4887
LUBRIZOL 4898S
LUBRIZOL 4911F
LUBRIZOL 4912
LUBRIZOL 4923
LUBRIZOL 4975G
LUBRIZOL 73725
LUBRIZOL 74888
LUBRIZOL 74890
LUBRIZOL 78008
LUBRIZOL 8888Z
M–50–A
MANRO SXS 40
MCP 121
MCP 239B
MCP 955A
MCP 1064D
MD-E-18
MD–E–20
MOBILAD 232
MOBILAD C241B
MOBIL Stock 2631
Natural (animal/vegetable) fatty acids, (C16–C20) sat/unsat., methyl esters and triglycerides, sulfurized
t-Octylamine
OGA 558R
OGA 4784
OLOA 246B
OLOA 758A
OLOA 2564A
OLOA 2564B
OLOA 2820
OLOA 2990
OLOA 6039M
OLOA 6063U
OLOA 6109
OLOA 6121
OLOA 6741
OLOA 6743
OLOA 6832
OLOA 6847
OLOA 6847D
OLOA 6848
OLOA 6853
OLOA 6854
OLOA 6856
OLOA 6858
OLOA 6859
OLOA 6859D
OLOA 6881
OLOA 6981
OLOA 8167FA
OLOA 8167G
OLOA 8172
OLOA 8172A
OLOA 8172M
OLOA 8177
OLOA 8177C
OLOA 8179
OLOA 8179A
OLOA 8380G
OLOA 8380V
OLOA 857P
OLOA 8804E
OLOA 8818
OLOA 8850
OLOA 8858
OLOA 8858B
OLOA 9091
OMA 431 CS(D)
OMA 4391
ORA 502
ORA 702
OXYSOLVE 80
PARADYNE 740
PARANOX 1155
PARANOX 5277
PARAPOID 48
Pentacosa(oxypropane-2,3-diyl)s
Pibsa
POBA
Pond waste water (dated 23 Mar 87)
Potassium polysulfide, Potassium thiosulfate solution (41% or less)
Propanil, Mesityl oxide, Isophorone mixture
Rainwater contaminated with pink/red water (dated 19 Oct 83)
REOFOS 95
REOFOS 664
RGA 900
SAP 3333
SAP 9413
Sodium chromate liquor
STOCK 1462
Stock 2921.0
TFA–4655
TFA–4711
TLA 2400
TLA 2418
TLA 2421
TLA 2422
TLA–2422A
TLA 2427
TLA 2906A
TLA 2907
TLA 2907A
TRILIN (TRIFLURALIN)
Trifluralin in Xylene
VAMMAR D9
VAMMAR D10
VORANOL CP 4100 S Polyol
Waste water (aniline production) (dated 28 Sep 90)
Waste water, Bottom sediment sludge (wood preserving process) (dated 25 Feb 83)
Waste water (coal tar distillation) (dated 20 Apr 94)
Waste water (Pond waste water) (dated 11 Sep 97)
Waste water (Santos, Brazil) (dated 15 Jan 93)

Current Hazardous Materials in Bulk

(a) We add a number of new cargoes to 46 CFR Tables 30.25–1, 151.05, and 1 and 2 of part 153. These comprise cargoes recently authorized by the Coast Guard and cargoes headed for the two Chemical Codes of the IMO—''International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk'' (IBC Code) and ''Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk'' (BCH Code)—but not yet included in our rules. Among these cargoes are new ones approved at the IMO Sub-Committee on Bulk Liquids and Gases (BLG), first session, BLG 1, held March 4–8, 1996; the second intersessional meeting (ESPH 2), held September 23–7, 1996; the BLG 2 meeting held April 7–11, 1997; the ESPH 3 meeting held October 13–7, 1997; the BLG 3 meeting held July 6–10, 1998; the ESPH 4 meeting held September 28 through October 2, 1998; the BLG 4 meeting held April 12–6, 1999; and the ESPH 5 meeting held October 18–22, 1999.

(b) From 46 CFR Table 30.25–1, Tables I and II of part 150, Table 151.05, and Tables 1 and 2 of part 153, we remove all bold-faced type wherever it appears and add, in its place, Roman type. Likewise, in the ''Cargoes'' columns, we remove every ''•'' and ''+'' that precedes the name of a cargo.

(c) We revise the ''Compatibility of Cargoes'' tables in part 150 to include the chemicals added by this rule to the tables of hazardous materials in 46 CFR parts 30, 151, and 153.

Of specific note, we revised the Compatibility Groups of several lube-oil additives (LOAs). After discussions with the manufacturer of the LOAs' reactivity potential, we determined that the Group to which we had originally assigned each does not represent its true reactivity.

	Current	New
Calcium long chain alkyl phenolicamine (C8–C40)	Group 7	Group 9.
Polyolefin amide alkeneamine borate (C28–C250)	Group 34	Group 33.
Polyolefin amide alkeneamine polyol	Group 7	Group 20.
Polyolefin amine (C28–C250)	Group 7	Group 33.
Polyolefin amine in alkyl- benzenes (C2–C4)	Group 7	Group 32.
Polyolefin aminoester salt	Group 7	Group 34.
Sulfurized polyolefinamide alkene-amines (C28–C250)	Group 7	Group 33.

This rule also corrects several current names of cargoes and cross-refers to other entries in part 150.

(d) In its continued effort to maintain consistency between the rules on tankships (part 153) and those on tank barges (part 151), where applicable, the Coast Guard is adding to Table 1 of part 153 the special requirement in § 153.933, ''Chemical protective clothing,'' for the commodities below:

(1) Acetic acid
(2) Acetic anhydride
(3) Formic acid
(4) Phosphoric acid
(5) Propionic acid

By this means the Coast Guard brings Table 1 of part 153, like § 153.933, into substantial conformity with the rule on tank barges at § 151.50–73, ''Chemical protective clothing.''

(e) In keeping with paragraph (d), the Coast Guard is also applying the special requirement of § 153.933 to the entry ''Diethyl sulfate.'' (The manufacturer recommended this.)

(f) We will ''downgrade'' many cargo names in the various tables and lists. These are names whose use as proper cargo names we currently allow but that we cross-refer to other names. That is, they will become non-names (by appearing in *Italics* and cross-referring to proper cargo names). See the Table of Changes.

(g) Cargo-specific actions of particular interest:

(1) Alkyl (C7–C9) nitrates. Correct the Pollution Category from A to B in Table 1 of 46 CFR part 153.

(2) Ammonium bisulfite. When ammonium bisulfite entered Table 1 of part 153 [60 FR 34051 (June 29, 1995)], we inadvertently omitted special requirement § 153.526, Toxic vapor detectors. With this rule we correct that oversight.

(3) Ammonium sulfide solution (45% or less). We correct the Pollution Category from C to B in Table 1 of part 153.

(4) Benzene hydrocarbon mixtures (containing Acetylenes) (having 10% Benzene or more), Benzene hydrocarbon mixtures (having 10% Benzene or more), and Benzene, Toluene, Xylene mixtures (having 10% Benzene or more). In Table 151.05, we added § 151.50–60 to the section Special Requirements. Final rule CGD 88–040 [56 FR 52112 (October 17, 1991)], which added this requirement, inadvertently did not also add it to the three entries in our rules on tank barges. We are correcting that oversight.

(5) Carbon tetrachloride. In Table I of part 150, carbon tetrachloride, Group 36 (Halogenated hydrocarbons), is not compatible with tetraethylenepentamine or triethylenetetramine, both Group 7 (Aliphatic amines).

(6) Caustic potash solution. We correct the Pollution Category from D to C in Table 1 of part 153.

(7) Dodecyl hydroxypropyl sulfide. The IMO has finalized the set of requirements for carriage of this commodity, bringing about two significant changes. First, IMO originally assigned this commodity to a cargo-containment system of type II (ship type 2) with the special requirement in § 153.409, High level alarms, and with a Provisional Pollution Category of A, or ''[A].'' Second, it has finally assigned it to a cargo-containment system of type I (ship type 1) with the special requirement in § 153.408, Tank overflow control, and with a final Pollution Category of A. The Coast Guard is revising its lists and tables to reflect these final assignments.

(8) Fatty acids (saturated, C13+). IMO has revised the cargo name ''fatty acids (saturated, C13+)'' to read ''fatty acids (saturated, C14+),'' a change in the carbon-range designator. It had to do this because an entry exists for ''tridecanoic acid'' a C13 fatty acid with a Pollution Category of B. But the current name ''fatty acids (saturated, C13+),'' Pollution Category III, includes ''tridecanoic acid.'' The Coast Guard is revising its lists and tables to pick up this change.

(9) 2-Hydroxyethyl acrylate. The Coast Guard has reevaluated the Compatibility Group, Part 150, for the cargo ''2-hydroxyethyl acrylate'' and assigned the cargo to Group 14, Acrylates. Currently, 2-Hydroxyethyl acrylate resides in Group 0 with restriction against stowage adjacent to Groups 2, 3, 5 to 8, and 12 in the Compatibility Chart. Its reassignment to Group 14 will retain both the current prohibition against stowage adjacent to Groups 5, 6, and 12 and the standard prohibition for Group 14 against stowage adjacent to Groups 2, 3, 7, and 8. Thus, there is no change in the actual requirements.

(10) Polyolefin amide alkeneamine (C28+). The Coast Guard has reevaluated the Compatibility Group, Part 150, for the cargo ''Polyolefin amide alkeneamine (C28+).'' Discussions with a manufacturer of this commodity have shown that the current assignment, to Group 7 (Amines), is inappropriate for these materials, which contain only a small fraction of unreacted amine and whose mineral-oil content acts as a buffer to any possible remaining hazardous reactivity. Upon review, we have determined that Group 33 (Miscellaneous hydrocarbon mixtures) is the more appropriate Compatibility Group for this cargo.

(11) Sodium sulfide solution (15% or less). We correct the Pollution Category from C to B in Table 1 of Part 153.

(12) 1,2,3-Trichloropropane. In table I of Part 150, 1,2,3-trichloropropane, Group 36 (Halogenated hydrocarbons), is not compatible with ethylenediamine, diethylenetriamine, or triethylenetetramine, all of Group 7 (Aliphatic amines).

(h) We otherwise correct or modify, as appropriate, current entries in the various lists and tables.

(i) New entries to Table 30.25–1:

Alcohol (C9–C11) poly(2.5–9)ethoxylate
Alkanes (C6–C9)
Alkyl ester copolymer (C4–C20)
Alkyl (C7–C11) phenol poly(4–12)ethoxylates
Alkyl (C8–C40) phenol sulfide
Alkyl (C9–C15) phenyl propoxylate
Alkyl sulfonic acid ester of phenol tert-Amyl methyl ether
Butyl alcohol (all isomers)
Calcium long chain alkyl (C5–C10) phenate
Calcium long chain alkyl (C11–C40) phenate
Copper salt of long chain (C17+) alkanoic acid
Dialkyl (C8–C9) diphenylamines
Ditridecyl adipate
Dodecyl hydroxypropyl sulfide
Ethoxylated long chain (C16+) alkyloxyalkanamine
Ethyl tert-butyl ether
Glyphosate solution (not containing surfactant)
1-Hexadecylnaphthalene, 1,4-bis(Hexadecyl)naphthalene mixture
2-Methyl-1,3-propanediol
Phosphate esters, alkyl (C12–C14) amine
Polyisobutenyl anhydride adduct
Polyolefin amide alkeneamine (C17+)
Potassium salt of polyolefin acid
Sulfurized fat (C14–C20)
Sulfurized polyolefinamide alkene (C28–C250) amine

(j) New entries to Table 151.05:

Alkylbenzenesulfonic acid (greater than 4%)
Cashew nut shell oil (untreated)
Cyclohexanone, Cychexanol mixture
Cyclopentadiene, Styrene, Benzene mixture
Dodecyl phenol
Glyoxylic acid solution (50% or less)
Toluenediamine
o-Toluidine

(k) New entries to Table 1 of Part 153:

Alcohol (C9–C11) poly (2.5–9) ethoxylate
Alkenyl (C16–C20) succinic anhydride
Alkylaryl phosphate mixtures (more than 40% Diphenyl tolyl phosphate, less than 0.02% ortho-isomer)

Alkyl (C8–C9) phenylamine in aromatic solvent
Alkyl (C10–C20, saturated and unsaturated) phosphite
Alkyl (C8–C10) polyglucoside solution (65% or less)
Alkyl (C12–C14) polyglucoside solution (55% or less)
Alkyl (C8–C10)/(C12–C14): (40% or less/60% or more) polyglucoside solution (55% or less)
Alkyl (C8–C10)/(C12–C14): (50/50%) polyglucoside solution (55% or less)
Alkyl (C8–C10)/(C12–C14): (60% or more/40% or less) polyglucoside solution (55% or less)
tert-Amyl methyl ether
Barium long chain (C11–C50) alkaryl sulfonate
Calcium long chain alkyl (C5–C10) phenate
1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one
N,N-Dimethyldodecylamine
Diphenylamine (molten)
Dithiocarbamate ester (C7–C35)
Dodecyl hydroxypropyl sulfide
Dodecyl-Octadecyl methacrylate mixture
Ethyl tert-butyl ether
S-Ethyl dipropylthiocarbamate
Glyoxylic acid solution (50% or less)
Hexamethylenediamine (molten)
Hexamethylene diisocyanate
N,N-bis(2-Hydroxyethyl) oleamide
3-(Methylthio)propionaldehyde
Nitroethane, 1-Nitropropane (each 15% or more) mixture
Paraldehyde-Ammonia reaction product
n-Pentanoic acid (64%), 2-Methyl butyric acid (36%) mixture
Phosphate esters, alkyl (C12–C14) amine
Polyisobutenamine in aliphatic (C10–C14) solvent
Polyolefinamine (C28–C250)
Poly(tetramethylene ether) glycols (mw 950–1050)
Potassium thiosulfate (50% or less)
1,2,4-Trichlorobenzene (molten)
Xylenes, Ethylbenzene (10% or more) mixture

(l) New entries to Table 2 of Part 153:

Ammonium thiosulfate solution (60% or less)
Sulfonated polyacrylate solution
Titanium dioxide slurry

(m) We have determined three entries in our tables and lists not to be bulk liquid cargoes, and will delete them. They are:

(1) Potassium polysulfide, Potassium thiosulfate solution (41% or less)

(2) Propanil, Mesityl oxide, Isophorone mixture

(3) Trifluralin in Xylene

One issue addressed in the supplemental material in the docket involves the supposed potential for incompatible stowage of isocyanate cargoes, Group 12, and water solutions of chemical cargoes. (See Appendix I [60 FR 34053 (June 29, 1995)]). Shippers and carriers of such cargoes should review the supplemental material available in the docket [USCG 2000–7079] for further information.

This Table of Changes lists all changes to existing entries with a brief explanation where helpful:

TABLE OF CHANGES

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Acetic acid	No change	No change	No change	46 CFR 153, Table 1: Protective clothing requirement added.
Acetic anhydride	No change	No change	No change	46 CFR 153, Table 1: Protective clothing requirement added.
Alachlor technical and Alachlor technical (90% or more).	Alachlor	No change	No change	
Alcohols (C13 and above)				Delete the entry in its entirety.
Alcohols (C13+)	Alcohols (C13+) Including: Oleyl alcohol (octadecenol) Pentadecanol Tallow alcohol Tetradecanol Tridecanol	Not applicable	Not applicable	46 CFR 150, Table I.
Alcohol(C12-C15) poly(1-3)ethoxylates.				Delete the entry in its entirety.
Alcohol(C12-C15) poly(3-11) ethoxylates.				Delete the entry in its entirety.
Alcohol(C12-C15) poly(1-6)ethoxylates.	Alcohol(C12-C16) poly(1-6)ethoxylates.	No change	No change	Increase upper carbon, ''C'' range from ''C15'' to ''C16''
Alcohol(C12-C15) poly(7-19)ethoxylates.	Alcohol(C12-C16) poly(7-19)ethoxylates.	No change	No change	Increase upper carbon, ''C'' range from ''C15'' to ''C16''.
Alcohol(C12-C15) poly(20+) ethoxylates.	Alcohol(C12-C16) poly(20+) ethoxylates.	No change	No change	Increase upper carbon, ''C'' range from ''C15'' to ''C16''.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Alkanes (C6-C9)	Alkanes (C6-C9) Including: Heptanes Hexanes Nonanes Octanes	Not applicable	Not applicable	46 CFR 150, Table I.
n-Alkanes (C10+)	n-Alkanes (C10+) Including: Decanes Dodecanes Heptadecanes Tridecanes Undecanes	Not applicable	Not applicable	46 CFR 150, Table I.
Alkenylsuccinic anhydride	Alkenyl(C16-C20) succinic anhydride.	#	D	
Alkyl(C3-C4) benzenes	Alkyl(C3-C4) benzenes Including: Butylbenzenes Propylbenzenes	Not applicable	Not applicable	46 CFR 150, Table I.
Alkyl(C5-C8) benzenes	Alkyl(C5-C8) benzenes Including: Amylbenzenes Heptylbenzenes Hexylbenzenes Octylbenzenes	Not applicable	Not applicable	46 CFR 150, Table I.
Alkyl(C9-C17) benzenes				Delete the entry in its entirety.
Alkyl(C9+) benzenes	Alkyl(C9+)benzenes Including: Decylbenzenes Dodecylbenzenes Nonylbenzenes Tetradecylbenzenes Tetrapropylbenzenes Tridecylbenzenes Undecylbenzenes	Not applicable	Not applicable	46 CFR 150, Table I.
Alkyl ester copolymer (C6-C18).	Alkyl ester copolymer (C4-C20)	[D]	D	
Alkyl(C7-C9) nitrates	No change	A	B	46 CFR 153, Table I: Correct Pollution Category.
Alkyl(C7-C12) phenol poly(4-12)ethoxylate.	Alkyl(C7-C11) phenol poly(4-12)ethoxylate.	No change	No change	Correct the upper carbon, ''C'' range from ''C12'' to ''C11''.
Alkylphenol sulfide (C8-C40).	Alkyl (C8-C40) phenol sulfide	[D]	D	
Ammonia, aqueous, see Ammonium hydroxide.	Ammonia, aqueous [IMO cargo name], see Ammonium hydroxide.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Ammonium bisulfite solution (70% or less).	No change	No change	No change	46 CFR 153, Table 1: Special requirement .526 added.
Ammonium sulfide solution (45% or less).	No change	C	B	46 CFR 153, Table I: Correct Pollution Category.
(commercial, iso-, n-, sec-) Amyl acetate.				Delete the entry in its entirety.
Amyl acetate (iso-, n-)				Delete the entry in its entirety.
Amylene	Pentene	No change	No change	

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Animal and Fish acid oils and distillates, n.o.s.	Animal and Fish acid oils and distillates, n.o.s. Including: Cod liver oil Lanolin Neatsfoot oil Pilchard oil Sperm oil	Not applicable	Not applicable	46 CFR 150, Table I.
Animal and Fish oils, n.o.s.	Animal and Fish oils, n.o.s ..... Including: Animal acid oil Fish acid oil Lard acid oil Mixed acid oil Mixed general acid oil Mixed hard acid oil Mixed soft acid oil	Not applicable	Not applicable	46 CFR 150, Table I.
Benzene hydrocarbon mixtures (containing Acetylenes) *(having 10% Benzene or more)*.	No change	No change	Not applicable	46 CFR 151, Table 151.05: Special requirement .50-60 added.
Benzene hydrocarbon mixtures *(having 10% Benzene or more)*.	No change	No change	Not applicable	46 CFR 151, Table 151.05: Special requirement .50-60 added.
Benzene, Toluene, Xylene mixtures *(having 10% Benzene or more)*.	No change	No change	Not applicable	46 CFR 151, Table 151.05: Special requirement .50-60 added.
Benzene hydrocarbon mixtures2 (having 10% Benzene or more).	No change	No change	No change	46 CFR 153, Table 1: Special requirement ''16'' corrected to read ''.316''.
(iso-, n-) Butyl acetate	.....	.....	.....	Delete the entry in its entirety.
(sec-) Butyl acetate	.....	.....	.....	Delete the entry in its entirety.
iso-Butyl acrylate	.....	.....	.....	46 CFR 151, Table 151.05: Delete from table.
n-Butyl acrylate	.....	.....	.....	46 CFR 151, Table 151.05: Delete from table.
(iso-, n-) Butyl acrylate	.....	.....	.....	Delete the entry in its entirety.
Butyl alcohol (iso-, n-, sec-, tert-).	Butyl alcohol (all isomers)	No change	No change	
Butylbenzene and Butylbenzene (all isomers).	Alkyl(C3-C4) benzenes	No change	No change	
Butylene polyglycol	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
iso-Butyl isobutyrate	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
n-Butyl butyrate	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
iso-Butyraldehyde	.....	.....	.....	46 CFR 153, Table 1: Delete from table.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
n-Butyraldehyde				46 CFR 153, Table 1: Delete from table.
Calcium alkyl salicylate				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Calcium long chain alkyl phenolic amine (C8-C40).	No change	Not applicable	Not applicable	46 CFR 150, Table I: To Group 9, from Group 7.
Carbon tetrachloride				Exception to 46 CFR 150, Table I.
Caustic potash solution	No change	D	C	46 CFR 153, Table I: Correct Pollution Category, and Hazard category from ''S'' to ''S/P''.
Cresylic acid, sodium salt solution, see Cresylate spent caustic.	Cresylic acid, sodium salt solution [IMO cargo name], see Cresylate spent caustic.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Cumene				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Cyclopentadiene, Styrene, Benzene mixture.				46 CFR 151, Table 151.01: Add Special Requirement 151.50-60.
Cyclopentadiene polymers				46 CFR 30, Table 30.25-1: Delete the entry in its entirety.
Decane				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Decylbenzene	Alkyl(C9+)benzenes	D	III	
Dextrose solution	Glucose solution	No change	No change	
Dialkyl(C10-C14) benzenes.	Alkyl(C9+)benzenes	D	III	
Dialkyl(C7-C13) phthalates.	Dialkyl(C7-C13) phthalates Including: Diisodecyl phthalate Diisononyl phthalate Dinonyl phthalate Ditridecyl phthalate Diundecyl phthalate	No change	No change	46 CFR 150, Table I.
Dibutyl carbinol				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
1,1-, 1,2-, or 1,3-Dichloropropane.				Delete the entry in its entirety.
Diethylaminoethanol, see Diethylethanolamine.	Diethylaminoethanol [IMO cargo name], see Diethylethanolamine.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Diethylene glycol butyl ether.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diethylene glycol butyl ether acetate.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Diethylene glycol ethyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diethylene glycol ethyl ether acetate.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diethylene glycol n-hexyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diethylene glycol methyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diethylene glycol methyl ether acetate.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diethylene glycol propyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diethylenetriamine	.....	.....	.....	Exception to 46 CFR 150, Table I.
Diethyl ether, see Ethyl ether.	Diethyl ether [IMO cargo name], see Ethyl ether.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Di-(2-ethylhexyl) phthalate	Dioctyl phthalate	D	III	Cross-reference to the correct proper cargo name.
Diethyl sulfate	No change	No change	No change	46 CFR 153, Table 1: Protective clothing requirement added.
Diisobutyl carbinol	Diisobutyl carbinol [industrial name], see also Nonyl alcohol.	.....	.....	46 CFR 150, Table I: Identify industrial cargo name.
Diisodecyl phthalate	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Diisononyl phthalate	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Dimethylpolysiloxane	Polydimethylsiloxane	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
2,2-Dimethyl propane-1,3-diol.	2,2-Dimethylpropane-1,3-diol (molten or solution).	No change	No change	
Dinonyl phthalate	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Dipropylene glycol butyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Dipropylene glycol methyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Ditridecyl phthalate	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Diundecyl phthalate				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Dodecane	n-Alkanes (C10+)	No change	No change	
Dodecyl alcohol	Dodecyl alcohol [IMO cargo name], see Dodecanol.			46 CFR 150, Table I: Identify IMO Cargo name.
Dodecylbenzene	Alkyl(C9+)benzenes	No change	No change	
Dodecyl hydroxypropyl sulfide.		[A]	A	46 CFR 153, Table I: Ship type I from II; Sp. Requirement .408 replacing .409.
Ethoxylated alcohols, C11-C15.				46 CFR 30, Table 30.25-1: Delete the entry in its entirety.
Ethylenediamine				Exception to 46 CFR 150, Table I.
Ethylene glycol ethyl ether acetate.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Ethylene glycol hexyl ether.	Ethylene glycol monoalkyl ethers			46 CFR 153, Table 1: Add the cross-reference under the first entry in the table.
Ethylene glycol monoalkyl ethers.	Ethylene glycol monoalkyl ethers Including: 2-Ethoxyethanol Ethylene glycol butyl ether Ethylene glycol tert-butyl ether Ethylene glycol ethyl ether +Ethylene glycol hexyl ether Ethylene glycol methyl ether Ethylene glycol n-propyl ether Ethylene glycol isopropyl ether			46 CFR 150, Table I.
Ethylene glycol monoalkyl ethers.				46 CFR 153, Table 1: Delete the second entry in its entirety.
Ethylene glycol propyl ether.				Delete the entry in its entirety.
2-Ethylhexanoic acid				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
2-Ethylhexanol				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
2-Ethylhexyl acrylate				46 CFR 151, Table 151.05: Temp. control install. Column, replace I-D with NA.
Fatty acid (saturated, C13 and above).				Delete the entry in its entirety.
Fatty acid (saturated, C13+).	Fatty acid (saturated, C14+)	No change	No change	Increase lower carbon, ''C'' range from ''C13'' to ''C14''.
Formic acid	No change	No change	No change	46 CFR 153, Table 1: Protective clothing requirement added.
Glycidyl ester of C10 trialkyl acetic acid, see Glycidyl ester of tridecyl acetic acid.	Glycidyl ester of C10 trialkyl acetic acid [IMO cargo name], see Glycidyl ester of tridecyl acetic acid.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Heptadecane				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Heptane (all isomers)	Alkanes (C6-C9)	No change	No change	
Hexaethylene glycol				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Hexane (all isomers)	Alkanes (C6-C9)	No change	No change	
Hydrofluorosilicic acid (25% or less).				46 CFR 151, Table 151.05: Delete from table.
Hydroxy terminated polybutadiene, see Polybutadiene, hydroxyl terminated.	Hydroxy terminated polybutadiene [IMO cargo name], see Polybutadiene, hydroxy terminated.	Not applicable	Not applicable	Revise US cargo name. 46 CFR 150, Table I: Identify IMO Cargo name.
Isopropylbenzene (Cumene).				46 CFR 153, Table 1: A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Lauryl polyglucose (50% or less).	Alkyl(C12-C14) polyglucoside solution (55% or less).	[B]	B	46 CFR 153, Table 1.
Lecithin (soyabean)	Lecithin	[D]	III	
Lignin sulfonic acid, sodium salt solution.	Sodium lignosulfonate solution or Lignin liquor.	No change	No change	46 CFR 153, Table 2.
Magnesium nonyl phenol sulfide.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Magnesium sulfonate				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
N-(2-Methoxy-1-methylethry)2-ethyl-6-methyl chloroacetanilide, see Metolachlor.	N-(2-Methoxy-1- methylethry)2-ethyl-6-methyl chloroacetanilide [IMO cargo name], see Metolachlor.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Methoxy triglycol				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Methyl butynol	2-Methyl-2-hydroxy-3-butyne	No change	No change	46 CFR 30, Table 30.25-1: Delete from table; safety hazard.
2-Methyl-2-hydroxy-3-butyne.	No change	III	D	46 CFR 153, Table 1.
Methyl isobutyl carbinol				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Methyl pentene; 2-Methyl pentene; 4-Methyl pentene;				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
o-Nitrochlorobenzene				Delete the entry in its entirety.
Nonane (all isomers)	Alkanes (C6-C9)	No change	No change	
Nonyl phenol (ethoxylated).				Delete the entry in its entirety.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Nonyl phenol poly(4-12) ethoxylates.	Nonyl phenol poly(4+) ethoxylates	No change	No change	
Nonyl phenol sulfide (90% or less).	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Octane (all isomers)	Alkanes (C6-C9)	No change	No change	
Octyl nitrates (all isomers)	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Oil misc: Coconut oil, esterified.	.....	.....	.....	46 CFR 30, Table 30.25-1: Delete the entry in its entirety.
Oil misc: Coconut oil, methyl ester.	.....	.....	.....	46 CFR 30, Table 30.25-1: Delete the entry in its entirety.
Oil misc: Cottonseed, fatty acid.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Oil misc: Palm oil, methyl ester.	.....	.....	.....	46 CFR 30, Table 30.25-1: Delete the entry in its entirety.
Organic amine 70	.....	.....	.....	46 CFR 30, Table 30.25- 1: Delete the entry in its entirety.
n-Paraffins (C10-C20)	.....	.....	.....	Delete the entry in its entirety.
Pentasodium salt of Diethylenetriamine pentaacetic acid solution.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Pentene, Miscellaneous hydrocarbon mixture.	.....	.....	.....	Delete the entry in its entirety.
Phosphoric acid	No change	No change	No change	46 CFR 153, Table 1: Protective clothing requirement added.
Phthalate plasticizers	.....	.....	.....	46 CFR 30, Table 30.25- 1: Delete the entry in its entirety.
Pinene	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Polyalkylene glycol butyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether.	Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether. Including: Diethylene glycol butyl ether Diethylene glycol ethyl ether Diethylene glycol n-hexyl ether Diethylene glycol methyl ether Diethylene glycol n-propyl ether Dipropylene glycol butyl ether Dipropylene glycol methyl ether Polypropylene glycol methyl ether Triethylene glycol butyl ether Triethylene glycol ethyl ether Triethylene glycol methyl ether Tripropylene glycol methyl ether	Not applicable	Not applicable	46 CFR 150, Table I.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate.	Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate. Including: Diethylene glycol butyl ether acetate Diethylene glycol ethyl ether acetate Diethylene glycol methyl ether acetate	Not applicable	Not applicable	46 CFR 150, Table I.
Polybutenyl succinimide ..	No Change	[D]	III	
Polybutadiene, hydroxyl terminated.	Polybutadiene, hydroxy terminated.	No change	No change	Revise name.
Polyethylene glycol monoalkyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Polyolefin amide alkeneamine borate (C28-C250).	No change	Not applicable	Not applicable	46 CFR 150, Table I: To Group 33, from Group 34.
Polyolefin amide alkeneamine polyol.	No change	Not applicable	Not applicable	46 CFR 150, Table I: To Group 20, from Group 7.
Polyolefin amine (C28-C250).	No change	Not applicable	Not applicable	46 CFR 150, Table I: To Group 33, from Group 7.
Polyolefin amine in alkylbenzenes (C2-C4).	No change	Not applicable	Not applicable	46 CFR 150, Table I: To Group 32, from Group 7.
Polyolefin aminoester salt	No change	Not applicable	Not applicable	46 CFR 150, Table I: To Group 34, from Group 7.
Polypropylene	.....	.....	.....	Delete the entry in its entirety.
Polypropylene glycol methyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Potassium hydroxide solution, see Caustic potash solution.	Potassium hydroxide solution [IMO cargo name], see Caustic potash solution.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Potassium polysulfide, Potassium thiosulfate solution (41% or less).	.....	.....	.....	Delete the entry in its entirety.
Propanil, Mesityl oxide, Isophorone mixture.	.....	.....	.....	Delete the entry in its entirety.
Propionic acid	No change	No change	No change	46 CFR 153, Table 1: Protective clothing requirement added.
n-Propoxypropanol (propylene glycol propyl ether).	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
iso-Propylamine solution (70% or less).	.....	.....	.....	46 CFR 153, Table 1: Special Requirements column, replace .1010 with .1020.
iso-Propylbenzene	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
n-Propylbenzene				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Propylene carbonate	No change	[III]	III	
Propylene glycol n-butyl ether.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Propylene glycol ethyl ether.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Propylene glycol methyl ether.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Propylene glycol monoalkyl ether.	Propylene glycol monoalkyl ether Including: n-Propoxypropanol Propylene glycol n-butyl ether Propylene glycol ethyl ether Propylene glycol methyl ether	Not applicable	Not applicable	46 CFR 150, Table I.
Propylene glycol phenyl ether.		[D]	D	
Propylene glycol propyl ether.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Rum				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Sodium hydroxide solution, see Caustic soda solution.	Sodium hydroxide solution [IMO cargo name], see Caustic soda solution.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Sodium naphthenate solution.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Sodium sulfide solution (15% or less).	No change	C	B	46 CFR 153, Table I: Correct Pollution Category.
Stearic acid				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Sulfurized polyolefinamide alkeneamines (C28-C250).	No change	Not applicable	Not applicable	46 CFR 150, Table I: To Group 33, from Group 7.
Tallow alcohol				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Tetradecanol				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Tetradecylbenzene	Alkyl(C9+)benzenes	[D]	III	
Tetraethylenepentamine				Exception to 46 CFR 150, Table I.
1,2,3,5-Tetramethylbenzene.				A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Tetrasodium salt of Ethylene-diaminetetraacetic acid solution.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Triarylphosphate	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
1,2,3-Trichloropropane	.....	.....	.....	Exception to 46 CFR 150, Table I.
Tridecane	n-Alkanes (C10+)	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Tridecene	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Tridecylbenzene	Alkyl(C9+)benzenes	[D]	III	
Triethylene glycol butyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Triethylene glycol ethyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Triethylene glycol methyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Triethylenetetramine	.....	.....	.....	Exception to 46 CFR 150, Table I.
Triflurlin in Xylene	.....	.....	.....	Delete the entry in its entirety.
2,2,4-Trimethyl penanediol-1,3-diisobutyrate.	.....	.....	.....	Delete the entry in its entirety.
Tripropylene	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Tripropylene glycol methyl ether.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Trisodium salt of N-(Hydroxyethyl) ethylenediaminetetra-acetic acid solution.	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Trixylyl phosphate, see Trixylenyl phosphate.	Trixylyl phosphate [IMO cargo name], see Trixylenyl phosphate.	Not applicable	Not applicable	46 CFR 150, Table I: Identify IMO Cargo name.
Turpentine substitute	.....	.....	.....	A non-cargo name (i.e., Italicized) cross-referenced to a proper cargo name.
Undecylbenzene	Alkyl(C9+)benzenes	[D]	III	
Valeraldehyde (iso-, n-) ...	.....	.....	.....	46 CFR 151, Table 151.05: Delete from table.

TABLE OF CHANGES—Continued

Cargo Name		Pollution Category		Comments
Current	Proposed	Current	Proposed	
Vegetable oils, n.o.s	Vegetable oils, n.o.s. ..... Including: Beechnut oil Castor oil Cocoa butter Coconut oil Corn oil Cottonseed oil Groundnut oil Hazelnut oil Linseed oil Nutmeg butter Oiticica oil Olive oil Palm kernel oil Palm oil Peel oil (oranges and lemons) Perilla oil Poppy oil Raisin seed oil Rapeseed oil Rice bran oil Safflower oil Salad oil Sesame oil Soya bean oil Sunflower seed oil Tucum oil Tung oil Walnut oil	Not applicable	Not applicable	46 CFR 150, Table I.
Vegetable acid oils and distillates, n.o.s.	Vegetable acid oils and distillates, n.o.s. Including: Corn acid oil Cottonseed acid oil Dark mixed acid oil Groundnut acid oil Mixed acid oil Mixed general acid oil Mixed hard acid oil Mixed soft acid oil Rapeseed acid oil Safflower acid oil Soya acid oil Sunflower seed acid oil	Not applicable	Not applicable	46 CFR 150, Table I.

Regulatory Evaluation

This direct final rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. 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)). This rulemaking will merely update lists of chemicals by adding cargoes to the lists that the Coast Guard already maintains and by making a few non-substantive editorial changes. 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.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this direct final 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.

Although this rule is exempt, we have reviewed it for potential impact on small entities. This rule will merely update lists of chemicals by adding cargoes recently authorized by the Coast Guard or added to the IMO Chemical Codes and by making a few non-substantive editorial changes.

Therefore, 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. We will evaluate comments submitted in response to this finding under the criteria in the section of this preamble called *Regulatory Information*.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this direct final rule so that they can better evaluate its effects on them and participate in the rulemaking. If this rule affects your small business or organization and you have questions concerning its provisions or options for compliance, please call Mr. Curtis G. Payne at 202–267–1217.

Collection of Information

This direct final rule will call for no collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

We have analyzed this direct final rule under Executive Order 13132 and have determined that this rule does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. Because this rule would merely render current lists already maintained by the Coast Guard in its rules, there are no implications for Federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) and E.O. 12875, Enhancing the Intergovernmental Partnership (58 FR 58093 (October 28, 1993)), govern the issuance of Federal rules that impose unfunded mandates. An unfunded mandate is a requirement that a State, local, or tribal government or the private sector incur direct costs without the Federal Government's having first provided the funds to pay those costs. This direct final rule will not impose an unfunded mandate.

Taking of Private Property

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

Reform of Civil Justice

This direct final rule 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.

Protection of Children

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

Environment

We considered the environmental impact of this direct final rule and concluded that, under figure 2–1, paragraph (34)(a) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule brings up to date lists already maintained by the Coast Guard in its rules to add chemicals already approved under those rules or under international law and clearly would have no impact on the environment. A Determination of Categorical Exclusion is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 150

Hazardous materials transportation, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements.

46 CFR Part 151

Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

46 CFR Part 153

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Marine safety, Reporting and recordkeeping requirements, Water pollution control.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 151 and 46 CFR parts 30, 150, 151, and 153 as follows:

Title 33—[Amended]

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

1. The citation of authority for part 151 continues to read as follows:

Authority: 33 U.S.C. 1321 and 1903; Pub. L. 104–227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46.

§ 151.05 [Amended]

2. In § 151.05, add the definition ''*NLS* means Noxious Liquid Substance.'' preceding the definition of ''*NLS Certificate*''.

3. Revise the listing in § 151.47 to read as follows:

§ 151.47 Category D NLSs other than oil-like Category D NLSs that may be carried under this part.

* * * * *

Acetophenone
Acrylonitrile-Styrene copolymer dispersion in Polyether polyol
iso- & cyclo-Alkane (C10–C11)
Alkenyl(C11+)amine
Alkyl(C8+)amine, Alkenyl (C12+) acid ester mixture
Alkyl dithiothiadiazole (C6–C24)
Alkyl ester copolymer (C4–C20)
Alkyl(C8–C40) phenol sulfide
Aluminum sulfate solution
Ammonium hydrogen phosphate solution
Ammonium nitrate solution (45% or less)
Ammonium nitrate, Urea solution (2% or less NH_3)
Ammonium phosphate, Urea solution
Ammonium polyphosphate solution
Ammonium sulfate solution (20% or less)
Amyl alcohol (iso-, n-, sec-, primary)
Animal and Fish oils, n.o.s. (*see also Oil, edible*)
Animal and Fish acid oils and distillates, n.o.s.
Aryl polyolefin (C11–C50)
Brake fluid base mixtures
Butylene glycol
iso-Butyl formate
n-Butyl formate
gamma-Butyrolactone
Calcium hydroxide slurry
Calcium long chain alkyl sulfonate (C11–C50)
Calcium long chain alkyl(C11–C40) phenate
Calcium long chain alkyl phenate sulfide (C8-C40)
Caprolactam solutions
Chlorine chloride solution
Citric acid (70% or less)
Coconut oil fatty acid methyl ester
Copper salt of long chain (C17+) alkanoic acid
Cyclohexanol
Decahydronaphthalene
Diacetone alcohol
Dialkyl(C8–C9) diphenylamines
Dialkyl(C7–C13) phthalates
Diethylene glycol
Diethylene glycol butyl ether acetate, *see* Poly(2-8) alkylene glycol monoalkyl(C1–C6) ether acetate

Diethylene glycol dibutyl ether
Diethylene glycol ethyl ether, *see* Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether
Diethylene glycol ethyl ether acetate, *see* Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate
Diethylene glycol methyl ether acetate, *see* Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate
Diethylene glycol phenyl ether
Diethylene glycol phthalate
Di-(2-ethylhexyl)adipate
1,4-Dihydro-9,10-dihydroxy anthracene, disodium salt solution
Diisobutyl ketone
Diisodecyl phthalate, see Dialkyl(C7–C13) phthalates
Diisononyl adipate
Diisononyl phthalate, see Dialkyl(C7–C13) phthalates
2,2-Dimethylpropane-1,3-diol
Dinonyl phthalate, see Dialkyl(C7–C13) phthalates
Dipropylene glycol dibenzoate
Dipropylene glycol methyl ether, *see* Poly(2–8)alkylene glycol monoalkyl(C1-C6) ether
Ditridecyl phthalate, see Dialkyl(C7–C13) phthalates
Diundecyl phthalate, see Dialkyl(C7–C13) phthalates
Dodecenylsuccinic acid, dipotassium salt solution
Ethoxylated long chain (C16+) alkyloxyalkanamine
Ethoxy triglycol (*crude*)
2-Ethyl-2-(hydroxymethyl)propane-1,3-diol, C8–C10 ester
Ethyl acetate
Ethyl acetoacetate
Ethyl butanol
Ethylenediaminetetraacetic acid, tetrasodium salt solution
Ethylene glycol
Ethylene glycol acetate
Ethylene glycol dibutyl ether
Ethylene glycol methyl butyl ether
Ethylene glycol phenyl ether
Ethylene glycol phenyl ether, Diethylene glycol phenyl ether mixture
2-Ethylhexanoic acid, see Octanoic acid
Ethyl propionate
Ferric hydroxyethylethylene diamine triacetic acid, trisodium salt solution
Formamide
Glycerine (83%), Dioxanedimethanol (17%) mixture
Glycerol monooleate
Glyoxal solution (40% or less)
Glyphosate solution (not containing surfactant)
Heptanoic acid
Hexamethylenediamine adipate
Hexamethylenetetramine solutions
Hexanoic acid
Hexanol
N–(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution
Isophorone
Lactic acid
Latex (ammonia (1% or less) inhibited)
Long chain alkaryl sulfonic acid (C16–C60)
Magnesium long chain alkaryl sulfonate (C11–C50)
Magnesium long chain alkyl phenate sulfide (C8–C20)
3-Methoxybutyl acetate
Methyl acetoacetate
Methyl alcohol
Methyl amyl ketone
Methyl butenol
Methyl butyl ketone
Methyl isobutyl ketone
Methyl tert-butyl ether
Methyl butynol
Methyl propyl ketone
N-Methyl-2-pyrrolidone
Myrcene
Naphthalene sulfonic acid-formaldehyde copolymer, sodium salt solution
Nonanoic acid (all isomers)
Nonanoic, Tridecanoic acid mixture
Nonyl methacrylate
Noxious Liquid Substance, (17) n.o.s.
Octadecenoamide solution
Octanoic acid
Oil, edible:
Babassu
Beechnut
Castor
Cocoa butter
Coconut
Cod liver
Corn
Cottonseed
Fish
Groundnut
Hazelnut
Nutmeg butter
Olive
Palm
Palm kernel
Peanut
Poppy
Raisin seed
Rapeseed
Rice bran
Safflower
Salad
Sesame
Soya bean
Sunflower seed
Tucum
Vegetable
Walnut
Oil, misc:
Animal, n.o.s.
Coconut oil, esterified
Coconut oil, fatty acid methyl ester
Lanolin
Linseed
Neatsfoot
Oiticica
Palm oil, fatty acid methyl ester
Palm oil, methyl ester
Perilla
Pilchard
Soya bean (epoxidized)
Sperm
Tung
Whale
Olefin/Alkyl ester copolymer (molecular weight 2000+)
Oleic acid
Palm kernel acid oil, methyl ester
Palm stearin
Pentaethylenehexamine
Pentanoic acid
Poly(2–8)alkylene glycol monoalkyl(C1-C6) ether, *Including:*
Diethylene glycol butyl ether
Diethylene glycol ethyl ether
Diethylene glycol n-hexyl ether
Diethylene glycol methyl ether
Diethylene glycol n-propyl ether
Dipropylene glycol butyl ether
Dipropylene glycol methyl ether
Polypropylene glycol methyl ether
Triethylene glycol butyl ether
Triethylene glycol ethyl ether
Triethylene glycol methyl ether
Tripropylene glycol methyl ether
Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether acetate, *Including:*
Diethylene glycol butyl ether acetate
Diethylene glycol ethyl ether acetate
Diethylene glycol methyl ether acetate
Polyalkylene glycols, Polyalkylene glycol monoalkyl ethers mixtures
Polypropylene glycol methyl ether, *see* Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether
Polyalkyl(C10–C20) methacrylate
Polybutenyl succinimide
Polyether (molecular weight 2000+)
Polyethylene glycol monoalkyl ether
Polyolefin amide alkeneamine (C17+)
Polyolefin amide alkeneamine (C28+)
Polyolefin amide alkeneamine borate (C28–C250)
Polyolefin amide alkeneamine polyol
Polyolefin anhydride
Polyolefin ester (C28–C250)
Polyolefin phenolic amine (C28–C250)
Polyolefin phosphorosulfide, barium derivative
Polypropylene glycol
n-Propyl acetate
Propylene glycol monoalkyl ether, Including:
n-Propoxypropanol
Propylene glycol n-butyl ether
Propylene glycol ethyl ether
Propylene glycol methyl ether
Propylene glycol ethyl ether, see Propylene glycol monoalkyl ether
Propylene glycol methyl ether, see Propylene glycol monoalkyl ether
Propylene glycol methyl ether acetate
Propylene glycol phenyl ether
Sodium acetate solution
Sodium benzoate solution
Sodium carbonate solution
Soybean oil (epoxidized)

Sulfohydrocarbon (C3–C88)
Sulfonated polyacrylate solution
Sulfolane
Sulfurized fat (C14–C20)
Sulfurized polyolefinamide alkene(C28–C250)amine
Tallow
Tallow fatty acid
Tetrasodium salt of Ethylenediaminetetraacetic acid solution
Triethylene glycol butyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether
Triethylene glycol ethyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether
Triethylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether
Triethyl phosphate
Trimethylol propane polyethoxylate
Tripropylene glycol methyl ether, see Poly(2–8)alkylene glycol monoalkyl(C1–C6) ether
Trisodium salt of N-(Hydroxyethyl)-ethylenediamine triacetic acid solution
Urea, Ammonium mono- and di-hydrogen phosphate, Potassium chloride solution
Urea, Ammonium nitrate solution (2% or less NH_3)
Urea, Ammonium phosphate solution
Vegetable oils, n.o.s. (see also Oil, edible)
Vegetable acid oils and distillates, n.o.s.
Waxes:
Candelilla
Carnauba

4. Amend § 151.49 by removing and reserving paragraph (b).

Title 46—[Amended]

PART 30—GENERAL PROVISIONS

5. The citation of authority for part 30 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 3703; 49 U.S.C. 5103, 5106; 49 CFR 1.45, 1.46; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–5 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

6. In § 30.25–1, revise Table 30.25–1 to read as follows:

30.25–1 Cargoes carried in vessels certificated under the rules of this subchapter.

* * * * *

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES

Cargo name	IMO Annex II Pollution Category
Acetone	III
Acetophenone	@D
Acrylonitrile-Styrene copolymer dispersion in Polyether polyol	D
Alcohols (C13+)	III
Alcoholic beverages, n.o.s.	III
Alcohol(C6–C17)(secondary) poly(3-6)ethoxylates	A
Alcohol(C6–C17)(secondary) poly(7-12)ethoxylates	B
Alcohol(C9–C11) poly(2.5-9)ethoxylate	B
Alcohol(C12–C15) poly(...)ethoxylates, *see* Alcohol(C12–C16) poly(...)ethoxylates	.....
Alcohol(C12–C16) poly(1-6)ethoxylates	A
Alcohol(C12–C16) poly(7-19)ethoxylates	B
Alcohol(C12–C16) poly(20+)ethoxylates	C
Alkanes (C6–C9)	C
n-Alkanes (C10+)	III
iso- & cyclo-Alkanes (C10–C11)	D
iso- & cyclo-Alkanes (C12+)	III
Alkaryl polyether (C9–C20)	B
Alkenyl(C11+) amine	D
Alkenyl(C16–C20) succinic anhydride)	D
Alkyl(C8+)amine, Alkenyl (C12+) acid ester mixture	D
Alkyl(C9+)benzenes	III
Alkylbenzenesulfonic acid (4% or less)	#
Alkyl dithiothiadiazole (C6–C24)	D
Alkyl ester copolymer (C4–C20)	D
Alkyl(C7–C11) phenol poly(4-12)ethoxylates	B
Alkyl phenol sulfide (C8–C40), *see* Alkyl(C8–C40) phenol sulfide	.....
Alkyl(C8–C40) phenol sulfide	D
Alkyl(C9–C15) phenyl propoxylate	III
n-Alkyl phthalates, see individual phthalates	.....
Alkyl sulfonic acid ester of phenol	III
Aminoethyldiethanolamine, Aminoethylethanolamine solution	III
Amyl acetate (all isomers)	C
Amyl alcohol (iso-, n-, sec-, primary)	D
Amyl alcohol (tert-)	III
Amylene, see Pentene (all isomers)	C
tert-Amyl methyl ether (Methyl tert-pentyl ether)	C
Amyl methyl ketone, see Methyl amyl ketone	D
Animal and Fish oils, n.o.s.	D
(*see also* Oil, edible, *or* Oil, misc.)	
Including:	
Cod liver oil	
Lanolin	
Neatsfoot oil	
Pilchard oil	
Sperm oil	
Animal and Fish acid oils and distillates, n.o.s.	D
Including:	
Animal acid oil	
Fish acid oil	
Lard acid oil	
Mixed acid oil	
Mixed general acid oil	
Mixed hard acid oil	
Mixed soft acid oil	
Aryl polyolefin (C11–C50)	D
Asphalt	I
Asphalt blending stocks:	
Roofers flux	I
Straight run residue	I
Barium long chain (C11–C50) alkaryl sulfonate	B
Barium long chain alkyl(C8–C14)phenate sulfide	[A]
Behenyl alcohol	III
Benzene tricarboxylic acid trioctyl ester	III
Benzyl alcohol	C
Brake fluid base mixtures	D
(containing Poly(2-8)alkylene(C2–C3) glycols, Polyalkylene(C2–C10) glycol monoalkyl(C1–C4) ethers, and their borate esters)	
Butane	LFG
Butene, see Butylene.	
Butene oligomer	B
Butyl acetate (all isomers)	C
Butyl alcohol (iso-, n-, sec-, tert-), *see* Butyl alcohol (all isomers)	.....
Butyl alcohol (all isomers)	III
Butyl benzyl phthalate	A
Butylene	LFG
Butylene glycol	D
1,3-Butylene glycol, see Butylene glycol	.....
Butylene polyglycol, see Butylene glycol	.....
iso-Butyl formate	D
n-Butyl formate	@D
Butyl heptyl ketone	[C]
Butyl methyl ketone, see Methyl butyl ketone	.....
n-Butyl propionate	C
Butyl stearate	III
Butyl toluene	@A
gamma-Butyrolactone	D
Calcium alkyl(C9)phenol sulfide, polyolefin phosphorosulfide mixture	A

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Calcium alkyl salicylate, see Calcium long chain alkyl salicylate (C13+)	.....
Calcium long chain alkaryl sulfonate (C11–C50)	D
Calcium long chain alkyl phenate (C8–C40), see Calcium long chain alkyl(C5–C10) phenate *or* Calcium long chain alkyl(C11–C40) phenate	.....
Calcium long chain alkyl(C5–C10) phenate	C
Calcium long chain alkyl(C11–C40) phenate	D
Calcium long chain alkyl phenate sulfide (C8–C40)	D
Calcium long chain alkyl phenolic amine (C8–C40)	III
Calcium long chain alkyl salicylate (C13+)	C
Caprolactam solutions	D
Cetyl alcohol (hexadecanol), see Alcohols (C13+)	.....
Cetyl-Stearyl alcohol), *see* Alcohols (C13+)	III
† Coal tar	A
Copper salt of long chain (C17+) alkanoic acid	[D]
Cumene (isopropylbenzene), see Propylbenzene (all isomers)	.....
Cyclohexane	C
Cyclohexanol	D
1,3-Cyclopentadiene dimer (molten)	B
p-Cymene	C
Decahydronaphthalene	D
iso-Decaldehyde	@C
n-Decaldehyde	@B
Decane, see n-Alkanes (C10+)	.....
Decene	B
Decyl acetate	B
Decyl alcohol (all isomers)	B
n-Decylbenzene, *see* Alkyl(C9+)benzenes	III
Detergent alkylate	D
Diacetone alcohol	D
Dialkyl(C10–C14) benzenes, *see* Alkyl(C9+)benzenes	III
Dialkyl(C8–C9) diphenylamines	D
Dialkyl(C7–C13) phthalates	D
Including:	
Diisodecyl phthalate	
Diisononyl phthalate	
Dinonyl phthalate	
Ditridecyl phthalate	
Diundecyl phthalate	
Dibutyl carbinol, see Nonyl alcohol (all isomers)	.....
ortho-Dibutyl phthalate	A
Dicyclopentadiene, *see* 1,3-Cyclopentadiene dimer (molten)	B
Diethylbenzene	A
Diethylene glycol	D
Diethylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Diethylene glycol butyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether acetate	.....
Diethylene glycol dibutyl ether	D
Diethylene glycol diethyl ether	III
Diethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Diethylene glycol ethyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether acetate	.....
Diethylene glycol n-hexyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Diethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Diethylene glycol methyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether acetate	.....
Diethylene glycol phenyl ether	#
Diethylene glycol phthalate	D
Diethylene glycol propyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Di-(2-ethylhexyl)adipate	D
Di-(2-ethylhexyl)phthalate, see Dioctyl phthalates	.....
Diethyl phthalate	C
Diglycidyl ether of Bisphenol A	B
Diheptyl phthalate	III
Dihexyl phthalate	III
Diisobutylcarbinol, *see* Nonyl alcohol (all isomers)	C
Diisobutylene	B
Diisobutyl ketone	D
Diisobutyl phthalate	B
Diisodecyl phthalate, see Dialkyl(C7–C13) phthalates	.....
Diisononyl adipate	D
Diisononyl phthalate, see Dialkyl(C7–C13) phthalates	.....
Diisooctyl phthalate	III
Diisopropylbenzene (*all isomers*)	A
Diisopropyl naphthalene	D
Dimethyl adipate	B
Dimethylbenzene, see Xylenes	.....
Dimethyl glutarate	C
Dimethyl phthalate	C
Dimethylpolysiloxane, *see* Polydimethylsiloxane	III
2,2-Dimethylpropane-1,3-diol (molten or solution)	D
Dimethyl succinate	C
Dinonyl phthalate, see Dialkyl(C7–C13) phthalates	.....
Dioctyl phthalate	III
Dipentene	C
Diphenyl	A
Diphenyl, Diphenyl ether mixture	A
Diphenyl ether	A
Diphenyl ether, Biphenyl phenyl ether mixture	A
Dipropylene glycol	III
Dipropylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Dipropylene glycol dibenzoate	[D]
Dipropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Distillates:	
Flashed feed stocks	I
Straight run	I
Ditridecyl adipate	III
Ditridecyl phthalate, see Dialkyl(C7–C13) phthalates	.....
Diundecyl phthalate, see Dialkyl(C7–C13) phthalates	.....
Dodecane (all isomers), *see also* n-Alkanes (C10+)	III
Dodecanol	B
Dodecene (all isomers)	B
Dodecyl alcohol, *see* Dodecanol	.....
Dodecylbenzene, *see* Alkyl(C9+)benzenes	III
Dodecyl hydroxypropyl sulfide	A
Dodecyl phenol	A
Dodecyl xylene	III
Drilling mud (low toxicity) *(if flammable or combustible)*	[III]
Ethane	LFG
2-Ethoxyethyl acetate	C
Ethoxylated alkyloxy alkyl amine, see Ethoxylated long chain (C16+) alkyloxyalkanamine	.....
Ethoxylated long chain (C16+) alkyloxyalkanamine	D
Ethoxy triglycol *(crude)*	D
Ethyl acetate	D
Ethyl acetoacetate	D
Ethyl alcohol	III
Ethyl amyl ketone	C
Ethylbenzene	B
Ethyl butanol	@D
Ethyl tert-butyl ether	C
Ethyl butyrate	C
Ethyl cyclohexane	C
Ethylene	LFG
Ethylene carbonate	III
Ethylene glycol	D
Ethylene glycol acetate	D
Ethylene glycol butyl ether acetate	C
Ethylene glycol diacetate	C
Ethylene glycol dibutyl ether	[D]
Ethylene glycol ethyl ether acetate, see 2-Ethoxyethyl acetate	.....

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Ethylene glycol methyl butyl ether	D
Ethylene glycol methyl ether acetate	C
Ethylene glycol phenyl ether	D
Ethylene glycol phenyl ether, Diethylene glycol phenyl ether mixture	D
Ethylene-Propylene copolymer *(in liquid mixtures)*	[III]
Ethyl-3-ethoxypropionate	C
2-Ethylhexaldehyde, see Octyl aldehydes	.....
2-Ethylhexanoic acid, see Octanoic acid (all isomers)	.....
2-Ethylhexanol, see Octanol (all isomers)	.....
Ethylhexoic acid, see 2-Ethylhexanoic acid	.....
Ethyl hexyl phthalate	C
2-Ethyl-2-(hydroxymethyl) propane-1,3-diol, C8–C10 ester	D
Ethyl propionate	D
Ethyl toluene	B
Fatty acid (saturated, C13+), *see* Fatty acid (saturated, C14+)	.....
Fatty acid (saturated, C14+)	III
Formamide	D
Furfuryl alcohol	C
† Gas oil, cracked	I
Gasoline blending stocks:	
Alkylates	I
† Reformates	I
Gasolines:	
† Automotive *(containing not over 4.23 grams lead per gallon)*	I
† Aviation *(containing not over 4.86 grams lead per gallon)*	I
Casinghead *(natural)*	I
Polymer	I
† Straight run	I
Glycerine	III
Glycerine (83%), Dioxanedimethanol (17%) mixture	D
Glycerol, see Glycerine	.....
Glycerol monooleate	D
Glycerol polyalkoxylate	III
Glyceryl triacetate	III
Glycidyl ester of tertiary carboxylic acid, see Glycidyl ester of tridecyl acetic acid	.....
Glycidyl ester of C10 trialkylacetic acid, *see* Glycidyl ester of tridecyl acetic acid	B
Glycidyl ester of tridecyl acetic acid	B
Glycidyl ester of versatic acid, see Glycidyl ester of tridecyl acetic acid	.....
Glycol diacetate, see Ethylene glycol diacetate	.....
Glycol triacetate, see Glyceryl triacetate	.....

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Glyoxal solution (40% or less)	D
Glyphosate solution (not containing surfactant)	D
Heptadecane, see n-Alkanes (C10+)	.....
Heptane (all isomers), *see* Alkanes (C6–C9)	C
Heptanoic acid	D
Heptanol (all isomers)	C
Heptene (all isomers)	C
Heptyl acetate	B
Herbicide (C15 -H22 -NO2 -Cl), see Metolachlor	.....
1-Hexadecylnaphthalene, 1,4-bis(Hexadecyl)naphthalene mixture	III
Hexaethylene glycol, see Polyethylene glycol	.....
Hexamethylene glycol	III
Hexamethylenetetramine solutions	D
Hexane (all isomers), *see* Alkanes (C6–C9)	C
Hexanoic acid	D
Hexanol	D
Hexene (all isomers)	C
Hexyl acetate	B
Hexylene glycol	III
Hog grease, see Lard	.....
2-Hydroxy-4-(methylthio)butanoic acid	C
Hydroxy terminated polybutadiene, *see* Polybutadiene, hydroxy terminated	.....
Isophorone	D
Jet fuels:	
† JP-4	I
JP-5 *(kerosene, heavy)*	I
JP-8	@I
Kerosene	I
Lactic acid	D
Lard	III
Latex (ammonia (1% or less) inhibited)	D
Latex, liquid synthetic *including:*	III
Styrene-butadiene rubber	III
Carboxylated styrene-butadiene copolymer	III
Lecithin	III
Long chain alkaryl polyether (C11–C20)	C
Long chain alkaryl sulfonic acid (C16–C60)	D
Long chain alkylphenate/Phenol sulfide mixture	III
Magnesium long chain alkaryl sulfonate (C11–C50)	D
Magnesium long chain alkyl phenate sulfide (C8–C20)	[D]
Magnesium long chain alkyl salicylate (C11+)	C
Magnesium nonyl phenol sulfide, see Magnesium long chain alkyl phenate sulfide (C8–C20)	.....

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Magnesium sulfonate, see Magnesium long chain alkaryl sulfonate (C11–C50)	.....
2-Mercaptobenzothiazol *(in liquid mixtures)*	#
Methane	LFG
3-Methoxy-1-butanol	III
3-Methoxybutyl acetate	D
1-Methoxy-2-propyl acetate	#
Methoxy triglycol (triethylene glycol methyl ether), see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Methyl acetate	III
Methyl acetoacetate	D
Methyl alcohol	D
Methyl amyl acetate	C
Methyl amyl alcohol	C
Methyl amyl ketone	D
Methyl butanol, see the amyl alcohols	.....
Methyl butenol	D
Methyl tert-butyl ether	D
Methyl butyl ketone	D
Methyl butyrate	C
Methyl ethyl ketone	III
N-Methylglucamine solution (70% or less)	III
Methyl heptyl ketone	B
Methyl isobutyl carbinol, see Methyl amyl alcohol	.....
Methyl isobutyl ketone	D
3-Methyl-3-methoxybutanol	III
3-Methyl-3-methoxybutyl acetate	III
Methyl naphthalene	A
Methyl pentene, see Hexene (all isomers)	.....
Methyl tert-pentyl ether *(IMO cargo name)* tert-Amyl methyl ether	.....
2-Methyl-1,3-propanediol	III
Methyl propyl ketone	D
N-Methyl-2-pyrrolidone	D
Metolachlor	B
Mineral spirits	I
Myrcene	D
Naphtha:	
† Aromatic *(having less than 10% Benzene)*	@I
Heavy	@I
Paraffinic	@I
† Petroleum	I
† Solvent	I
Stoddard Solvent	@I
† Varnish makers' and painters' (75%)	@I
Naphthalene sulfonic acid-formaldehyde copolymer, sodium salt solution	D
Naphthenic acid	A
Nonane (all isomers), *see* Alkanes (C6–C9)	C
Nonanoic acid (all isomers)	D
Nonanoic, Tridecanoic acid mixture	@D
Nonene (all isomers)	B

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Nonyl acetate	C
Nonyl alcohol (all isomers)	C
Nonyl methacrylate *monomer*	D
Nonyl phenol	A
Nonyl phenol poly(4+)ethoxylates	B
Nonyl phenol sulfide (90% or less), see Alkyl phenol sulfide (C8–C40)	.....
Noxious liquid, N.F., (1) n.o.s. (''trade name'' contains ''principle components'') ST 1, Cat A *(if combustible)*	A
Noxious liquid, F., (2) n.o.s. (''trade name'' contains ''principle components'') ST 1, Cat A	A
Noxious liquid, N.F., (3) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat A *(if combustible)*	A
Noxious liquid, F., (4) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat A	A
Noxious liquid, N.F., (5) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat B *(if combustible)*	B
Noxious liquid, N.F., (6) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat B, mp. equal to or greater than 15 deg. C *(if combustible)*	B
Noxious liquid, F., (7) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat B	B
Noxious liquid, F., (8) n.o.s. (''trade name'' contains ''principle components'') ST 2, Cat B, mp. equal to or greater than 15 deg. C	B
Noxious liquid, N.F., (9) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat A *(if combustible)*	A
Noxious liquid, F., (10) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat A	A
Noxious liquid, N.F., (11) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat B *(if combustible)*	B
Noxious liquid, N.F., (12) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat B, mp. equal to or greater than 15 deg. C *(if combustible)*	B
Noxious liquid, F., (13) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat B	B
Noxious liquid, F., (14) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat B, mp. equal to or greater than 15 deg. C	B
Noxious liquid, N.F., (15) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat C *(if combustible)*	C
Noxious liquid, F., (16) n.o.s. (''trade name'' contains ''principle components'') ST 3, Cat C	C
Noxious liquid, n.o.s. (17) (''trade name,'' contains ''principal components''), Category D *(if flammable or combustible)*	D
Non-noxious liquid, n.o.s. (18) (''trade name,'' contains ''principal components''), Appendix III *(if flammable or combustible)*	III
Octadecene, see the olefin or alpha-olefin entries	.....
Octadecenoamide solution *(oleamide)*	[D]
Octane (all isomers), *see* Alkanes (C6–C9)	C
Octanoic acid (all isomers)	D
Octanol (all isomers)	C
Octene (all isomers)	B
Octyl acetate	C
Octyl alcohol (iso-, n-), see Octanol (all isomers)	.....
Octyl aldehydes	B
Octyl decyl adipate	III
Octyl phthalate (Di-(2-ethylhexyl)phthalate), see Dioctyl phthalates	.....
Oil, edible:	
Beechnut	D
Castor	D
Cocoa butter	D
Coconut	D
Cod liver	D
Corn	D
Cottonseed	D
Fish, *n.o.s.*	D
Groundnut	D
Hazelnut	D
Lard	@III
Maize, *see* Corn oil	D
Nutmeg butter	D
Olive	D
Palm	D
Palm kernel	D
Peanut	D
Poppy	D
Raisin seed	D
Rapeseed	D
Rice bran	D
Safflower	D
Salad	D
Sesame	D
Soya bean	D
Sunflower, *see* Sunflower seed	D
Sunflower seed	D
Tucum	D
Vegetable, *n.o.s.*	D
Walnut	D
Oil, fuel:	
No. 1 *(kerosene)*	I
No. 1-D	I
No. 2	I
No. 2-D	I
No. 4	I
No. 5	I
No. 6	I
Oil, misc:	
Aliphatic	@I
Animal, *n.o.s.*	D
Aromatic	I
Clarified	I
Coal	#
Coconut oil, fatty acid	C
Coconut oil, fatty acid methyl ester	D
Cottonseed, fatty acid, see Cottonseed oil, fatty acid	.....
† Crude	I
Diesel	I
Gas, high pour	@I
Gas, low pour	@I
Gas, low sulfur	@I
Heartcut distillate	I
Lanolin	D
Linseed	D
Lubricating	I
Mineral	I
Mineral seal	@I
Motor	I
Neatsfoot	D
Oiticica	D
Palm oil, fatty acid methyl ester	D
Penetrating	I
Perilla	D
Pilchard	D
Pine	C
Residual	I
Road	I
Rosin	B
Seal	I
Soapstock	#
Soya bean (epoxidized)	[D]
Sperm	D
Spindle	I
Tall	B
Tall, fatty acid	C
Transformer	I
Tung	D
Turbine	I
Whale	D
alpha-Olefins (C6–C18)	B
alpha-Olefins (C13–C18)	III
Olefin mixtures (C5–C7)	C
Olefin mixtures (C5–C15)	B
Olefins (C13+, all isomers)	III
Olefin/Alkyl ester copolymer (molecular weight 2000+)	D
Oleic acid	D

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Oleyl alcohol (octadecenol), see Alcohols (C13+)	.....
Palm kernel acid oil, methyl ester	[D]
Palm stearin	D
n-Paraffins (C10–C20), see n-Alkanes (C10+)	.....
Pentadecanol, see Alcohols (C13+)	.....
Pentaethylene glycol, see Polyethylene glycols	.....
Pentaethylenehexamine	D
Pentane (all isomers)	C
Pentanoic acid	D
Pentene (all isomers)	C
n-Pentyl propionate	C
Petrolatum	III
1-Phenyl-1-xylyl ethane	C
Phosphate esters, alkyl(C12–C14) amine	B
Phosphosulfurized bicyclic terpene	#
Pinene, see the alpha- or beta-isomers	.....
alpha-Pinene	A
beta-Pinene	B
Polyalkylene glycols, Polyalkylene glycol monoalkyl ethers mixtures	@D
Polyalkylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	D
Including:	
Diethylene glycol butyl ether	
Diethylene glycol ethyl ether	
Diethylene glycol n-hexyl ether	
Diethylene glycol methyl ether	
Diethylene glycol n-propyl ether	
Dipropylene glycol butyl ether	
Dipropylene glycol methyl ether	
Polypropylene glycol methyl ether	
Triethylene glycol butyl ether	
Triethylene glycol ethyl ether	
Triethylene glycol methyl ether	
Tripropylene glycol methyl ether	
Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether acetate	D
Including:	
Diethylene glycol butyl ether acetate	
Diethylene glycol ethyl ether acetate	
Diethylene glycol methyl ether acetate	
Polyalkylene oxide polyol	C
Polycarboxylic ester (C9+), see Ditridecyl adipate.	

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Polyalkyl(C10–C20) methacrylate	D
Polybutadiene, hydroxy terminated	[III]
Polybutene	III
Polybutenyl succinimide	D
Polydimethylsiloxane	#
Polyether (molecular weight 2000+)	D
Polyethylene glycol	III
Polyethylene glycol dimethyl ether	III
Polyethylene glycol monoalkyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Polyglycerine, Sodium salts solution (containing less than 3% Sodium hydroxide)	III
Polyglycerol	III
Polyisobutenyl anhydride adduct	III
Poly(4+)isobutylene	III
Polymerized esters	#
Polyolefin (molecular weight 300+)	III
Polyolefin amide alkeneamine (C17+)	D
Polyolefin amide alkeneamine (C28+)	D
Polyolefin amide alkeneamine borate (C28–C250)	D
Polyolefin amide alkeneamine/Molybdenum oxysulfide mixture	C
Polyolefin amide alkeneamine polyol	D
Polyolefin anhydride	D
Polyolefin ester (C28–C250)	D
Polyolefin phenolic amine (C28–C250)	D
Polyolefin phosphorosulfide, barium derivative (C28–C250)	C
Poly(20)oxyethylene sorbitan monooleate	III
Poly(5+)propylene	III
Polypropylene glycol	D
Polypropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	.....
Polysiloxane	III
Potassium oleate	C
Potassium salt of polyolefin acid	III
Propane	LFG
n-Propoxypropanol (propylene glycol propyl ether), see Propylene glycol monoalkyl ether	.....
iso-Propyl acetate	III
n-Propyl acetate	D
iso-Propyl alcohol	III
n-Propyl alcohol	III
iso-Propylbenzene (cumene), see Propylbenzene (all isomers)	.....

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
n-Propylbenzene, see Propylbenzene (all isomers)	.....
Propylbenzene (all isomers)	A
iso-Propylcyclohexane	C
Propylene	LFG
Propylene-butylene copolymer	III
Propylene carbonate	III
Propylene dimer	C
Propylene glycol	III
Propylene glycol n-butyl ether, see Propylene glycol monoalkyl ether	.....
Propylene glycol ethyl ether, see Propylene glycol monoalkyl ether	.....
Propylene glycol methyl ether, see Propylene glycol monoalkyl ether	.....
Propylene glycol methyl ether acetate	D
Propylene glycol monoalkyl ether	D
Including:	
n-Propoxypropanol	
Propylene glycol n-butyl ether	
Propylene glycol ethyl ether	
Propylene glycol methyl ether	
Propylene glycol propyl ether	
Propylene glycol phenyl ether	D
Propylene glycol propyl ether, see Propylene glycol monoalkyl ether	.....
Propylene polymer *(in liquid mixtures)*	#
Propylene tetramer	B
Propylene trimer	B
Pseudocumene, see Trimethylbenzenes	.....
Rum, see Alcoholic beverages, n.o.s.	.....
Sodium acetate, Glycol, Water mixture (containing 1% or less, Sodium hydroxide) (*if flammable or combustible*)	#
Sodium acetate solution	D
Sodium benzoate *solution*	D
Sodium long chain alkyl salicylate (C13+)	[C]
Soyabean oil (epoxidized)	[D]
Stearic acid, see Fatty acid (saturated, C14+)	.....
Stearyl alcohol *(octadecanol)*	III
Sulfohydrocarbon (C3–C88)	D
Sulfohydrocarbon, long chain (C18+) alkylamine	B
Sulfolane	D
Sulfurized fat (C14–C20)	D
Sulfurized polyolefinamide alkene(C28–C250)amine	D
Tallow	D
Tallow alcohol, see Alcohols (C13+)	.....
Tallow fatty acid	D

TABLE 30.25–1.—LIST OF FLAMMABLE AND COMBUSTIBLE BULK LIQUID CARGOES—Continued

Cargo name	IMO Annex II Pollution Category
Tallow *alkyl* nitrile	#
Tetradecanol, see Alcohols (C13+)	
Tetradecene, see the olefin or alpha-olefin entries	
Tetradecylbenzene, *see* Alkyl(C9+)benzenes	III
Tetraethylene glycol	III
Tetrahydronaphthalene	C
Tetrapropylbenzene, see Alkyl(C9+)benzenes	
Toluene	C
Triarylphosphate, see Triisopropylated phenyl phosphates	
Tributyl phosphate	B
Tricresyl phosphate (less than 1% of the ortho isomer)	A
Tridecane, see n-Alkanes (C10+)	
Tridecanoic acid	B
Tridecanol, see Alcohols (C13+)	
Tridecene, see Olefins (C13+)	
Tridecyl acetate	III
Tridecylbenzene, *see* Alkyl(C9+)benzenes	III
Triethylbenzene	A
Triethylene glycol	III
Triethylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	
Triethylene glycol butyl ether mixture	#
Triethylene glycol di-(2-ethylbutyrate)	[C]
Triethylene glycol ether mixture	#
Triethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	
Triethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	
Triethyl phosphate	D
Triisooctyl trimellitate	#
Triisopropanolamine	III
Triisopropylated phenyl phosphates	A
Trimethylbenzene (all isomers)	A
Trimethylol propane polyethoxylate	D
2,2,4-Trimethyl-1,3-pentanediol diisobutyrate	III
2,2,4-Trimethyl-3-pentanol-1-isobutyrate	#
Tripropylene, see Propylene trimer	
Tripropylene glycol	III
Tripropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1–C6) ether	
Trixylenyl phosphate	A
Trixylyl phosphate, *see* Trixylenyl phosphate	A
Turpentine	B
†*Turpentine substitute, see* White spirit (low (15–20%) aromatic)	
Undecanol, see 1- Undecyl alcohol	
Undecene	B
1- Undecyl alcohol	B
Undecylbenzene, *see* Alkyl(C9+)benzenes	III
Vegetable oils, n.o.s. (*see also* Oil, edible)	D
Including:	
Beechnut oil	
Castor oil	
Cocoa butter	
Coconut oil	
Corn oil	
Cottonseed oil	
Groundnut oil	
Hazelnut oil	
Linseed oil	
Nutmeg butter	
Oiticica oil	
Olive oil	
Palm kernel oil	
Palm oil	
Peel oil (oranges and lemons)	
Perilla oil	
Poppy oil	
Raisin seed oil	
Rapeseed oil	
Rice bran oil	
Safflower oil	
Salad oil	
Sesame oil	
Soya bean oil	
Sunflower seed oil	
Tucum oil	
Tung oil	
Walnut oil	
Vegetable acid oils and distillates, n.o.s.	D
Including:	
Corn acid oil	
Cottonseed acid oil	
Dark mixed acid oil	
Groundnut acid oil	
Mixed acid oil	
Mixed general acid oil	
Mixed hard acid oil	
Mixed soft acid oil	
Rapeseed acid oil	
Safflower acid oil	
Soya acid oil	
Sunflower seed acid oil	
Waxes:	D
Candelilla	@D
Carnauba	@D
Paraffin	III
†*White spirit, see* White spirit (low (15–20%) aromatic)	
†White spirit (low (15–20%) aromatic)	B
Wine, see Alcoholic beverages, n.o.s.	
Xylenes *(ortho-, meta-, para-)*	C
Zinc alkaryl dithiophosphate (C7–C16)	C
Zinc alkenyl carboxamide	D
Zinc alkyl dithiophosphate (C3–C14)	B

NOTE: See table 2 of part 153 for additional cargoes permitted to be carried by tank barge.

Explanation of Symbols: As used in this table the following stands for:

A, B, C, D—NLS Category of Annex II of MARPOL 73/78.

I—Considered an ''oil'' under Annex I of MARPOL 73/78.

III—Appendix III of Annex II (non-NLS cargoes) of MARPOL 73/78.

LFG—Liquefied flammable gas.

#—No determination of NLS status. For shipping on an oceangoing vessel, see 46 CFR 153.900(c).

[ ]—A NLS category in brackets indicates that the product is provisionally categorized and that further data are necessary to complete the evaluation of its pollution hazards. Until the hazard evaluation is completed, the pollution category assigned is used.

@—The NLS category has been assigned by the U.S. Coast Guard, in absence of one assigned by the IMO. The category is based upon a GESAMP Hazard Profile or by analogy to a closely related product having an NLS assigned.

†—The provisions contained in 46 CFR part 197, subpart C, may apply to this cargo.

Abbreviations for Noxious liquid Cargoes:

N.F.—non-flammable (flash point greater than 60 degrees C (140 degrees F) cc).

F.—flammable (flash point less than or equal to 60 degrees C (140 degrees F) cc).

n.o.s.—not otherwise specified.

ST—Ship type.

Cat—Pollution category.

Words in italic are not part of the cargo name but may be used in addition to the cargo name.

When one entry references another entry by use of the word ''*see*'', and both names are in roman type, either name may be used as the cargo name (e.g., Diethyl ether, *see* Ethyl ether). However, the referenced entry is preferred.

PART 150—COMPATIBILITY OF CARGOES

7. The citation of authority for part 150 continues to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46. Section 150.105 issued under 44 U.S.C. 3507; 49 CFR 1.45.

8. Revise Table I to read as follows:

TABLE I.—ALPHABETICAL LIST OF CARGOES

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Acetaldehyde	19		AAD	
Acetic acid	4	2	AAC	
Acetic anhydride	11		ACA	
Acetochlor	10		ACG	
Acetone	18	2	ACT	
Acetone cyanohydrin	0	1, 2	ACY	
Acetonitrile	37		ATN	
Acetophenone	18		ACP	
Acrolein	19	2	ARL	
Acrylamide solution	10		AAM	
Acrylic acid	4	2	ACR	
Acrylonitrile	15	2	ACN	
Acrylonitrile-Styrene copolymer dispersion in Polyether polyol	20		ALE	
Adiponitrile	37		ADN	
Alachlor	33		ALH	
Alcohols (C13+)	20		ALY	
Including:				
Oleyl alcohol (octadecenol)				
Pentadecanol				
Tallow alcohol				
Tetradecanol				
Tridecanol				
Alcoholic beverages	20			
Alcohol polyethoxylates	20			APU/APV/APW/AET
Alcohol polyethoxylates, secondary	20			AEA/AEB
Alkanes (C6-C9)	31	1	ALK	
Including:				
Heptanes				
Hexanes				
Nonanes				
Octanes				
n-Alkanes (C10+)	31	1	ALJ	
Including:				
Decanes				
Dodecanes				
Heptadecanes				
Tridecanes				
Undecanes				
iso- & cyclo-Alkanes (C10-C11)	31	1	AKI	
iso- & cyclo-Alkanes (C12+)	31	1	AKJ	
Alkane (C14-C17) sulfonic acid, sodium salt solution	34		AKA	
Alkaryl polyether (C9-C20)	41		AKP	
Alkenyl(C11+)amide	11		AKM	
Alkenyl(C16-C20)succinic anhydride	11		AAH	
Alkyl acrylate-Vinyl pyridine copolymer in Toluene	32	2	AAP	
Alkyl(C8+)amine, Alkenyl (C12+) acid ester mixture	34		AAA	
Alkylaryl phosphate mixtures (more than 40% Diphenyl tolyl phosphate, less than 0.02% ortho-isomer).	34		APD	
Alkyl(C3-C4)benzenes	32	2	AKC	
Including:				
Butylbenzenes				
Cumene				
Propylbenzenes				
Alkyl(C5-C8)benzenes	32	2	AKD	
Including:				
Amylbenzenes				
Heptylbenzenes				
Hexylbenzenes				
Octylbenzenes				
Alkyl(C9+)benzenes	32	2	AKB	
Including:				
Decylbenzenes				
Dodecylbenzenes				
Nonylbenzenes				
Tetradecylbenzenes				
Tetrapropylbenzenes				
Tridecylbenzenes				
Undecylbenzenes				
Alkylbenzene, Alkylindane, Alkylindene mixture (each C12-C17)	32	2	AIH	
Alkylbenzenesulfonic acid	0	1, 2		ABS/ABN

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Alkylbenzenesulfonic acid, sodium salt solutions	33		ABT	
Alkyl dithiothiadiazole (C6-C24)	33		ADT	
Alkyl ester copolymer (C4-C20)	34		AES	
Alkyl(C7-C9) nitrates	34	2	AKN	ONE
Alkyl(C7-C11) phenol poly(4-12)ethoxylate	40		APN	
Alkyl(C8-C40) phenol sulfide	34		AKS	
Alkyl(C8-C9) phenylamine in aromatic solvents	9		ALP	
Alkyl(C9-C15) phenyl propoxylate	40			
Alkyl phthalates	34			
Alkyl(C10-C20, saturated and unsaturated) phosphite	34		AKL	
Alkyl polyglucoside solutions	43			AGL/AGN/AGO/AGP/AGM
Alkyl sulfonic acid ester of phenol	34			
Allyl alcohol	15	2	ALA	
Allyl chloride	15	1	ALC	
Aluminium chloride, Hydrochloric acid solution	0	1	AHS	
Aluminum sulfate solution	43	2	ASX	ALM
2-(2-Aminoethoxy)ethanol	8		AEX	
Aminoethyldiethanolamine, Aminoethylethanolamine solution	8			
Aminoethylethanolamine	8		AEE	
N-Aminoethylpiperazine	7		AEP	
2-Amino-2-hydroxymethyl-1,3-propanediol solution	43		AHL	
2-Amino-2-methyl-1-propanol	8		APQ	APR
Ammonia, anhydrous	6		AMA	
Ammonia, aqueous (28% or less Ammonia) *(IMO cargo name)*, *see* Ammonium hydroxide	6			AMH
Ammonium bisulfite solution	43	2	ABX	ASU
Ammonium hydrogen phosphate solution	0	1	AMI	
Ammonium hydroxide (28% or less Ammonia)	6		AMH	
Ammonium lignosulfonate solution, *see also* Lignin liquor	43			
Ammonium nitrate solution	0	1	ANR	AND/AMN
Ammonium nitrate, Urea solution (containing Ammonia)	6		UAS	
Ammonium nitrate, Urea solution (not containing Ammonia)	43		ANU	UAT
Ammonium polyphosphate solution	43		AMO	APP
Ammonium sulfate solution	43		AME	AMS
Ammonium sulfide solution	5		ASS	ASF
Ammonium thiocyanate, Ammonium thiosulfate solution	0	1	ACS	
Ammonium thiosulfate solution	43		ATV	ATF
Amyl acetate	34		AEC	IAT/AML/AAS/AYA
Amyl alcohol	20		AAI	IAA/AAN/ASE/APM
Amylene, see Pentene			AMZ	PTX
tert-Amyl methyl ether (*see also*, Methyl tert-pentyl ether)	41		AYE	
Amyl methyl ketone, see Methyl amyl ketone			AMK	MAK
Aniline	9		ANL	
Animal and Fish oils, n.o.s.	34		AFN	
Including:				
Cod liver oil				
Lanolin				
Neatsfoot oil				
Pilchard oil				
Sperm oil				
Animal and Fish acid oils and distillates, n.o.s.	34		AFA	
Including:				
Animal acid oil				
Fish acid oil				
Lard acid oil				
Mixed acid oil				
Mixed general acid oil				
Mixed hard acid oil				
Mixed soft acid oil				
Anthracene oil (Coal tar fraction), *see* Coal tar	33		AHO	COR
Apple juice	43			
Aryl polyolefin (C11-C50)	30		AYF	
Asphalt	33		ASP	ACU
Asphalt blending stocks, roofers flux	33		ARF	
Asphalt blending stocks, straight run residue	33		ASR	
Asphalt emulsion (*ORIMULSION*)	33		ASQ	
Aviation alkylates	33		AVA	GAV
Barium long chain alkaryl(C11-C50) sulfonate	34		BCA	
Barium long chain alkyl(C8-C14)phenate sulfide	34		BCH	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Behenyl alcohol	20			
Benzene	32	2	BNZ	
Benzene hydrocarbon mixtures (having 10% Benzene or more)	32	2	BHB	BHA
Benzenesulfonyl chloride	0	1, 2	BSC	
Benzene, Toluene, Xylene mixtures	32	2	BTX	
Benzene tricarboxylic acid, trioctyl ester	34			
Benzylacetate	34		BZE	
Benzyl alcohol	21		BAL	
Benzyl chloride	36		BCL	
Brake fluid base mixtures	20		BFX	
Bromochloromethane	36		BCM	
Butadiene	30		BDI	
Butadiene, Butylene mixtures (cont. Acetylenes)	30		BBM	
Butane	31	1	BMX	IBT/BUT
1,4-Butanediol, see Butylene glycol			BDO	BUG
2-Butanone, see Methyl ethyl ketone				
Butene, see Butylene				IBL/BTN
Butene oligomer	30		BOL	
Butyl acetate	34		BAX	IBA/BCN/BTA/BYA
Butyl acrylate	14	1	BAR	BAI/BTC
Butyl alcohol	20	2	BAY	IAL/BAN/BAS/BAT
Butylamine	7		BTY	IAM/BAM/BTL/BUA
Butylbenzene, *see* Alky(C3-C4)benzenes	32	2	BBE	AKC
Butyl benzyl phthalate	34		BPH	
Butyl butyrate	34		BBA	BUB/BIB
Butylene	30		BTN	IBL
Butylene glycol	20	2	BUG	BDO
1,3-Butylene glycol, see Butylene glycol				BUG
Butylene oxide	16	1	BTO	
Butyl ether	41		BTE	
Butyl formate	34			BFI/BFN
Butyl heptyl ketone	18		BHK	
Butyl methacrylate	14	1	BMH	BMI/BMN
Butyl methacrylate, Decyl methacrylate, Cetyl-Eicosyl methacrylate mixture	14	1	DER	
Butyl methyl ketone, see Methyl butyl ketone				MBK
Butyl phenol, Formaldehyde resin in Xylene	32	2		
n-Butyl propionate	34		BPN	
Butyl stearate	34			
Butyl toluene	32	2	BUE	
Butyraldehyde	19		BAE	BAD/BTR
Butyric acid	4		BRA	IBR
gamma-Butyrolactone	0	1, 2	BLA	
C9 Resinfeed (DSM)	32	2	CNR	
Calcium alkyl(C9)phenol sulfide, polyolefin phosphorosulfide mixture	34		CPX	
Calcium alkyl salicylate, see Calcium long chain alkyl salicylate (C13+)				CAK
Calcium bromide solution, see Drilling brines				DRB
Calcium bromide, Zinc bromide solution, see Drilling brine (containing Zinc salts)				DZB
Calcium carbonate slurry	34			
Calcium chloride solution	43		CCS	CLC
Calcium hydroxide slurry	5		COH	
Calcium hypochlorite solutions	5			CHZ/CHU/CHY
Calcium lignosulfonate solution, *see also* Lignin liquor	43			
Calcium long chain alkaryl sulfonate (C11-C50)	34		CAY	
Calcium long chain alkyl phenates	34			CAN/CAW
Calcium long chain alkyl phenate sulfide (C8-C40)	34		CPI	
Calcium long chain alkyl salicylate (C13+)	34		CAK	
Calcium long chain alkyl phenolic amine (C8-C40)	9		CPQ	
Calcium nitrate solution	34		CNU	
Calcium nitrate, Magnesium nitrate, Potassium chloride solution	34			
Calcium sulfonate, Calcium carbonate, Hydrocarbon solvent mixture	33			
Camphor oil	18		CPO	
Canola oil, see rapeseed oil under "oils, edible."				
Caprolactam solution	22		CLS	
Caramel solutions	43			
Carbolic oil	21		CBO	
Carbon disulfide	38		CBB	
Carbon tetrachloride	36	2	CBT	
Cashew nut shell oil (untreated)	4		OCN	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Catoxid feedstock	36	2	CXF	
Caustic potash solution	5	2	CPS	
Caustic soda solution	5	2	CSS	
Cetyl alcohol (hexadecanol), see Alcohols (C13+)	.....	.....		ALY
Cetyl-Eicosyl methacrylate mixture	14	1	CEM	
Cetyl-Stearyl alcohol, *see* Alcohols (C13+)	.....	.....		ALY
Chlorinated paraffins (C10-C13)	36	.....	CLH	
Chlorinated paraffins (C14-C17) (with 52% Chlorine)	36	.....	CLJ	
Chlorine	0	1	CLX	
Chloroacetic acid solution	4	.....	CHM	CHL/MCA
Chlorobenzene	36	.....	CRB	
Chlorodifluoromethane (*monochlorodifluoromethane*)	36	.....	MCF	
Chloroform	36	.....	CRF	
Chlorohydrins	17	1	CHD	
4-Chloro-2-methylphenoxyacetic acid, Dimethylamine salt solution	9	.....	CDM	
Chloronitrobenzene	42	.....	CNO	
1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one	18	2	CDP	
Chloropropionic acid	4	.....	CPM	CLA/CLP
Chlorosulfonic acid	0	1	CSA	
Chlorotoluene	36	.....	CHI	CTM/CTO/CRN
Choline chloride solutions	20	.....	CCO	
Citric acid	4	.....	CIS	CIT
Clay slurry, *see also* Kaolin clay slurry	43	.....		
Coal tar	33	.....	COR	OCT
Coal tar distillate	33	.....	CDL	
Coal tar, high temperature	33	.....	CHH	
Coal tar pitch	33	.....	CTP	
Cobalt naphthenate in solvent naphtha	34	.....	CNS	
Coconut oil, fatty acid	34	.....	CFA	
Copper salt of long chain (C17+) alkanoic acid	34	.....	CUS	CFT
Corn syrup	43	.....	CSY	
Cottonseed oil, fatty acid	34	.....	CFY	
Creosote	21	2	CCT	CCW/CWD
Cresols	21	.....	CRS	CRL/CSL/CSO
Cresylate spent caustic	5	.....	CSC	
Cresylic acid	21	.....	CRY	
Cresylic acid, dephenolized	21	.....	CAD	
Cresylic acid, sodium salt solution *(IMO cargo name)*, *see* Cresylate spent caustic	5	.....		CSC
Cresylic acid tar	21	.....	CRX	
Crotonaldehyde	19	2	CTA	
Cumene (isopropyl benzene), see Propylbenzene	.....	.....	CUM	PBY
1,5,9-Cyclododecatriene	30	.....	CYT	
Cycloheptane	31	1	CYE	
Cyclohexane	31	1	CHX	
Cyclohexanol	20	.....	CHN	
Cyclohexanone	18	.....	CCH	
Cyclohexanone, Cyclohexanol mixtures	18	2	CYX	
Cyclohexyl acetate	34	.....	CYC	
Cyclohexylamine	7	.....	CHA	
1,3-Cyclopentadiene dimer	30	.....	CPD	DPT
Cyclopentadiene, Styrene, Benzene mixture	30	.....	CSB	
Cyclopentane	31	1	CYP	
Cyclopentene	30	.....	CPE	
Cymene	32	2	CMP	
Decahydronaphthalene	33	.....	DHN	
Decaldehyde	19	.....		IDA/DAL
Decane, see n-Alkanes (C10+)	.....	.....	DCC	ALJ
Decanoic acid	4	.....	DCO	
Decene	30	.....	DCE	
Decyl acetate	34	.....	DYA	
Decyl acrylate	14	1	DAT	IAI/DAR
Decyl alcohol	20	2	DAX	ISA/DAN
Decylbenzene, *see* Alkyl(C9+) benzenes	32	2	DBZ	AKB
Decyloxytetrahydro-thiophene dioxide	0	1, 2	DHT	
Degummed C9 (DOW)	33	.....	DGC	
Dextrose solution, *see* Glucose solution	43	.....	DTS	GLU
Diacetone alcohol	20	2	DAA	
Dialkyl(C10-C14) benzenes, *see* Alkyl(C9+) benzenes	32	2	DAB	AKB
Dialkyl(C8-C9) diphenylamines	9	.....	DAQ	
Dialkyl(C7-C13) phthalates	34	.....	DAH	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Including:				
Diisodecyl phthalate				
Diisononyl phthalate				
Dinonyl phthalate				
Ditridecyl phthalate				
Diundecyl phthalate				
Dibromomethane	36		DBH	
Dibutylamine	7		DBA	
Dibutyl carbinol, see Nonyl alcohol				NNS
Dibutyl hydrogen phosphonate	34		DHD	
Dibutylphenols	21			DBT/DBV, DBW
Dibutyl phthalate	34		DPA	
Dichlorobenzene	36		DBX	DBM/DBO/DBP
3,4-Dichloro-1-butene	36		DCD	DCB
Dichlorodifluoromethane	36		DCF	
1,1-Dichloroethane	36		DCH	
2,2'-Dichloroethyl ether	41		DEE	
1,6-Dichlorohexane	36		DHX	
2,2'-Dichloroisopropyl ether	36		DCI	
Dichloromethane	36	2	DCM	
2,4-Dichlorophenol	21		DCP	
2,4-Dichlorophenoxyacetic acid, Diethanolamine salt solution	43		DDE	
2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution	0	1, 2	DAD	DDA/DSX
2,4-Dichlorophenoxyacetic acid, Triisopropano-lamine salt solution	43	2	DTI	
Dichloropropane	36		DPX	DPB/DPP/DPC/DPL
1,3-Dichloropropene	15	1	DPS	DPU/DPF
Dichloropropene, Dichloropropane mixtures	15	1	DMX	
2,2-Dichloropropionic acid	4		DCN	
Dicyclopentadiene, *see also* 1,3-Cyclopentadiene dimer	30		DPT	CPD
Diethanolamine	8		DEA	
Diethanolamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Diethanolamine salt solution.				DDE
Diethylamine	7		DEN	
Diethylaminoethanol *(IMO cargo name), see* Diethylethanolamine	8			DAE
2,6-Diethylaniline	9		DMN	
Diethylbenzene	32	2	DEB	
Diethylene glycol	40	2	DEG	
Diethylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			DME	PAG
Diethylene glycol butyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate.			DEM	PAF
Diethylene glycol dibenzoate	34		DGZ	
Diethylene glycol dibutyl ether	40		DIG	
Diethylene glycol diethyl ether	40			
Diethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl (C1-C6) ether			DGE	PAG
Diethylene glycol ethyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetates.			DGA	PAF
Diethylene glycol n-hexyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			DHE	PAG
Diethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			DGM	PAG
Diethylene glycol methyl ether acetate, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate.			DGR	PAF
Diethylene glycol phenyl ether	40		DGP	
Diethylene glycol phthalate	34		DGL	
Diethylene glycol propyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			DGO	PAG
Diethylenetriamine	7	2	DET	
Diethylenetriamine pentaacetic acid, pentasodium salt solution	43			
Diethylethanolamine	8		DAE	
Diethyl ether *(IMO cargo name), see* Ethyl ether	41			EET
Diethyl hexanol, see Decyl alcohol				DAX
Di-(2-ethylhexyl)adipate	34		DEH	
Di-(2-ethylhexyl)phosphoric acid	1	1	DEP	
Di-(2-ethylhexyl)phthalate, see Dioctyl phthalate	34		DIE	DOP
Diethyl phthalate	34		DPH	
Diethyl sulfate	34		DSU	
Diglycidyl ether of Bisphenol A	41		BDE	BPA
Diglycidyl ether of Bisphenol F	41		DGF	
Diheptyl phthalate	34		DHP	
Di-n-hexyl adipate	34		DHA	
Dihexyl phthalate	34			
1,4-Dihydro-9,10-dihydroxy anthracene, disodium salt solution	5		DDH	
Diisobutylamine	7		DBU	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Diisobutyl carbinol *(commercial cargo name)*, *see* Nonyl alcohol	20		DBC	NNS
Diisobutylene	30		DBL	
Diisobutyl ketone	18		DIK	
Diisobutyl phthalate	34		DIT	
Diisodecyl phthalate, see Dialkyl(C7-C13) phthalates			DID	DAH
Diisononyl adipate	34		DNY	
Diisononyl phthalate, see Dialkyl(C7-C13) phthalates			DIN	DAH
Diisooctyl phthalate	34		DIO	
Diisopropanolamine	8		DIP	
Diisopropylamine	7		DIA	
Diisopropylbenzene	32	2	DIX	
Diisopropyl naphthalene	32	2	DII	
N,N-Dimethylacetamide	10		DAC	
N,N-Dimethylacetamide solution	10		DLS	
Dimethyl adipate	34		DLA	
Dimethylamine	7		DMA	
Dimethylamine solution	7			DMG/DMY/DMC
Dimethylamine salt of 4-Chloro-2-methylphenoxyacetic acid solution, see 4-Chloro-2-methylphenoxyacetic acid, Dimethylamine salt solution.				CDM
Dimethylamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Dimethylamine salt solution.				DAD/(DDA/DSX)
2,6-Dimethylaniline	9		DMM	
Dimethylbenzene, see Xylenes				XLX
Dimethylcyclicsiloxane hydrolyzate	34			
N,N-Dimethylcyclohexylamine	7		DXN	
N,N-Dimethyldodecylamine *(IMO cargo name), see* Dodecyldimethylamine	7		DDY	
Dimethylethanolamine	8		DMB	
Dimethylformamide	10		DMF	
Dimethyl furan	41			
Dimethyl glutarate	34		DGT	
Dimethyl hydrogen phosphite	34	2	DPI	
Dimethyl naphthalene sulfonic acid, sodium salt solution	34	2	DNS	
Dimethyloctanoic acid	4		DMO	
Dimethyl phthalate	34		DTL	
Dimethylpolysiloxane, *see* Polydimethylsiloxane	34		DMP	
2,2-Dimethylpropane-1,3-diol	20		DDI	
Dimethyl succinate	34		DSE	
Dinitrotoluene	42		DNM	DTT/DNL/DNU
Dinonyl phthalate, see Dialkyl(C7-C13) phthalates			DIF	DAH
Dioctyl phthalate	34		DOP	DIE
1,4-Dioxane	41		DOX	
Dipentene	30		DPN	
Diphenyl	32	2	DIL	
Diphenylamine (molten)	9		DAG	DAM/LRM
Diphenylamines, alkylated	7		DAJ	
Diphenylamine, reaction product with 2,2,4-trimethylpentene	7		DAK	
Diphenyl, Diphenyl ether mixture	33		DDO	DTH
Diphenyl ether	41		DPE	
Diphenyl ether, Diphenyl phenyl ether mixture	41		DOB	
Diphenylmethane diisocyanate	12		DPM	
Diphenylol propane-Epichlorohydrin resins	0	1	DPR	
Diphenyl oxide, see as diphenyl ether				
Di-n-propylamine	7		DNA	
Dipropylene glycol	40		DPG	
Dipropylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			DBG	PAG
Dipropylene glycol dibenzoate	34		DGY	
Dipropylene glycol methyl ether, see Poly (2-8)alkylene glycol monoalkyl(C1-C6) ether			DPY	PAG
Distillates, flashed feed stocks	33		DFF	
Distillates, straight run	33		DSR	
Dithiocarbamate ester (C7-C35)	34		DHO	
Ditridecyl adipate	34			
Ditridecyl phthalate, see Dialkyl(C7-C13) phthalates			DTP	DAH
Diundecyl phthalate, see Dialkyl(C7-C13) phthalates			DUP	DAH
Dodecane	31	1	DOC	ALJ
tert-Dodecanethiol	0	2	DDL	
Dodecanol	20	2	DDN	LAL
Dodecene	30		DOZ	DDC/DOD
2-Dodecenylsuccinic acid, dipotassium salt solution	34			DSP
Dodecyl alcohol *(IMO cargo name), see* Dodecanol				DDN
Dodecylamine, Tetradecylamine mixture	7	2	DTA	
Dodecylbenzene, *see* Alkyl(C9+)benzenes	32	2	DDB	AKB

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Dodecylbenzenesulfonic acid	0	1, 2	DSA	
Dodecyldimethylamine, Tetradecyldimethylamine mixture	7		DOT	
Dodecyl diphenyl ether disulfonate solution	43		DOS	
Dodecyl hydroxypropyl sulfide	0	1, 2	DOH	
Dodecyl methacrylate	14	1	DDM	
Dodecyl-Octadecyl methacrylate mixture	14	1	DOM	
Dodecyl-Pentadecyl methacrylate mixtures	14	1	DDP	
Dodecyl phenol	21		DOL	
Dodecyl xylene	32	2	DXY	
Drilling brine (containing Calcium, Potassium or Sodium salts)	43			DRB
Drilling brine (containing Zinc salts)	43		DZB	
Drilling mud (low toxicity) *(if flammable or combustible)*	33			DRM
Drilling mud (low toxicity) *(if non-flammable or non-combustible)*	43			DRM
Epichlorohydrin	17	1	EPC	
Epoxy resin	18			
ETBE, see Ethyl tert-butyl ether				EBE
Ethane	31	1	ETH	
Ethanolamine (*monoethanolamine*)	8		MEA	
2-Ethoxyethanol, see Ethylene glycol monoalkyl ethers			EEO	EGC
2-Ethoxyethyl acetate	34		EEA	
Ethoxylated alcohols, C11-C15, see the alcohol poylethoxylates				
Ethoxylated long chain (C16+) alkyloxyalkanamine	8		ELA	
Ethoxy triglycol	40		ETG	
Ethyl acetate	34		ETA	
Ethyl acetoacetate	34		EAA	
Ethyl acrylate	14	1	EAC	
Ethyl alcohol	20	2	EAL	
Ethylamine	7	2	EAM	
Ethylamine solution	7		EAN	
Ethyl amyl ketone	18		EAK	ELK
Ethylbenzene	32	2	ETB	
Ethyl butanol	20		EBT	
N-Ethyl-n-butylamine	7		EBA	
Ethyl tert-butyl ether	41	2	EBE	
Ethyl butyrate	34		EBR	
Ethyl chloride	36		ECL	
Ethyl cyclohexane	31	1	ECY	
N-Ethylcyclohexylamine	7		ECC	
Ethylene	30		ETL	
Ethyleneamine EA 1302	7	2	EMX	EDA
Ethylene carbonate	34			
Ethylene chlorohydrin	20		ECH	
Ethylene cyanohydrin	20		ETC	
Ethylenediamine	7	2	EDA	EMX
Ethylenediaminetetraacetic acid, tetrasodium salt solution	43		EDS	
Ethylene dibromide	36		EDB	
Ethylene dichloride	36	2	EDC	
Ethylene glycol	20	2	EGL	
Ethylene glycol acetate	34		EGO	
Ethylene glycol butyl ether, see Ethylene glycol monoalkyl ethers			EGM	EGC
Ethylene glycol tert-butyl ether, see Ethylene glycol monoalkyl ethers				EGC
Ethylene glycol butyl ether acetate	34		EMA	
Ethylene glycol diacetate	34		EGY	
Ethylene glycol dibutyl ether	40		EGB	
Ethylene glycol ethyl ether, see Ethyl glycol monoalkyl ethers			EGE	EGC/EEO
Ethylene glycol ethyl ether acetate, see 2-Ethoxyethyl acetate			EGA	EEA
Ethylene glycol hexyl ether	40		EGH	
Ethylene glycol isopropyl ether, see Ethylene glycol monoalkyl ethers			EGI	EGC
Ethylene glycol methyl butyl ether, see Ethylene glycol monoalkyl ethers	40		EMB	EGC
Ethylene glycol methyl ether, see Ethylene glycol monoalkyl ethers			EME	EGC
Ethylene glycol methyl ether acetate	34		EGT	
Ethylene glycol monoalkyl ethers	40		EGC	
Including:				
Ethylene glycol butyl ether				
Ethylene glycol isobutyl ether				
Ethylene glycol tert-butyl ether				
Ethylene glycol ethyl ether				
Ethylene glycol hexyl ether				
Ethylene glycol methyl ether				
Ethylene glycol propyl ether				
Ethylene glycol isopropyl ether				
Ethylene glycol phenyl ether	40		EPE	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Ethylene glycol phenyl ether, Diethylene glycol phenyl ether mixture	40		EDX	
Ethylene glycol propyl ether, see Ethylene glycol monoalkyl ethers			EGP	EGC
Ethylene glycol iso-propyl ether, see Ethylene glycol monoalkyl ethers			EGI	EGC
Ethylene oxide	0	1	EOX	
Ethylene oxide, Propylene oxide mixture	16	1	EPM	
Ethylene-Propylene copolymer	30			
Ethylene-Vinyl acetate copolymer emulsion	43			
Ethyl ether	41		EET	
Ethyl-3-ethoxypropionate	34		EEP	
2-Ethylhexaldehyde, see Octyl aldehydes			HA	OAL
2-Ethylhexanoic acid, see Octanoic acids			EHO	OAY
2-Ethylhexanol, see Octanol			EHX	OCX
2-Ethylhexyl acrylate	14	1	EAI	
2-Ethylhexylamine	7		EHM	
Ethyl hexyl phthalate	34		EHE	
Ethyl hexyl tallate	34		EHT	
2-Ethyl-1-(hydroxymethyl)propane-1,3-diol, C8-C10 ester	34		EHD	
Ethylidene norbornene	30	2	ENB	
Ethyl methacrylate	14	1	ETM	
N-Ethylmethylallylamine	7		EML	
2-Ethyl-6-methyl-N-(1'-methyl-2-methoxyethyl)aniline	9		EEM	
o-Ethyl phenol	21		EPL	
Ethyl propionate	34		EPR	
2-Ethyl-3-propylacrolein	19	2	EPA	
Ethyl toluene	32	2	ETE	
Fatty acids (saturated, C13+), *see* Fatty acids (saturated, C14+)				
Fatty acids (saturated, C14+)	34		FAD	SRA
Ferric chloride solution	1	1	FCS	FCL
Ferric hydroxyethylethylenediaminetriacetic acid, trisodium salt solution	43	2	FHX	STA
Ferric nitrate, Nitric acid solution	3		FNN	
Fish solubles *(water based fish meal extracts)*	43		FSO	
Fluorosilicic acid	1	1	FSJ	
Formaldehyde, Methanol mixtures	19	2	MTM	
Formaldehyde solution	19	2	FMS	
Formamide	10		FAM	
Formic acid	4	2	FMA	
Fructose solution	43			
Fumaric adduct of Rosin, water dispersion	43		FAR	
Furfural	19		FFA	
Furfuryl alcohol	20	2	FAL	
Gas oil, cracked	33		GOC	
Gasoline blending stock, alkylates	33		GAK	
Gasoline blending stock, reformates	33		GRF	
Gasolines:				
Automotive *(not over 4.23 grams lead per gal.)*	33		GAT	
Aviation *(not over 4.86 grams lead per gal)*	33		GAV	AVA
Casinghead *(natural)*	33		GCS	
Polymer	33		GPL	
Straight run	33		GSR	
Glucose solution	43		GLU	DTS
Glutaraldehyde solution	19		GTA	
Glycerine	20	2	GCR	
Glycerine, Dioxanedimethanol mixture	20		GDM	
Glycerol monooleate	20		GMO	
Glycerol polyalkoxylate	34			
Glyceryl triacetate	34			
Glycidyl ester of C10 trialkyl acetic acid *(IMO cargo name)*, *see* Glycidyl ester of tridecyl acetic acid.	34			GLT
Gylcidyl ester of tridecylacetic acid	34		GLT	
Glycidyl ester of Versatic acid, see Gylcidyl ester of tridecylacetic acid				GLT
Glycine, sodium salt solution	7			
Glycol diacetate, see Ethylene glycol diacetate				EGY
Glycolic acid solution	4		GLC	
Glyoxal solutions	19		GOS	
Glyoxylic acid	4		GAC	
Glyphosate solution (not containing surfactant) (See also ROUNDUP)	7		GIO	
Heptadecane, see n-Alkanes (C10+)				ALJ
Heptane	31	1	HMX	ALK (HPI/HPT)
n-Heptanoic acid	4		HEP	
Heptanol	20		HTX	HTN
Heptene	30		HPX	HTE

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Heptyl acetate	34		HPE	
Herbicide (C15-H22-NO2-Cl), see Metolachlor				MCO
Hexadecanol (cetyl alcohol), see Alcohols (C13+)				ALY
1-Hexadecylnaphthalene, 1,4-bis(Hexadecyl)naphthalene mixture	32	2		
Hexaethylene glycol, see Polyethylene glycol				
Hexamethylene glycol	20			
Hexamethylenediamine	7		HME	HMD/HMC
Hexamethylenediamine solution	7		HMC	HMD/HME
Hexamethylenediamine adipate solution	43		HAM	
Hexamethylene diisocyanate	12		HDI	
Hexamethylenetetramine	7		HMT	
Hexamethylenetetramine solutions	7		HTS	
Hexamethylenimine	7		HMI	
Hexane	31	2	HXS	ALK (IHA/HXA)
Hexanoic acid	4		HXO	
Hexanol	20		HXN	
Hexene	30		HEX	HXE/HXT/MPN/MTN
Hexyl acetate	34		HAE	HSA
Hexylene glycol	20		HXG	
HiTec 321	7		HIT	
Hog grease, see Lard				
Hydrochloric acid	1	1	HCL	
Hydrofluorosilicic acid, see Fluorosilicic acid			HFS	FSJ
bis(Hydrogenated tallow alkyl)methyl amines	7		HTA	
Hydrogen peroxide solutions	0	1		HPN/HPS/HPO
2-Hydroxyethyl acrylate	14	2	HAI	
N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution	43		HET	FHX
N,N-bis(2-Hydroxyethyl) oleamide	10		HOO	
2-Hydroxy-4-(methylthio)butanoic acid	4		HBA	
Hydroxy terminated polybutadiene *(IMO cargo name), see* Polybutadiene, hydroxy terminated	20			
alpha-hydro-omega-Hydroxytetradeca(oxytetramethylene), see Poly(tetramethylene ether) glycols (mw 950-1050).				HTO
Icosa(oxypropane-2,3-diyl)s	20		IOP	
Isophorone	18	2	IPH	
Isophorone diamine	7		IPI	
Isophorone diisocyanate	12		IPD	
Isoprene	30		IPR	
Isoprene concentrate (Shell)	30		ISC	
Isopropylbenzene (cumene), see Propylbenzene				PBY
Jet fuels:				
JP-4	33		JPF	
JP-5	33		JPV	
JP-8	33		JPE	
Kaolin clay slurry	43			
Kerosene	33		KRS	
Ketone residue	18		KTR	
Kraft black liquor	5			KPL
Kraft pulping liquors *(Black, Green, or White)*	5		KPL	
Lactic acid	0	1, 2	LTA	
Lactonitrile solution	37		LNI	
Lard	34			
Latex (ammonia inhibited)	30		LTX	
Latex, liquid synthetic	43		LLS	LTX
Lauric acid	34		LRA	
Lauryl polyglucose, see Alkyl(C12 -C14) polyglucoside solution (55% or less)			LAP	AGM
Lecithin	34		LEC	
Lignin liquor	43			
Lignin sulfonic acid, sodium salt solution, see Sodium lignosulfonate solution				
d-Limonene, see Dipentene				
Liquid Streptomyces solubles	43			
Long chain alkaryl polyether (C11-C20)	41		LCP	
Long chain alkaryl sulfonic acid (C16-C60)	0	1, 2	LCS	
Long chain alkylphenate/Phenol sulfide mixture	21		LPS	
Long chain polyetheramine in alkyl(C2-C4)benzenes	7		LCE	
l-Lysine solution	43		LYS	
Magnesium chloride solution	0	1, 2		
Magnesium hydroxide slurry	5			
Magnesium long chain alkaryl sulfonate (C11-C50)	34		MAS	MSE
Magnesium long chain alkyl phenate sulfide (C8-C20)	34		MPS	
Magnesium long chain alkyl salicylate (C11+)	34		MLS	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Magnesium nonyl phenol sulfide, see Magnesium long chain alkyl phenate sulfide (C8-C20)	.....	.....		MPS
Magnesium sulfonate, see Magnesium long chain alkaryl sulfonate (C11-C50)	.....	.....	MSE	MAS
Maleic anhydride	11	.....	MLA	
Mercaptobenzothiazol, sodium salt solution *(IMO cargo name), see* Sodium-2-mercaptobenzothiazol solution.	5	.....		SMB
Mesityl oxide	18	2	MSO	
Metam sodium solution	7	.....	MSS	SMD
Methacrylic acid	4	.....	MAD	
Methacrylic resin in Ethylene dichloride	14	1	MRD	
Methacrylonitrile	15	2	MET	
Methane	31	1	MTH	
3-Methoxy-1-butanol	20	.....		
3-Methoxybutyl acetate	34	.....	MOA	
N-(2-Methoxy-1-methyl ethyl)-2-ethyl-6-methyl chloroacetanilide *(IMO cargo name), see* Metolachlor.	34	.....		MCO
1-Methoxy-2-propyl acetate	34	.....	MPO	
Methoxy triglycol	*40*	.....	*MTG*	
Methyl acetate	34	.....	MTT	
Methyl acetoacetate	34	.....	MAE	
Methyl acetylene, Propadiene mixture	30	.....	MAP	
Methyl acrylate	14	1	MAM	
Methyl alcohol	20	2	MAL	
Methylamine solutions	7	.....	MSZ	
Methyl amyl acetate	34	.....	MAC	
Methyl amyl alcohol	20	.....	MAA	MIC
Methyl amyl ketone	18	.....	MAK	
Methyl bromide	36	.....	MTB	
Methyl butanol, see the amyl alcohols	.....	.....		AAI
Methyl butenol	20	.....	MBL	
Methyl butenes (tert-amylenes), see Pentene	.....	.....		PTX
Methyl tert-butyl ether	41	2	MBE	
Methyl butyl ketone	18	2	MBK	
Methylbutynol, *see* 2-Methyl-2-hydroxy-3-butyne	20	.....	MBY	MHB
3-Methyl butyraldehyde	19	.....		
Methyl butyrate	34	.....	MBU	
Methyl chloride	36	.....	MTC	
Methylcyclohexane	31	1	MCY	
Methylcyclopentadiene dimer	30	.....	MCK	
Methyl diethanolamine	8	.....	MDE	MAB
Methylene chloride, see Dichloromethane	.....	.....		DCM
2-Methyl-6-ethylaniline	9	.....	MEN	
Methyl ethyl ketone	18	2	MEK	
2-Methyl-5-ethylpyridine	9	.....	MEP	
Methyl formate	34	.....	MFM	
N-Methylglucamine solution	43	.....	MGC	
Methyl heptyl ketone	18	.....	MHK	
2-Methyl-2-hydroxy-3-butyne	20	.....	MHB	
Methyl isoamyl ketone	18	.....		MAK
Methyl isobutyl carbinol, see Methyl amyl alcohol	.....	.....	MIC	MAA
Methyl isobutyl ketone	18	2	MIK	
Methyl methacrylate	14	1	MMM	
3-Methyl-3-methoxybutanol	20	.....		
3-Methyl-3-methoxybutyl acetate	34	.....		
Methyl naphthalene	32	2	MNA	
Methylolureas	19	.....	MUS	
2-Methyl pentane	31	1		IHA
2-Methyl-1-pentene, see Hexene	.....	.....	MPN	HEX
4-Methyl-1-pentene, see Hexene	.....	.....	MTN	HEX
Methyl tert-pentyl ether *(IMO cargo name), see* tert-Amyl methyl ether	41	.....		AYE
2-Methyl-1,3-propanediol	20	.....	MDL	
Methyl propyl ketone	18	.....	MKE	
Methylpyridine	9	.....		MPR/MPE/MPF
N-Methyl-2-pyrrolidone	9	2	MPY	
Methyl salicylate	34	.....	MES	
alpha-Methylstyrene	30	.....	MSR	
3-(Methylthio)propionaldehyde	19	.....	MTP	
Metolachlor	34	.....	MCO	
Milk	43	.....		
Mineral spirits	33	.....	MNS	
Molasses	20	.....		
Molasses residue	0	1		

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Monochlorodifluoromethane	36		MCF	
Monoethanolamine, see Ethanolamine				
Monoisopropanolamine, see Propanolamine				
Morpholine	7	2	MPL	
Motor fuel antiknock compounds containing lead alkyls	0	1	MFA	
MTBE, see Methyl tert-butyl ether				MBE
Myrcene	30		MRE	
Naphtha:				
Aromatic	33			
Coal tar solvent	33		NCT	
Heavy	33			
Paraffinic	33			
Petroleum	33		PTN	
Solvent	33		NSV	
Stoddard solvent	33		NSS	
Varnish Makers' and Painters'	33		NVM	
Naphthalene	32	2	NTM	
Naphthalene still residue	32	2	NSR	
Naphthalene sulfonic acid-formaldehyde copolymer, sodium salt solution	0	1	NFS	
Naphthalene sulfonic acid, sodium salt solution	34		NSA	
Naphthenic acid	4		NTI	
Naphthenic acid, sodium salt solution	43		NTS	
Neodecanoic acid	4		NEA	
NIAX POLYOL APP 240C	0	1, 2	NXP	
Nitrating acid	0	1	NIA	
Nitric acid (70% or less)	3		NCD	
Nitric acid (greater than 70%)	0	1		NAC
Nitrobenzene	42		NTB	
o-Nitrochlorobenzene, see Chloronitrobenzene				CNO
Nitroethane	42		NTE	
Nitroethane, 1-Nitropropane mixtures	42		NNO	
o-Nitrophenol	0	1, 2	NTP	NIP/NPH
Nitropropane	42		NPM	NPN/NPP
Nitropropane, Nitroethane mixture	42			NNO (NNM/NNL)
Nitrotoluene	42		NIT	NIE/NTT/NTR
Nonane	31	1	NAX	ALK (NAN)
Nonanoic acid	4		NNA	NAI/NIN
Nonanoic, Tridecanoic acid mixture	4		NAT	
Nonene	30		NOO	NON/NNE
Nonyl acetate	34		NAE	
Nonyl alcohol	20	2	NNS	NNI/NNN/DBC
Nonylbenzene, see Alkyl(C9+)benzenes				AKB
Nonyl methacrylate	14	1	NMA	
Nonyl phenol	21		NNP	
Nonyl phenol poly(4+)ethoxylates	40		NPE	
Nonyl phenol sulfide solution, see Alkyl phenol sulfide (C8-C40)				AKS/NPS
Noxious Liquid Substance, n.o.s. (NLS's)	0	1		
1-Octadecene, see the olefin or alpha-olefin entries				
Octadecenoamide	10		ODD	
Octadecenol (oleyl alcohol), see Alcohols (C13+)				ALY
Octane	31	1	OAX	ALK (IOO/OAN)
Octanoic acid	4		OAY	OAA/EHO
Octanol	20	2	OCX	IOA/OTA/EHX
Octene	30		OTX	OTE
n-Octyl acetate	34		OAF	OAE
Octyl alcohol, see Octanol				OCX
Octyl aldehyde	19		OAL	IOC/OLX/EHA
Octyl decyl adipate	34		ODA	
Octyl nitrate, see Alkyl(C7-C9) nitrates			ONE	AKN
Octyl phenol	21			
Octyl phthalate, see Dioctyl phthalate				DOP
Oil, edible:				
Beechnut	34		OBN	VEO
Castor	34		OCA	VEO
Cocoa butter	34		OCB	VEO
Coconut	34	2	OCC	VEO
Cod liver	34		OCL	AFN
Corn	34		OCO	VEO
Cottonseed	34		OCS	VEO
Fish	34	2	OFS	AFN

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Groundnut	34		OGN	VEO
Hazelnut	34		OHN	VEO
Lard	34		OLD	AFN
Maize	34			VEO (OCO)
Nutmeg butter	34		ONB	VEO
Olive	34		OOL	VEO
Palm	34	2	OPM	VEO
Palm kernel	34		OPO	VEO
Peanut	34		OPN	VEO
Poppy	34		OPY	VEO
Poppy seed	34			VEO
Raisin seed	34		ORA	VEO
Rapeseed	34		ORP	VEO
Rice bran	34		ORB	VEO
Safflower	34		OSF	VEO
Salad	34		OSL	VEO
Sesame	34		OSS	VEO
Soya bean	34		OSB	VEO
Sunflower seed	34		OSN	VEO
Tucum	34		OTC	VEO
Vegetable	34		OVG	VEO
Walnut	34		OWN	VEO
Oil, fuel:				
No. 1	33		OON	
No. 1-D	33		OOD	
No. 2	33		OTW	
No. 2-D	33		OTD	
No. 4	33		OFR	
No. 5	33		OFV	
No. 6	33		OSX	
Oil, misc:				
Aliphatic	33			
Animal	34		OMA	AFN
Aromatic	33			
Clarified	33		OCF	
Coal	33			
Coconut oil, fatty acid methyl ester	34		OCM	
Cotton seed oil, fatty acid	34		CFY	
Crude	33		OIL	
Diesel	33		ODS	
Gas, high pour	33			
Gas, low pour	33			
Gas, low sulfur	33			
Heartcut distillate	33			
Lanolin	34		OLL	AFN
Linseed	33		OLS	
Lubricating	33		OLB	
Mineral	33		OMN	
Mineral seal	33		OMS	
Motor	33		OMT	
Neatsfoot	33		ONF	AFN
Oiticica	34		OOI	
Palm oil, fatty acid methyl ester	34		OPE	
Penetrating	33		OPT	
Perilla	34		OPR	
Pilchard	34		OPL	AFN
Pine	33		OPI	PNL
Residual	33			
Road	33		ORD	
Rosin	33		ORN	
Seal	34			
Soapstock	34		OIS	
Soybean (epoxidized)	34			EVO
Sperm	33		OSP	AFN
Spindle	33		OSD	
Tall	34		OTL	
Tall, fatty acid	34	2	TOF	
Transformer	33		OTF	
Tung	34		OTG	
Turbine	33		OTB	
Wood	34			

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Olefin/Alkyl ester copolymer (molecular weight 2000+)	34		OCP	
Olefin mixtures	30			OFX/OFY
alpha-Olefins (C6-C18) mixtures	30		OAM	
Olefins (C13+)	30			
Oleic acid	34		OLA	
Oleum	0	1, 2	OLM	
Oleyl alcohol (octadecenol), see Alcohols (C13+)				ALY
Oleylamine	10		OLY	
ORIMULSION, see Asphalt emulsion				ASQ
Oxyalkylated alkyl phenol formaldehyde	33			
Palm kernel acid oil	34		PNO	
Palm kernel acid oil, methyl ester	34		PNF	
Palm kernel oil, fatty acid, see Palm kernel acid oil				PNO
Palm kernel oil, fatty acid methyl ester, see Palm kernel acid oil, methyl ester				PNF
Palm stearin	34		PMS	
n-Paraffins (C10-C20), see n-Alkanes (C10+)			PFN	ALJ
Paraldehyde	19		PDH	
Paraldehyde-Ammonia reaction product	9		PRB	
Pentachloroethane	36		PCE	
Pentacosa(oxypropane-2,3-diyl)s	20		POY	
Pentadecanol, see Alcohols (C13+)			PDC	ALY
1,3-Pentadiene	30		PDE	PDN
Pentaethylene glycol, see Polyethylene glycols				
Pentaethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether				PAG
Pentaethylenehexamine	7		PEN	
Pentaethylenehexamine, Tetraethylenepentamine mixture	7		PEP	
Pentane	31	1	PTY	IPT/PTA
Pentanoic acid	4		POC	
n-Pentanoic acid, 2-Methyl butryic acid mixture	4		POJ	POC
Pentasodium salt of Diethylenetriamine pentaacetic acid solution, see Diethylenetriamine pentaacetic acid, pentasodium salt solution.				
Pentene	30		PTX	PTE
Pentyl aldehyde	19			
n-Pentyl propionate	34		PPE	
Perchloroethylene	36	2	PER	TTE
Petrolatum	33		PTL	
Phenol	21		PHN	
1-Phenyl-1-xylyl ethane	32	2	PXE	
Phosphate esters, alkyl(C12-C14)amine	7		PEA	
Phosphoric acid	1	1	PAC	
Phosphorus	0	1	PPW	PPR/PPB
Phthalate based polyester polyol	0	1, 2	PBE	
Phthalic anhydride	11		PAN	
alpha-Pinene	30		PIO	PIN
beta-Pinene	30		PIP	PIN
Pine oil	33		PNL	OPI
Polyalkyl(C18-C22) acrylate in Xylene	14	1	PIX	
Polyalkylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			PGB	PAG
Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether	40		PAG	
Including:				
Diethylene glycol butyl ether				
Diethylene glycol ethyl ether				
Diethylene glycol n-hexyl ether				
Diethylene glycol methyl ether				
Diethylene glycol n-propyl ether				
Dipropylene glycol butyl ether				
Dipropylene glycol methyl ether				
Polyalkylene glycol butyl ether				
Polyethylene glycol monoalkyl ether				
Polypropylene glycol methyl ether				
Tetraethylene glycol methyl ether				
Triethylene glycol butyl ether				
Triethylene glycol ethyl ether				
Triethylene glycol methyl ether				
Tripropylene glycol methyl ether				
Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether acetate	34		PAF	
Including:				
Diethylene glycol butyl ether acetate				
Diethylene glycol ethyl ether acetate				
Diethylene glycol methyl ether acetate				
Polyalkylene glycols, Polyalkylene glycol monoalkyl ethers mixtures	40		PPX	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Polyalkylene oxide polyol	20		PAO	
Polyalkyl methacrylate (C1-C20)				
Polyalkyl(C10-C20)methacrylate	14	1	PMT	
Polyalkyl(C10-C18)methacrylate/Ethylene propylene copolymer mixture	14	1	PEM	
Polyaluminum chloride solution	1	1		
Polybutadiene, hydroxyl terminated	20			
Polybutene	30		PLB	
Polybutenyl succinimide	10		PBS	
Poly(2+)cyclic aromatics	32	2	PCA	
Polydimethylsiloxane	34			
Polyether (molecular weight 2000+)	41		PYR	
Polyethylene glycol	40			
Polyethylene glycol dimethyl ether	40			
Polyethylene glycol monoalkyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			PEE	PAG
Polyethylene polyamines	7	2	PEB	
Polyferric sulfate solution	34		PSS	
Polyglycerine, Sodium salts solution (containing less than 3% Sodium hydroxide)	20	2	PGT	
Polyglycerol	20			GCR
Polyisobutenamine in aliphatic (C10-C14) solvent	7		PIB	
Polyisobutenyl anhydride adduct	11			
Poly(4+)isobutylene	30			
Polymethylene polyphenyl isocyanate	12		PPI	
Polymethylsiloxane	34			
Polyolefin (molecular weight 300+)	30			
Polyolefin amide alkeneamine (C17+)	33		POH	
Polyolefin amide alkeneamine (C28+)	33		POD	
Polyolefin amide alkeneamine borate (C28-C250)	33		PAB	
Polyolefin amide alkeneamine/Molybdenum oxysulfide mixture	7			
Polyolefin amide alkeneamine polyol	20		PAP	
Poly(C17+)olefin amine	7		POG	
Polyolefinamine (C28-C250)	33		POM	
Polyolefinamine in alkyl(C2-C4)benzenes	32	2	POF	
Polyolefin aminoester salt	34		PAE	
Polyolefin anhydride	11		PAR	
Polyolefin ester (C28-C250)	34		POS	
Polyolefin phenolic amine (C28-C250)	7		PPH	
Polyolefin phosphorosulfide, barium derivative (C28-C250)	34		PPS	
Poly(20)oxyethylene sorbitan monooleate	34		PSM	
Poly(5+)propylene	30		PLQ	PLP
Polypropylene glycol	40		PGC	
Polypropylene glycol methyl ether, see Propylene glycol monoalkyl ether			PGM	PGE
Polysiloxane	34			DMP
Poly(tetramethylene ether) glycols (mw 950-1050) (*alpha-hydro-omega-Hydroxytetradeca(oxytetramethylene)*).	40		HTO	
Polytetramethylene ether glycol	40			
Potassium chloride solution	43		PCS	(DRB)
Potassium formate solution	34		PFR	
Potassium hydroxide solution *(IMO cargo name), see* Caustic potash solution	5	2		CPS
Potassium oleate	34		POE	
Potassium salt of polyolefin acid	34			
Potassium thiosulfate solution	43		PTF	
Propane	31	1	PRP	
Propanolamine	8		PAX	MPA/PLA
Propionaldehyde	19		PAD	
Propionic acid	4		PNA	
Propionic anhydride	11		PAH	
Propionitrile	37		PCN	
n-Propoxypropanol, see Propylene glycol monoalkyl ether			PXP	PGE
Propyl acetate	34			IAC/PAT
Propyl alcohol	20	2		IPA/PAL
Propylamine	7			IPP/PRA
iso-Propylamine solution	7			IPO/IPQ
Propylbenzene	32	2	PBY	PBZ/CUM
n-Propyl chloride	36		PRC	
iso-Propylcyclohexane	31	1	IPX	
Propylene	30		PPL	
Propylene-butylene copolymer	30		PBP	
Propylene carbonate	34			
Propylene dimer	30		PDR	
Propylene glycol	20	2	PPG	
Propylene glycol n-butyl ether, see Propylene glycol monoalkyl ether			PGD	PGE

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Propylene glycol ethyl ether, see Propylene glycol monoalkyl ether	.....	.....	PGY	PGE
Propylene glycol methyl ether, see Propylene glycol monoalkyl ether	.....	.....	PME	PGE
Propylene glycol methyl ether acetate	34	.....	PGN	
Propylene glycol monoalkyl ether	40	.....	PGE	
Including:				
n-Propoxypropanol				
Propylene glycol n-butyl ether				
Propylene glycol ethyl ether				
Propylene glycol methyl ether				
Propylene glycol propyl ether				
Propylene glycol phenyl ether	40	.....	PGP	
Propylene glycol propyl ether, see Propylene glycol monoalkyl ether	.....	.....		PGE
Propylene oxide	16	1	POX	
Propylene, Propane, MAPP gas mixture	30	2	PPM	
Propylene tetramer	30	.....	PTT	
Propylene trimer	30	.....	PTR	
Propyl ether	41	.....		IPE/PRE
Pseudocumene, see Trimethylbenzene	.....	.....		TME/TRE
Pyridine	9	.....	PRD	
Pyridine bases, see Paraldehyde-Ammonia reaction product	.....	.....		PRB
Roehm monomer 6615	14	1	RMN	
Rosin oil	33	.....	ORN	
Rosin soap (disproportionated) solution	43	.....	RSP	
ROUNDUP (See also Glyphosate solution)	7	.....	RUP	
Rum, see Alcoholic beverages	.....	.....		
SAP 7001	0	1	SON	
Sewage sludge	43	.....		
Silica slurry	43	.....		
Sludge, treated	43	.....		
Sodium acetate, Glycol, Water mixture (not containing Sodium hydroxide)	34	2	SAO	SAP
Sodium acetate, Glycol, Water mixture (containing Sodium hydroxide)	5	.....	SAP	SAO
Sodium acetate solution	34	.....	SAN	AKP
Sodium alkyl sulfonate solution	43	.....	SSU	
Sodium alkyl (C14-C17) sulfonates 60-65% solution *(IMO cargo name), see* Alkane (C14-C17) sulfonic acid, sodium salt solution.	34	.....	AKA	
Sodium aluminate solution	5	.....	SAU	
Sodium aluminosillicate slurry	34	.....		
Sodium benzoate solution	34	.....	SBN	
Sodium borohydride, Sodium hydroxide solution	5	.....	SBX	SBH/SBI
Sodium carbonate solutions	5	.....	SCE	
Sodium chlorate solution	0	1, 2	SDD	SDC
Sodium cyanide solution	5	.....	SCS	SCN
Sodium dichromate solution	0	1, 2	SDL	SCR
Sodium dimethyl naphthalene sulfonate solution, see Dimethyl naphthalene sulfonic acid, sodium salt solution.	.....	.....		DNS
Sodium hydrogen sulfide, Sodium carbonate solution	0	1, 2	SSS	
Sodium hydrogen sulfite solution	43	.....	SHX	
Sodium hydrosulfide solution	5	2	SHR	
Sodium hydrosulfide, Ammonium sulfide solution	5	2	SSA	
Sodium hydroxide solution *(IMO cargo name), see* Caustic soda solution	5	2		CSS
Sodium hypochlorite solution	5	.....		SHP/SHQ/(SHC)
Sodium lignosulfonate solution, *see also* Lignin liquor	43	.....		
Sodium long chain alkyl salicylate (C13+)	34	.....	SLS	
Sodium 2-mercaptobenzothiazol solution	5	.....	SMB	
Sodium N-methyl dithio carbamate solution, see Metam sodium solution	.....	.....		MSS
Sodium naphthalene sulfonate solution, see Naphthalene sulfonic acid, sodium salt solution	.....	.....	SNS	NSA
Sodium naphthenate solution, see Naphthenic acid, sodium salt solution	.....	.....		NTS
Sodium nitrite solution	5	.....	SNI	SNT
Sodium petroleum sulfonate	33	.....	SPS	
Sodium polyacrylate solution	43	2		
Sodium salt of Ferric hydroxyethylethylenediaminetriacetic acid solution, see Ferric hydroxyethylethylenediaminetriacetic acid, trisodium salt solution.	.....	.....	STA	FHX
Sodium silicate solution	43	2	SSN	SSC
Sodium sulfide, Hydrosulfide solution	0	1, 2		SSH/SSI/SSJ
Sodium sulfide solution	43	.....	SDR	
Sodium sulfite solution	43	.....	SUP	SUS
Sodium tartrates, Sodium succinates solution	43	.....	STM	
Sodium thiocyanate solution	0	1, 2	STS	SCY
Sorbitol solutions	20	.....		SBT
Soyabean oil (expoxidized)	34	.....		OSC/EVO
Stearic acid, see Fatty acids (saturated, C14+)	.....	.....	SRA	FAD

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Stearyl alcohol	20			
Styrene	30		STY	STX
Sulfohydrocarbon (C3-C88)	33		SFO	
Sulfohydrocarbon, long chain (C18+) alkylamine mixture	7		SFX	
Sulfolane	39		SFL	
Sulfonated polyacrylate solutions	43	2		
Sulfur	0	1	SXX	
Sulfuric acid	2	2	SFA	
Sulfuric acid, spent	2	2	SAC	
Sulfurized fat (C14-C20)	33		SFT	
Sulfurized polyolefinamide alkene(C28-C250) amine	33		SPO	
Tall oil	34		OTL	
Tall oil fatty acid *(Resin acids less than 20%)*	34	2	TOF	
Tall oil fatty acid, barium salt	0	1, 2	TOB	
Tall oil soap (disproportionated) solution	43		TOS	
Tallow	34	2	TLO	
Tallow fatty acid	34	2	TFD	
Tallow fatty alcohol, see Alcohols (C13+)			TFA	ALY
Tallow nitrile	37		TAN	
TAME, see tert-Amyl methyl ether				AYE
1,1,2,2-Tetrachloroethane	36		TEC	
Tetrachloroethylene, see Perchloroethylene			TTE	PER
Tetradecanol, see Alcohols (C13+)			TTN	ALY
Tetradecene, see the olefins entries			TTD	
Tetradecylbenzene, *see* Alkyl(C9+) benzenes	32	2	TDB	AKB
Tetraethylene glycol	40		TTG	
Tetraethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether				PAG
Tetraethylenepentamine	7	2	TTP	
Tetrahydrofuran	41		THF	
Tetrahydronaphthalene	32	2	THN	
1,2,3,5-Tetramethylbenzene, see Tetramethylbenzene			TTB	TTC
Tetramethylbenzene	32	2	TTC	TTB
Tetrapropylbenzene, see Alkyl(C9+)benzenes				AKB
Tetrasodium salt of EDTA solution, see Ethylenediaminetetraacetic acid, tetrasodium salt solution.				EDS
Titanium dioxide slurry	43		TDS	
Titanium tetrachloride	2	2	TTT	
Toluene	32	2	TOL	
Toluenediamine	9		TDA	
Toluene diisocyanate	12		TDI	
o-Toluidine	9		TLI	
Triarylphosphate, see Triisopropylated phenyl phosphates			TRA	TPL
Tributyl phosphate	34		TBP	
1,2,4-Trichlorobenzene	36		TCB	
1,1,1-Trichloroethane	36	2	TCE	
1,1,2-Trichloroethane	36		TCM	
Trichloroethylene	36	2	TCL	
1,2,3-Trichloropropane	36	2	TCN	
1,1,2-Trichloro-1,2,2-trifluoroethane	36		TTF	
Tricresyl phosphate	34			TCO/TCP
Tridecane, see n-Alkanes (C10+)			TRD	ALJ
Tridecanoic acid	34		TDO	
Tridecanol, see Alcohols (C13+)			TDN	ALY
Tridecene, see Olefins (C13+)			TDC	
Tridecyl acetate	34		TAE	
Tridecylbenzene, *see* Alkyl(C9+) benzenes	32	2	TRB	AKB
Triethanolamine	8	2	TEA	
Triethylamine	7		TEN	
Triethylbenzene	32	2	TEB	
Triethylene glycol	40		TEG	
Triethylene glycol butyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether				PAG
Triethylene glycol butyl ether mixture	40			
Triethylene glycol dibenzoate	34		TGB	
Triethylene glycol di-(2-ethylbutyrate)	34		TGD	
Triethylene glycol ether mixture	40			
Triethylene glycol ethyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			TGE	PAG
Triethylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			TGY	PAG
Triethylenetetramine	7	2	TET	
Triethyl phosphate	34		TPS	
Triethyl phosphite	34	2	TPI	
Triisobutylene	30		TIB	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Triisooctyl trimellitate	34			
Triisopropanolamine	8		TIP	
Triisopropanolamine salt of 2,4-Dichlorophenoxyacetic acid solution, see 2,4-Dichlorophenoxyacetic acid, Triisopropanolamine salt solution.				DTI
Triisopropylated phenyl phosphates	34		TPL	
Trimethylacetic acid	4		TAA	
Trimethylamine solution	7		TMT	
Trimethylbenzene	32	2	TRE	TME/TMB/TMD
Trimethylhexamethylenediamine (2,2,4- and 2,4,4-)	7		THA	
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4-)	12		THI	
Trimethyl nonanol, see Dodecanol				DDN
Trimethylol propane polyethoxylate	20		TPR	
2,2,4-Trimethyl-1,3-pentanediol diisobutyrate	34		TMQ	
2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate	34		TMP	
2,2,4-Trimethyl-3-pentanol-1-isobutyrate	34			
Trimethyl phosphite	34	2	TPP	
1,3,5-Trioxane	41	2	TRO	
Triphenylborane, Caustic soda solution	5		TPB	
Tripropylene, see Propylene trimer				PTR
Tripropylene glycol	40		TGC	
Tripropylene glycol methyl ether, see Poly(2-8)alkylene glycol monoalkyl(C1-C6) ether			TGM	PAG
Trisodium nitrilotriacetate	34			
Trisodium phosphate solution	5		TSP	
Trisodium salt of N-(Hydroxyethyl)ethylenediaminetriacetic acid solution, see N-(Hydroxyethyl)ethylenediaminetriacetic acid, trisodium salt solution.				HET
Trixylyl phosphate *(IMO cargo name)*, *see* Trixylenyl phosphate	34			TRP
Trixylenyl phosphate	34		TRP	
Turpentine	30		TPT	
Ucarsol CR Solvent 302 SG	8		UCS	
Undecanoic acid	4		UDA	
Undecanol, see Undecyl alcohol				UND
Undecene	30		UDC	
Undecyl alcohol	20		UND	
Undecylbenzene, *see* Alkyl(C9+) benzenes			UDB	AKB
Urea, Ammonium mono- and di-hydrogen phosphate, Potassium chloride solution	0	1	UPX	
Urea, Ammonium nitrate solution (containing Ammonia)	6		UAS	
Urea, Ammonium nitrate solution (not containing Ammonia)	43		UAT	ANU
Urea, Ammonium phosphate solution	43		UAP	
Urea solution	43			URE
Valeraldehyde	19		VAK	IVA/VAL
Vanillin black liquor	5		VBL	
Vegetable oils, n.o.s.	34		VEO	
Including:				
Beechnut oil				
Castor oil				
Cocoa butter				
Coconut oil				
Corn oil				
Cottonseed oil				
Groundnut oil				
Hazelnut oil				
Linseed oil				
Nutmeg butter				
Oiticica oil				
Olive oil				
Palm kernel oil				
Palm oil				
Peel oil (oranges and lemons)				
Perilla oil				
Poppy oil				
Raisin seed oil				
Rapeseed oil				
Rice bran oil				
Safflower oil				
Salad oil				
Sesame oil				
Soya bean oil				
Sunflower seed oil				
Tucum oil				
Tung oil				
Walnut oil				
Vegetable acid oils and distillates, n.o.s.	34		VAO	

TABLE I.—ALPHABETICAL LIST OF CARGOES—Continued

Chemical name	Group No.	Foot-note	CHRIS Code	Related CHRIS Codes
Including:				
Corn acid oil				
Cottonseed acid oil				
Dark mixed acid oil				
Groundnut acid oil				
Mixed acid oil				
Mixed general acid oil				
Mixed hard acid oil				
Mixed soft acid oil				
Rapeseed acid oil				
Safflower acid oil				
Soya acid oil				
Sunflower seed acid oil				
Vegetable protein solution	43	.....		
Vinyl acetate	13	1	VAM	
Vinyl chloride	35	.....	VCM	
Vinyl ethyl ether	13	1	VEE	
Vinylidene chloride	35	.....	VCI	
Vinyl neodecanate	13	1	VND	
Vinyltoluene	13	1	VNT	
Water	43	.....		
Waxes:	.....	.....	WAX	
Candelilla	34	.....	WDC	
Carnauba	34	.....	WCA	
Paraffin	31	1	WPF	
Petroleum	33	.....		
Wine, see Alcoholic beverages	.....	.....		
White spirit (low (15-20%) aromatic)	33	.....	WSL	WSP
Xylene	32	2	XLX	XLM/XLO/XLP
Xylenes, Ethylbenzene mixture	32	2	XEB	
Xylenols	21	.....	XYL	
Zinc alkaryl dithiophosphate (C7-C16)	34	.....	ZAD	
Zinc alkenyl carboxamide	10	.....	ZAA	
Zinc alkyl dithiophosphate (C3-C14)	34	.....	ZAP	
Zinc bromide, Calcium bromide solution, see Drilling brine (containing Zinc salts)	.....	.....		DZB

1. Because of very high reactivity or unusual conditions of carriage or potential compatibility problems, this commodity is not assigned to a specific group in the Compatibility Chart. For additional compatibility information, contact Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001. Telephone (202) 267–1577.
2. See Appendix I–Exceptions to the Chart.

PART 150 TABLE II—[AMENDED]

9. In Table II, amend the designated Compatibility Groups as follows:

a. In Compatibility Group O, Unassigned Cargoes:

1. Remove the words ''2-Hydroxyethyl acrylate [1,2]''.

2. Remove the words ''Potassium polysulfide, Potassium thiosulfide solution (41% or less)''.

b. In Compatibility Group 7, Aliphatic Amines:

1. Remove the words ''Calcium long chain alkyl phenolic amine (C8–C40)''.

2. Remove the word ''Diethylenetriamine'' and add, in its place, the word ''Diethylenetriamine [2]''.

3. Remove the words ''Polyalkyl methacrylate (C1–C20)''.

4. Remove the words ''Polyolefin amide alkeneamine polyol''.

5. Remove the words ''Polyolefinamine in alkyl (C2–C4) benzenes''.

6. Remove the words ''Polyolefin phenolic amine (C28–C250)''.

7. Remove the word ''Tetraethylenepentamine'' and add, in its place, the word ''Tetraethylenepentamine [2]''.

c. In Compatibility Group 14, Acrylates, remove the words ''Polyalkyl methacrylate (C1–C20)'', and add, in their place, the words ''Polyalkyl (C10–C20) methacrylate''.

d. In Compatibility Group 18, Ketones, remove the entry ''Methyl diethanolamine''.

e. In Compatibility Group 20, Alcohols, Glycols, remove the words ''Polybutadiene, hydroxyl terminated'' and add, in their place, the words ''Polybutadiene, hydroxy terminated''.

f. In Compatibility Group 30, Olefins, remove the words ''Pentene, Miscellaneous hydrocarbon mixture [2]''.

g. In Compatibility Group 33, Miscellaneous Hydrocarbon Mixtures, from the entry ''Alachlor technical'' remove the word ''technical''.

h. In Compatibility Group 34, Esters:

1. Remove the words ''Alkyl phenol sulfide (C8–C40)'' and add, in their place, the words ''Alkyl (C8–C40) phenol sulfide''.

2. Remove the words ''Barium long chain alkaryl sulfonate (C11–C50)'' and add, in their place, the words ''Barium long chain alkaryl (C11–C50) sulfonate''.

3. Remove the words ''Calcium long chain alkyl phenate (C8–C40)'' and add the words ''Calcium long chain alkyl phenates'' following the entry for ''Calcium long chain alkyl phenate sulfide (C8–C40)''.

4. Revise the entry ''Fatty acids (saturated, C13+)'', to read ''Fatty acids (saturated, C14+)''.

5. For the entry ''Lecithin (*soyabean*)'', remove the word ''(*soyabean*)''.

6. Remove the words ''Polyolefin amide alkeneamine borate (C28–C250)''.

i. In Compatibility Group 36, Halogenated Hydrocarbons, remove the words ''Carbon tetrachloride'' and add, in their place, the words ''Carbon tetrachloride [2]''.

j. In Compatibility Group 40, Glycol Ethers,

1. Remove the words ''Nonyl phenol (ethoxylated)''.

2. Revise the entry ''Nonyl phenol poly(4–12)ethoxylates'', to read ''Nonyl phenol poly(4+)ethoxylates''.

3. Remove the words ''Oil, misc:''.

k. In Compatibility Group 42, Nitrocompounds, revise the entry ''Nitropropane, Nitroethane mixture'' to read ''Nitropropane, Nitroethane mixtures''.

l. In Compatibility Group 43, Miscellaneous Water Solutions, remove the words ''N-Methylglucamine solution (70% or less)''.

m. To the same Table II, add the following new entries in the designated Compatibility Groups, in chemically proper alphabetized order:

Table II—Grouping of Cargoes

* * * * *

0. Unassigned Cargoes

* * * * *

tert-Dodecanethiol [2]

* * * * *

Hydrogen peroxide solutions [1]

* * * * *

NIAX POLYOL APP 240C [1, 2]

* * * * *

SAP 7001 [1]

* * * * *

4. Organic Acids

* * * * *

Glycolic acid

* * * * *

n-Pentanoic acid, 2-Methyl butryic acid mixture

* * * * *

7. Aliphatic Amines

* * * * *

N,N-Dimethyldodecylamine

* * * * *

Ethyleneamine EA 1302 [2]

* * * * *

N-Ethylmethylallylamine

* * * * *

Glyphosate solution (not containing surfactant)

* * * * *

Hexamethylenediamine

* * * * *

HiTec 321

* * * * *

bis-(Hydrogenated tallow alkyl)methyl amines

* * * * *

Phosphate esters, alkyl (C12–C14) amine

* * * * *

Polyisobutenamine in aliphatic (C10–C14) solvent

* * * * *

Poly (C17+) olefin amine

* * * * *

Polyolefin amide alkeneamine (C17+)

* * * * *

iso-Propylamine solution

* * * * *

Roundup

8. Alkanolamines

* * * * *

Ethoxylated long chain (C16+) alkyloxyalkanamine

* * * * *

Methyl diethanolamine

* * * * *

Ucarsol CR Solvent 302 SG

9. Aromatic Amines

* * * * *

Alkyl (C8–C9) phenylamine in aromatic solvents

* * * * *

Calcium long chain alkyl phenolic amine (C8–C40)

* * * * *

Dialkyl (C8–C9) diphenylamines

* * * * *

Diphenylamine

* * * * *

Paraldehyde-Ammonia reaction product

10. Amides

* * * * *

Acetochlor

* * * * *

N,N-bis(2-Hydroxyethyl) oleamide

* * * * *

Zinc alkenyl carboxamide

11. Organic Anhydrides

* * * * *

Polyisobutenyl anhydride adduct

* * * * *

12. Isocyanates

* * * * *

Hexamethylene diisocyanate

* * * * *

14. Acrylates

* * * * *

Dodecyl-Octadecyl methacrylate mixture

* * * * *

2-Hydroxyethyl acrylate [2]

* * * * *

Polyalkyl (C10–C18) methacrylate/Ethylene

* * * * *

propylene copolymer mixture

* * * * *

Roehm monomer 6615

* * * * *

18. Ketones

* * * * *

1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one [2]

* * * * *

19. Aldehydes

* * * * *

3-(Methylthio)propionaldehyde

* * * * *

20. Alcohols, Glycols

* * * * *

1,4-Butanediol

* * * * *

Diethyl hexanol

* * * * *

Icosa(oxypropane-2,3-diyl)s

* * * * *

2-Methyl-1,3-propanediol

* * * * *

Penacosa(oxypropane-2,3-diyl)s

* * * * *

Polyolefin amide alkeneamine polyol

* * * * *

Trimethyl nonanol

* * * * *

21. Phenols, Cresols

* * * * *

Dibutylphenols

* * * * *

30. Olefins

* * * * *

Cyclopentadiene, Styrene, Benzene mixture

* * * * *

Isoprene concentrate (Shell)

* * * * *

Methyl butene

* * * * *

Propylene, Propane, MAPP gas mixture

* * * * *

32. Aromatic Hydrocarbons

* * * * *

C9 Resinfeed (DSM) [2]

* * * * *

1-Hexadecylnaphthalene, 1,4-bis(Hexadecyl)

* * * * *

naphthalene mixture

Naphthalene still residue

* * * * *

Polyolefin amine in alkylbenzenes (C2–C4)

* * * * *

Xylenes, Ethylbenzene mixture

33. Miscellaneous Hydrocarbon Mixtures

* * * * *

Asphalt emulsion

* * * * *

Coal tar distillate

Coal tar, high temperature

* * * * *

Degummed C9 (DOW)

* * * * *

Polyolefin amine (C28–C250)

Polyolefin amide alkeneamine (C17+)
Polyolefin amide alkeneamine borate (C28–C250)
* * * * *
Sulfurized fat (C14–C20)
Sulfurized polyolefinamide alkeneamines (C28–C250)
* * * * *

34. Esters

* * * * *
Alkyl (C10–C20, saturated and unsaturated) phosphite
Alkyl sulfonic acid ester of phenol
Alkylaryl phosphate mixtures (more than 40%
Diphenyl tolyl phosphate, less than 0.02% ortho-isomer)
* * * * *
Calcium nitrate solution
* * * * *
Copper salt of long chain alkanoic acids
* * * * *
Diethylene glycol dibenzoate
* * * * *
Dithiocarbamate ester (C7–C35)
* * * * *
Ditridecyl adipate
* * * * *
Polyolefin aminoester salt
* * * * *
Potassium formate solution
* * * * *
Potassium salt of polyolefin acid
* * * * *
Tall oil fatty acid (*Resin acids less than 20%*) [2]
* * * * *
Triethylene glycol dibenzoate
* * * * *

36. Halogenated Hydrocarbons

* * * * *
Bromochloromethane
* * * * *
Catoxid feedstock [2]
* * * * *
Dibromomethane
* * * * *
Dibutylphenols
* * * * *
3,4-Dichloro-1-butene
* * * * *
1,2,3-Trichlorobenzene
* * * * *

40. Glycol Ethers

Alkyl (C7-C11) phenol poly(4-12)ethoxylate
Alkyl (C9-C15) phenyl propoxylate
* * * * *
Pentaethylene glycol methyl ether
* * * * *
Poly(tetramethylene ether) glycols (mw 950–1050)
Polytetramethylene ether glycol
* * * * *
Tetraethylene glycol methyl ether

41. Ethers

* * * * *
tert-Amyl methyl ether
* * * * *
Ethyl tert-butyl ether [2]
* * * * *
Methyl tert-pentyl ether

42. Nitrocompounds

* * * * *
Nitroethane, 1-Nitropropane mixture
* * * * *

43. Miscellaneous Water Solutions

Alkyl polyglucoside solutions
* * * * *
Ammonium lignosulfonate solution
* * * * *
Calcium lignosulfonate solution
* * * * *
Caramel solutions
* * * * *
l-Lysine solution
* * * * *
Sodium lignosulfonate solution
* * * * *
Titanium dioxide slurry
* * * * *

Footnotes to Table II

[1] Because of very high reactivity or unusual conditions of carriage or potential compatibility problems, this product is not assigned to a specific group in the Compatibility Chart. For additional compatibility information, contact Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001. Telephone (202) 267–1577.

[2] See Appendix I—Exceptions to the Chart.

PART 150 APPENDIX [AMENDED]

10. In appendix I(a):

a. Under the compound ''Caustic Soda, 50% or less (5)'' in the column ''Member of reactive group'', revise the entry ''Sodium chlorate (0)'' in the column ''Compatible with'' to read ''Sodium chlorate solution (0)''; add the new entry ''Dodecyl alcohol (20)'' to follow the entry ''Diethylene glycol (40)'' in the column ''Compatible with''; and add the new entry ''iso-Propyl alcohol (20)'' to follow the entry ''Propyl alcohol (20)'' in the column ''Compatible with''.

b. Preceding the entry ''Dodecyl and Tetradecylamine mixture (7)'' in the column ''Member of reactive group'', add the new entry ''tert-Dodecanethiol (0)''; and, in the column ''Compatible with'', add the corresponding entries ''Acrylonitrile (15)'', ''Diisodecyl phthalate (34)'', ''Methyl ethyl ketone (18)'', ''iso-Nonyl alcohol (20)'', ''Perchloroethylene (36)'', ''iso-Propyl alcohol (20)'', and ''Tall oil, crude''.

c. Under the entry ''Sodium hydrosulfide solution (5)'' in the column ''Member of reactive group'', add the new entry ''Methyl alcohol (20)'' to precede the entry ''iso-Propyl alcohol (20)'' in the column ''Compatible with''.

11. In appendix I (b):

a. Remove the words ''Ethylenediamine (7) is not compatible with Ethylene dichloride (36)'' and add, in their place, the words ''Ethylenediamine (7) and Ethyleneamine EA 1302 (7) are not compatible with either Ethylene dichloride (36) or 1,2,3-Trichloropropane (36)''.

b. Remove the words ''Ethylene dichloride (36) is not compatible with Ethylenediamine (7)'' and add, in their place, the words ''Ethylene dichloride (36) is not compatible with Ethylenediamine (7) or Ethyleneamine EA 1302 (7)''.

c. Remove the words ''2-Hydroxyethyl acrylate is not compatible with Groups 2, 3, 5–8 and 12'' and add, in their place, the words ''2-Hydroxyethyl acrylate (14) is not compatible with Group 5, 6, or 12''.

12. Amend Appendix I (b) by removing the following entries in their entirety:

a. ''Naphtha, cracking fraction (33) is not compatible with strong acids, caustics or oxidizing agents''.

b. ''Pentene, Miscellaneous hydrocarbon mixtures (30) are not compatible with strong acids or oxidizing agents''.

c. ''Sodium salt of Ferric hydroxyethylethylenediamine triacetic acid solution (43) is not compatible with Group 3, Nitric acid''.

13. Amend Appendix I (b) by adding the following new entries in chemically proper alphabetical order to read as follows:

* * * * *

C9 Resinfeed (DSM) (32) is not compatible with Group 2, Sulfuric acid.

* * * * *

Carbon tetrachloride (36) is not compatible with Tetraethylenepentamine or Triethylenetetramine, both Group 7, Aliphatic amines.

* * * * *

Catoxid feedstock (36) is not compatible with Group 1, 2, 3, 4, 5, or 12.

* * * * *

1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one (18) is not compatible with Group 5 (Caustics) or 10 (Amides).

* * * * *

Diethylenetriamine (7) is not compatible with 1,2,3-Trichloropropane, Group 36, Halogenated hydrocarbons.

* * * * *

Ethyl tert-butyl ether (41) is not compatible with Group 1, Non-oxidizing mineral acids.

* * * * *

NIAX POLYOL APP 240C (0) is not compatible with Group 2, 3, 5, 7, or 12.

* * * * *

Propylene, Propane, MAPP gas mixture (containing 12% or less MAPP gas) (30) is not compatible with Group 1 (Non-oxidizing mineral acids), Group 36 (Halogenated hydrocarbons), nitrogen dioxide, oxidizing materials, or molten sulfur.

* * * * *

Tall oil fatty acid (*Resin acids less than 20%*) (34) is not compatible with Group 5, Caustics.

* * * * *

Tetraethylenepentamine (7) is not compatible with Carbon tetrachloride, Group 36, Halogenated hydrocarbons.

* * * * *

1,2,3-Trichloropropane (36) is not compatible with Diethylenetriamine, Ethylenediamine, Ethyleaneamine EA 1302, or Triethylenetetramine, all Group 7, Aliphatic amines.

* * * * *

Triethylenetetramine (7) is not compatible with Carbon tetrachloride, or 1,2,3-Trichloropropane, both Group 36, Halogenated hydrocarbons.

* * * * *

PART 151—BARGES CARRYING BULK LIQUID HAZARDOUS MATERIAL CARGOES

14. The citation of authority for part 151 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703; 49 CFR 1.46.

§ 151.05–1 [Amended]

15. In § 151.05–1, remove paragraph (f) and redesignate paragraphs (g) through (r) as (f) through (q).

16. Following § 151.05–2, revise Table 151.05 to read as follows:

TABLE 151.05— SUMMARY OF MINIMUM REQUIREMENTS

Cargo identification[1]			Hull type	Cargo segregation tank	Tanks			Cargo transfer		Environmental control		Fire protection required	Special requirements in 46 CFR Part 151	Electrical hazard class and group	Temp. control install.	Tank internal inspect. period—years
Cargo name	Pressure	Temp.			Type	Vent	Gauging device	Piping class	Control	Cargo tanks	Cargo handling space					
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.
Acetaldehyde	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-1	Inert	Vent F	Yes	.55-1(h)	I-C	NA	G
Acetic acid	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-73 .55-1(g)	I-D	NA	G
Acetic anhydride	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-73 .55-1(g)	I-D	NA	G
Acetone cyanohydrin	Atmos.	Amb.	I	1 i i 2 i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-70(b) .50-73 .50-81	I-D	NA	G
Acetonitrile	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Acrylic acid	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-73 .50-81 .58-1(a)	I-D	NA	G
Acrylonitrile	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.55-1(e) .50-70(a)	I-D	NA	G
Adiponitrile	Atmos.	Amb.	II	1 i i 2 i	Integral Gravity	PV	Open	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Alkylbenzenesulfonic acid (*greater than 4%*).	Atmos.	Elev.	III	1 i i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-73 .58-1(e)	I-B	NA	G
Alkyl(C7–C9) nitrates	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-81 .50-86	NA	NA	G
Allyl alcohol	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	I-C	NA	G
Allyl chloride	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5	I-D	NA	G
Aluminum sulfate solution	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.58-1(e)	NA	NA	G
Aminoethylethanolamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(b)	NA	NA	G
Ammonia, anhydrous	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR250 p.s.i.	Restr.	II	P-2	NR	Vent F	No	.50-30 .50-32	I-D	NA	G
Ammonia, anhydrous	Atmos.	Low	II	1NA 2 i i	Ind. Gravity	PV	Restr.	II-L	G-2	NR	Vent F	No	.50-30 .50-32	I-D	.40-1(b)(1)	8
Ammonium bisulfite solution (70% or less)	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-73 .56-1(a), (b), (c)	NA	NA	G

Ammonium hydroxide (28% or less NH_3) ..	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.56-1(a), (b), (c), (f), (g)	I-D	NA	G
Aniline	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	I-D	NA	G
Anthracene oil (Coal tar fraction)	Atmos.	Amb. Elev.	II	1 i i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	No	I-D	NA	G
Argon, *liquefied*	Press.	Low	III	1NA 2 i	Ind. Pressure	SR	Restr.	II-L	P-1	NR	Vent F	No	.40-1(a) .50-30 .50-36	NA	.40-1(a)	G
Benzene	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.50-60	I-D	NA	G
Benzene hydrocarbon mixtures (containing Acetylenes) *(having 10% Benzene or more).*	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.50-60 .56-1(b), (d), (f), (g),	I-D	NA	G
Benzene hydrocarbon mixtures *(having 10% Benzene or more).*	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.50-60	I-D	NA	G
Benzene, Toluene, Xylene mixtures *(having 10% Benzene or more).*	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.50-60	I-D	NA	G
Butadiene	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-2	NR	Vent F	Yes	.50-70(a) .50-73	I-B	NA	G
Butadiene, Butylene mixtures *(containing Acetylenes).*	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-1	NR	Vent F	Yes	.50-30 .50-70(a) .50-73 .56-1(b), (d), (f), (g)	I-B	NA	G
Butyl acrylate (all isomers)	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Butylamine (all isomers)	Atmos.	Amb.	II	1 i i 2 i i	Ind. Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.55-1(c)	I-D	NA	G
Butyl methacrylate	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Butyraldehyde (all isomers)	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Open	II	G-1	NR	Vent F	Yes	.55-1(h)	I-C	NA	G
Camphor oil *(light)*	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	No	I-D	NA	G
Carbolic oil	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	NA	NA	G
Carbon dioxide, *liquefied*	Press.	Low	III	1NA 2 i	Ind. Pressure	SR	Restr.	I-L	P-1	NR	Vent F	No	.50-30	NA	.40-1(b)(1)	G
Carbon disulfide	Atmos.	Amb.	II	1NA 2 i i	Ind. Gravity	PV	Restr.	II	G-1	Inert	Vent F	Yes	.50-40 .50-41	I-A	NA	G
Carbon tetrachloride	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Open	II	G-1	NR	Vent N	No	No	NA	NA	G

TABLE 151.05— SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo identification[1]			Hull type	Cargo segregation tank	Tanks			Cargo transfer		Environmental control		Fire protection required	Special requirements in 46 CFR Part 151	Electrical hazard class and group	Temp. control install.	Tank internal inspect. period—years
Cargo name	Pressure	Temp.			Type	Vent	Gauging device	Piping class	Control	Cargo tanks	Cargo handling space					
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.
Cashew nut shell oil (untreated)	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-2	NR	Vent N	Yes	.50-73	NA	NA	G
Caustic potash solution	Atmos.	Amb. Elev.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	NR	No	.50-73 .55-1(j)	NA	NA	G
Caustic soda solution	Atmos.	Amb. Elev.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	NR	No	.50-73 .55-1(j)	NA	NA	G
Chlorine	Press.	Amb.	I	1NA 2 i i	Ind. Pressure	SR300 p.s.i.	Indirect	I	P-2	NR	Vent F	No	.50-30 .50-31	NA	NA	3
Chlorobenzene	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Open	II	G-1	NR	Vent N	Yes	No	I-D	NA	G
Chloroform	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent F	No	No	NA	NA	G
Chlorohydrins *(crude)*	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5	I-D	NA	G
o-Chloronitrobenzene	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	NA	NA	G
Chlorosulfonic acid	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Open	II	G-1	NR	Vent N	No	.50-20 .50-21 .50-73	I-B	NA	G
Coal tar naphtha solvent	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-73	I-D	NA	G
Coal tar pitch (molten)	Atmos.	Elev.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-73	I-D	NA	G
Creosote	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	No	NA	NA	G
Cresols (all isomers)	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	No	NA	NA	G
Cresols with less than 5% Phenol, see Cresols (all isomers).																
Cresols with 5% or more Phenol, see Phenol.																
Cresylate spent caustic	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-73 .55-1(b)	NA	NA	G
Cresylic acid, sodium salt solution, *see* Cresylate spent caustic.																
Crotonaldehyde	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(h)	I-C	NA	G

Cyclohexanone	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.56-1(a), (b)	I-D	NA	G
Cyclohexanone, Cyclohexanol mixture	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.56-1(b)	I-D	NA	G
Cyclohexylamine	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.56-1(a), (b), (c), (g)	I-D	NA	G
Cyclopentadiene, Styrene, Benzene mixture.	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent F	Yes	.50-60 .56-1(b)	I-D	NA	G
iso-Decyl acrylate	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-70(a) .50-81(a), (b) .55-1(c)	NA	NA	G
Dichlorobenzene (all isomers)	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.56-1(a), (b)	I-D	NA	G
Dichlorodifluoromethane	Press.	Amb.	III	1NA 2 i	Ind. Pressure	SR	Restr.	II	P-1	NR	NR	No	No	NA	NA	G
1,1-Dichloroethane	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
2,2'-Dichloroethyl ether	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(f)	I-C	NA	G
Dichloromethane	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	No	I-D	NA	G
2,4-Dichlorophenoxy acetic acid, diethanolamine salt solution.	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.56-1(a), (b), (c), (g)	NA	NA	G
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution.	Atmos.	Amb. Elev.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.56-1(a), (b), (c), (g)	NA	NA	G
2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution.	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.56-1(a), (b), (c), (g)	NA	NA	G
1,1-Dichloropropane	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
1,2-Dichloropropane	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
1,3-Dichloropropane	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
1,3-Dichloropropene	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Dichloropropene, Dichloropropane mixtures.	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
2,2-Dichloropropionic acid	Atmos.	Amb.	II	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	Dry	Vent F	Yes	.50-73 .58-1(e)	NA	NA	G
Diethanolamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(c)	NA	NA	G

TABLE 151.05— SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo identification[1]			Hull type	Cargo segregation tank	Tanks			Cargo transfer		Environmental control		Fire protection required	Special requirements in 46 CFR Part 151	Electrical hazard class and group	Temp. control install.	Tank internal inspect. period—years
Cargo name	Pressure	Temp.			Type	Vent	Gauging device	Piping class	Control	Cargo tanks	Cargo handling space					
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.
Diethylamine	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(c)	I-C	NA	G
Diethylenetriamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(c)	NA	NA	G
Diethyl ether, *see* Ethyl ether.																
Diisobutylamine	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(c)	I-C	NA	G
Diisopropanolamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(c)	NA	NA	G
Diisopropylamine	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.55-1(c)	I-C	NA	G
N,N-Dimethylacetamide	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.56-1(b)	I-D	NA	G
Dimethylamine	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-2	NR	Vent F	Yes	.55-1(c)	I-C	NA	G
Dimethylethanolamine	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.56-1(b), (c)	I-C	NA	G
Dimethylformamide	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(e)	I-D	NA	G
1,4-Dioxane	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	Inert	Vent F	Yes	No	I-C	NA	G
Diphenylmethane diisocyanate	Atmos.	Elev.	II	1 i i 2 i	Integral Gravity	PV	Closed	I	G-1	Inert Dry	Vent F	Yes	.50-5 .56-1(a), (b)	NA	Yes	G
Di-n-propylamine	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(c)	I-C	NA	G
Dodecyl- dimethyl- amine, Tetradecyl-dimethylamine mixture.	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.56-1(b)	NA	NA	G
Dodecyl phenol	Atmos.	Amb.	I	1 i i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-73	I-D	NA	2
Epichlorohydrin	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5	I-C	NA	G
Ethanolamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(c)	I-D	NA	G
Ethyl acrylate	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G

Ethylamine solution (72% or less)	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.55-1(b)	I-D	NA	G
N-Ethylbutylamine	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(b)	I-C	NA	G
Ethyl chloride	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-2	NR	Vent F	Yes	No	I-D	NA	8
N-Ethylcyclohexylamine	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(b)	I-C	NA	G
Ethylene chlorohydrin	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	I-D	NA	G
Ethylene cyanohydrin	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	No	NA	NA	G
Ethylenediamine	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(c)	I-D	NA	G
Ethylene dibromide	Atmos.	Amb.	II	1 i i 2 i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	No	No	NA	NA	G
Ethylene dichloride	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Ethylene glycol monoalkyl ethers *Including:* *2-Ethoxyethanol* *Ethylene glycol butyl ether* *Ethylene glycol tert-butyl ether* *Ethylene glycol ethyl ether* *Ethylene glycol methyl ether* *Ethylene glycol n-propyl ether* *Ethylene glycol isopropyl ether*	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-C	NA	G
Ethylene glycol hexyl ether	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	No	NA	NA	G
Ethylene glycol propyl ether	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	No	NA	NA	G
Ethylene oxide	Press.	Amb.	I	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-2	Inert	Vent F	Yes	.50-10 .50-12	I-B	.40-1(c)	4
Ethyl ether	Atmos.	Amb.	II	1NA 2 i i	Ind. Gravity	PV	Closed	II	G-1	Inert	Vent F	Yes	.50-40 .50-42	I-C	NA	G
2-Ethylhexyl acrylate	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Ethylidene norbornene	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.50-5 .50-74	NA	NA	G
Ethyl methacrylate	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a)	I-D	NA	G
2-Ethyl-3-propylacrolein	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-C	NA	G
Ferric chloride solutions	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-20 .50-75	I-B	NA	G

TABLE 151.05— SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo identification[1]			Hull type	Cargo segregation tank	Tanks			Cargo transfer		Environmental control		Fire protection required	Special requirements in 46 CFR Part 151	Electrical hazard class and group	Temp. control install.	Tank internal inspect. period—years
Cargo name	Pressure	Temp.			Type	Vent	Gauging device	Piping class	Control	Cargo tanks	Cargo handling space					
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.
Fluorosilicic acid (30% or less)	Atmos.	Amb.	II	1 i i 2 i i	Ind. Gravity	PV	Closed	II	G-1	NR	Vent F	No	.50-20 .50-22 .50-73 .50-77	I-B	NA	4
Formaldehyde solution (37% to 50%)	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.55-1(h)	I-B	NA	G
Formic acid	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-73 .55-1(i)	I-D	NA	G
Furfural	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(h)	I-C	NA	G
Glutaraldehyde solution (50% or less)	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	No	NA	NA	G
Glyoxylic acid solution (50% or less)	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-73 .50-81 .58-1(e)	NA	NA	G
Hexamethylenediamine solution	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(c)	I-D	NA	G
Hexamethyleneimine	Atmos.	Amb.	II	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.56-1(b), (c)	I-C	NA	G
Hydrochloric acid	Atmos.	Amb.	III	1NA 2 i i	Ind. Gravity	Open	Open	II	G-1	NR	Vent F	No	.50-20 .50-22 .50-73	I-B	NA	4
Hydrofluorosilicic acid (25% or less), see Fluorosilicic acid (30% or less).																
2-Hydroxyethyl acrylate	Atmos.	Amb.	I	1 i i 2 i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-70(a) .50-73 .50-81(a), (b)	NA	NA	G
Isoprene	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Open	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Kraft pulping liquors (free alkali content 3% or more) *(including: Black, Green, or White liquor)*.	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	NR	No	.50-73 .56-1(a), (c), (g)	NA	NA	G
Mesityl oxide	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Methylacetylene, Propadiene mixture	Press.	Amb.	III	1 NA 2 i i	Ind. Pressure	SR	Restr.	II	P-2	NR	Vent F	Yes	.50-79	I-C	NA	G

Methyl acrylate	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Methylamine solution (42% or less)	Atmos.	Amb.	II	1NA 2 i i	Ind. Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.56-1(a), (b), (c), (g)	I-D	NA	G
Methyl bromide	Press.	Amb.	I	1NA 2 i i	Ind. Pressure	SR	Closed	I	P-2	NR	Vent F	Yes	.50-5	I-D	NA	2
Methyl chloride	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-2	NR	Vent F	Yes	.55-1(c)	I-D	NA	8
Methylcyclopentadiene dimer	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-B	NA	G
Methyl diethanolamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.56-1(b), (c)	I-C	NA	G
2-Methyl-5-ethylpyridine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(e)	I-D	NA	G
Methyl methacrylate	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
2-Methylpyridine	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(c)	I-D	NA	G
alpha-Methylstyrene	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Monochloro- difluoromethane	Press.	Amb.	III	1NA 2 i	Ind. Pressure	SR	Restr.	I	P-1	NR	NR	No	No	NA	NA	G
Morpholine	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(c)	I-C	NA	G
Motor fuel anti-knock compounds (containing lead alkyls).	Atmos.	Amb.	I	1 i i 2 i i	Ind. Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-6 .50-73	I-D	NA	.50-6
Nitric acid (70% or less)	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.50-20 .50-73 .50-80	I-B	NA	4
Nitrobenzene	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	I-D	NA	G
Nitrogen, *liquefied*	Press.	Low	III	1NA 2 i	Ind. Pressure	SR	Restr.	II-L	P-1	NR	Vent F	No	.40-1(a) .50-30 .50-36	NA	.40-1(a)	G
1- or 2-Nitropropane	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-81	I-C	NA	G
o-Nitrotoluene	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	I-D	NA	G
Octyl nitrates (all isomers), see Alkyl(C7–C9) nitrates.																
Oleum	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-20 .50-21 .50-73	I-B	NA	4

TABLE 151.05— SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo identification[1]			Hull type	Cargo segregation tank	Tanks			Cargo transfer		Environmental control		Fire protection required	Special requirements in 46 CFR Part 151	Electrical hazard class and group	Temp. control install.	Tank internal inspect. period—years
Cargo name	Pressure	Temp.			Type	Vent	Gauging device	Piping class	Control	Cargo tanks	Cargo handling space					
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.
Pentachloroethane	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	No	NA	NA	G
1,3-Pentadiene	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81	I-D	NA	G
Perchloroethylene	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	No	NA	NA	G
Phenol	Atmos.	Amb.	I	1 i i 2 i	Integral Gravity	PV	Closed	I	G-1	NR	Vent F	Yes	.50-5 .50-73	I-D	NA	2
Phosphoric acid	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-20 .50-23 .50-73	I-B	NA	4
Phosphorus, white (elemental)	Atmos.	Elev.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	Water Pad	Vent F	Yes	.50-50	NA	NA	4-8
Phthalic anhydride (molten)	Atmos.	Elev.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
Polyethylene polyamines	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(e)	NA	NA	G
Polymethylene polyphenyl isocyanate	Atmos.	Amb.	II	1 i i 2 i	Integral Gravity	PV	Closed	II	G-1	Dry	Vent F	Yes	.55-1(e)	NA	NA	G
Potassium hydroxide solution, *see* Caustic potash solution.																
iso-Propanolamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(c)	I-D	NA	G
Propanolamine (iso-, n-)	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.56-1(b), (c)	I-D	NA	G
Propionic acid	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-73 .55-1(g)	I-D	NA	G
iso-Propylamine	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.55-1(c)	I-D	NA	G
Propylene oxide	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Restr.	II	P-1	Inert	Vent F	Yes	.50-10 .50-13	I-B	NA	G
iso-Propyl ether	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	Inert	Vent F	Yes	.50-70(a)	I-D	NA	G
Pyridine	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(e)	I-D	NA	G
Sodium aluminate solution (45% or less)	Atmos.	Amb. Elev.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	NR	No	.50-73 .56-1(a), (b), (c)	NA	NA	G

Sodium chlorate solution (50% or less)	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-73	NA	NA	G
Sodium dichromate solution (70% or less)	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	Open	Closed	II	G-1	NR	Vent N	No	.50-5(d) .50-73 .56-1(b), (c)	NA	NA	G
Sodium hydroxide solution, *see* Caustic soda solution.																
Sodium hypochlorite solution (20% or less)	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.50-73 .56-1(a), (b)	NA	NA	G
Sodium sulfide, hydrosulfide solutions (H_2S 15ppm or less).	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-73 .55-1(b)	NA	NA	G
Sodium sulfide, hydrosulfide solutions (H_2S greater than 15ppm but less than 200ppm).	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.50-73 .55-1(b)	NA	NA	G
Sodium sulfide, hydrosulfide solutions (H_2S greater than 200ppm).	Atmos.	Amb.	II	1 i i 2 i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	No	.50-73 .55-1(b)	NA	NA	G
Sodium thiocyanate solution (56% or less)	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.58-1(a)	NA	NA	G
Styrene *monomer*	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Sulfur (molten)	Atmos.	Elev.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	Vent N	Vent N	Yes	.50-55	I-C	.40-1(f)(1)	G
Sulfur dioxide	Press.	Amb.	I	1NA 2 i i	Ind. Pressure	SR	Closed	.....	P-2	NR	Vent F	No	.50-30 .50-84 .55-1(j)	NA	NA	2
Sulfuric acid	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-20 .50-21 .50-73	I-B	NA	4
Sulfuric acid, spent	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	No	.50-20 .50-21 .50-73	I-B	NA	4
1,1,2,2-Tetrachloroethane	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	No	NA	NA	G
Tetraethylenepentamine	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(c)	I-C	NA	G
Tetrahydrofuran	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(b)	I-C	NA	G
Toluenediamine	Atmos.	Elev.	II	1 i i 2 i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.50-73 .56-1(a), (b), (c), (g)	NA	NA	G
Toluene diisocyanate	Atmos.	Amb.	I	1 i i 2 i i	Integral Gravity	PV	Closed	I	G-1	Dry N_2	Vent F	Yes	.50-5 .55-1(e)	I-D	NA	G
o-Toluidine	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Closed	II	G-1	NR	Vent F	Yes	.50-5 .50-73	I-D	NA	G

TABLE 151.05— SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo identification[1]			Hull type	Cargo segregation tank	Tanks			Cargo transfer		Environmental control		Fire protection required	Special requirements in 46 CFR Part 151	Electrical hazard class and group	Temp. control install.	Tank internal inspect. period—years
Cargo name	Pressure	Temp.			Type	Vent	Gauging device	Piping class	Control	Cargo tanks	Cargo handling space					
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.	k.	l.	m.	n.	o.	p.	q.
1,2,4-Trichlorobenzene	Atmos.	Amb.	III	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	No	I-D	NA	G
1,1,2-Trichloroethane	Atmos.	Amb.	III	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.50-73 .56-1(a)	I-D	NA	G
Trichloroethylene	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	No	I-D	NA	G
1,2,3-Trichloropropane	Atmos.	Amb.	II	1 i i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-73 .56-1(a)	I-D	NA	G
Triethanolamine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(b)	I-C	NA	G
Triethylamine	Atmos.	Amb.	II	1 i i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.55-1(e)	I-C	NA	G
Triethylenetetramine	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	Vent N	Yes	.55-1(b)	I-C	NA	G
Triphenylborane (10% or less), Caustic soda solution.	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	NR	No	.56-1(a), (b), (c)	NA	NA	G
Trisodium phosphate solution	Atmos.	Amb. Elev.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	NR	No	.50-73 .56-1(a), (c)	NA	NA	G
Urea, Ammonium nitrate solution (containing more than 2% NH_3).	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	No	.56-1(b)	I-D	NA	G
Valeraldehyde (all isomers)	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	Inert	Vent F	Yes	No	I-C	NA	G
Vanillan black liquor (free alkali content 3% or more).	Atmos.	Amb.	III	1 i 2 i	Integral Gravity	Open	Open	II	G-1	NR	NR	No	.50-73 .56-1(a), (c), (g)	NA	NA	G
Vinyl acetate	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Open	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81(a), (b)	I-D	NA	G
Vinyl chloride	Press.	Amb.	II	1NA 2 i i	Ind. Pressure	SR	Closed	II	P-2	NR	Vent F	Yes	.50-30 .50-34	I-D	NA	8
Vinyl chloride	Atmos.	Low	II	1NA 2 i i	Ind. Gravity	PV	Closed	II-L	G-2	NR	Vent F	Yes	.50-30 .50-34	I-D	.40-1(b)(1)	8
Vinylidene chloride	Atmos.	Amb.	II	1NA 2 i i	Ind. Gravity	PV	Closed	II	P-2	Padded	Vent F	Yes	.55-1(f) .50-70(a) .50-81(a), (b)	I-D	NA	G

Vinyltoluene	Atmos.	Amb.	III	1 i 2 i i	Integral Gravity	PV	Restr.	II	G-1	NR	Vent F	Yes	.50-70(a) .50-81 .56-1(a), (b), (c), (g)	I-D	NA	G
For requirements see these sections in Part 151:.	.....	.....	.10- 1	.13- 5	.15- 1	.15-5	.15- 10	.20- 1	.20- 5	.25-1	.25-2	.30		111.105 (Sub-chapter J)	.40	.04- 5

See Table 2 of Part 153 for additional cargoes permitted to be carried by tankbarge.
Terms and symbols:
Segregation—Tank—
Line 1—Segregation of cargo from surrounding waters:
i=Skin of vessel (single skin) only required. Cargo tank wall can be vessel's hull.
i i=Double skin required. Cargo tank wall cannot be vessel's hull.
Line 2—Segregation of cargo space from machinery spaces and other spaces which have or could have a source of ignition:
i=Single bulkhead only required. Tank wall can be sole separating medium.
i i=Double bulkhead required. Cofferdam, empty tank, pumproom, tank with Grade E Liquid (if compatible with cargo) is satisfactory.
Internal tank inspection—
G—Indicates cargo is subject to general provisions of 151.04-5(b).
Specific numbers in this column are changes from the general provisions.
Abbreviations used:
Tank type: Ind=Independent.
Vent:
PV=Pressure vacuum valve.
SR=Safety relief.
Gauging device: Restr.=Restricted.
General usage:
NR=No requirement.
NA=Not applicable.
1. The provisions contained in 46 CFR Part 197, subpart C, apply to liquid cargoes containing 0.5% or more benzene by volume.

§ 151.12–5 [Amended]

17. Amend § 151.12–5 by adding the following new entries in chemically proper alphabetized order:

§ 151.12–5 Equipment for Category D NLS.

* * * * *

Cyclohexanone, Cychexanol mixture

* * * * *

Glyoxylic acid solution (50% or less)

* * * * *

PART 153—SHIPS CARRYING BULK LIQUID, LIQUEFIED GAS, OR COMPRESSED GAS HAZARDOUS MATERIALS

18. The citation of authority for Part 153 continues to read as follows:

Authority: 46 U.S.C. 3703; 49 CFR 1.46. Section 153.40 issued under 49 U.S.C. 5103. Sections 153.470 through 153.491, 153.1100 through 153.1132, and 153.1600 through 153.1608 also issued under 33 U.S.C. 1903(b).

19. Revise Table 1 of part 153 to read as follows:

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Acetic acid	D	S	III	4m	PV	Restr	A	.238(a), .409, .527, .554, .933	I-D
Acetic anhydride	D	S	II	4m	PV	Restr	A	.238(a), .409, .526, .527, .554, .933	I-D
Acetochlor	A	P	II	NR	Open	Open	A	.409	NA
Acetone cyanohydrin	A	S/P	II	B/3	PV	Closed	A	.238(a), .316, .336, .408, .525, .526, .527, .912(a)(2), .933, .1002, .1004, .1020, .1035.	I-D
Acetonitrile	III	S	II	B/3	PV	Restr	A	.409, .525, .526, .1020	I-D
Acrylamide solution (50% or less).	D	S	II	NR	Open	Closed	NSR	.409, .525(a), (c), (d), (e), .912(a)(1), .1002(a), .1004, .1020.	NA
Acrylic acid	D	S	III	4m	PV	Restr	A	.238(a), .409, .526, .912(a)(1), .933, .1002(a), .1004.	I-D
Acrylonitrile	B	S/P	II	B/3	PV	Closed	A	.236(a), (c), (d), .316, .408, .525, .526, .527, .912(a)(1), .1004, .1020.	I-D
Adiponitrile	D	S	III	4m	PV	Restr	A	.526	I-D
Alachlor	B	S/P	III	NR	Open	Open	A, C	.238(a), .409, .440, .488, .908(a), (b).	NA
Alcohol (C6–C17) (secondary) poly(3–6)ethoxylates.	A	P	II	NR	Open	Open	A	.409	NA
Alcohol (C6–C17) (secondary) poly(7–12)ethoxylates.	B	P	III	NR	Open	Open	A	.409, .440, .908(a), (b)	NA
Alcohol(C9–C11) poly(2.5–9) ethoxylate.	B	P	III	NR	Open	Open	A	.409, .440, .908(a)	NA
Alcohol(C12–C15) poly(...)ethoxylates, *see* Alcohol(C12–C16) poly(...)ethoxylates.									
Alcohol(C12–C16) poly(1–6)ethoxylates.	A	P	II	NR	Open	Open	A	.409	NA
Alcohol(C12–C16) poly(7–19)ethoxylates.	B	P	III	NR	Open	Open	A	.409, .440, .908(a)	NA
Alcohol(C12–C16) poly(20+)ethoxylates.	C	P	III	NR	Open	Open	A	None	NA
Alkanes(C6–C9) (*all isomers*).	C	P	III	4m	PV	Restr	A	.409	I-D
Alkane(C14–C17) sulfonic acid, sodium salt solution (65% or less).	B	P	III	NR	Open	Open	NSR	.440, .908(a)	NA
Alkaryl polyether (C9–C20)	B	P	III	NR	Open	Open	A, B	.409; (.440, .908(a)) [1]	NA
Alkenyl(C16–C20) succinic anhydride.	D	S	III	B/3	PV	Closed	NSR	.316, .408, .525, .526, .1020	NA
Alkyl acrylate-Vinyl pyridine copolymer in Toluene.	C	P	III	4m	PV	Restr	A	.409	NA
Alkylaryl phosphate mixtures (more than 40% Diphenyl tolyl phosphate, less than 0.02% ortho-isomer).	A	S/P	I	B/3	PV	Closed	A, B, C	.316, .408, .525, .526, .1020	NA
Alkyl(C3–C4)benzenes (*all isomers*).	A	P	III	4m	PV	Restr	A	.409	I-D
Alkyl(C5–C8)benzenes (*all isomers*).	A	P	II	NR	Open	Open	A	.409	I-D

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Alkylbenzene, Alkylindane, Alkylindene mixture (each C12–C17).	A	P	II	NR	Open	Open	A	.409	NA
Alkylbenzenesulfonic acid *(greater than 4%)*.	C	S/P	III	NR	Open	Open	A, B	.440, .908(a)	NA
Alkylbenzenesulfonic acid, sodium salt solution.	C	P	III	NR	Open	Open	NSR	.440, .903, .908(a), (b)	NA
Alkyl(C7–C9) nitrates	B	S/P	II	NR	Open	Open	A, B	.409, .560, .1002	NA
Alkyl (C7–C11) phenol poly(4-12) ethoxylate.	B	P	III	NR	Open	Open	A	.409, .440, .488 [1], .908(a), (b)	I-D
Alkyl(C8–C9) phenylamine in aromatic solvent.	A	P	III	4m	PV	Restr	A	.409	NA
Alkyl(C10–C20, saturated and unsaturated) phosphite.	C	P	III	NR	Open	Open	A	None	NA
Alkyl(C8–C10) polyglucoside solution (65% or less).	C	P	III	NR	Open	Open	NSR	.440, .908(a), (b)	NA
Alkyl(C12–C14) polyglucoside solution (55% or less).	B	P	III	NR	Open	Open	NSR	.409, .440, .908(a), (b)	NA
Alkyl(C8–C10)/(C12–C14): (40% or less/60% or more) polyglucoside solution (55% or less).	B	P	III	NR	Open	Open	NSR	.409, .440, .908(a), (b)	NA
Alkyl(C8–C10)/(C12–C14): (50/50%) polyglucoside solution (55% or less).	C	P	III	NR	Open	Open	NSR	.440, .908(a), (b)	NA
Alkyl(C8–C10)/(C12–C14): (60% or more/40% or less) polyglucoside solution (55% or less).	C	P	III	NR	Open	Open	NSR	.440, .908(a), (b)	NA
Allyl alcohol	B	S/P	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .933, .1020.	I-C
Allyl chloride	B	S/P	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .1020	I-D
Aluminum chloride (30% or less), Hydrochloric acid (20% or less) solution.	D	S	III	4m	PV	Restr	NSR	.252, .526, .527, .554, .557, .933, .1045, .1052.	I-B
2-(2-Aminoethoxy) ethanol	D	S	III	NR	Open	Open	A, C, D	.236(b), (c), .409	NA
Aminoethylethanolamine	D	S	III	NR	Open	Open	A	.236(a), (b), (c), (g)	NA
N-Aminoethylpiperazine	D	S	III	4m	PV	Restr	A	.236(b), (c), .409, .526	I-C
2-Amino-2-methyl-1-propanol (90% or less).	D	S	III	NR	Open	Open	A	.236(a), (b), (c), (g)	I-D
Ammonia aqueous (28% or less), *see* Ammonium hydroxide (28% or less NH_3).									
Ammonium bisulfite solution (70% or less).	D	S	III	4m	PV	Restr	No	.238(e), .526, .933, .1002	NA
Ammonium hydroxide (28% or less NH_3).	C	S/P	III	4m	PV	Restr	A, B, C	.236(b), (c), (f), .526, .527	I-D
Ammonium nitrate solution (greater than 45% and less than 93%).	D	S	II	NR	Open	Open	NSR	.238(d), .252, .336, .409, .554(a), (b).	NA
Ammonium sulfide solution (45% or less).	B	S/P	II	B/3	PV	Closed	A, C	.236(a), (b), (c), (g), .316, .408, .525, .526, .527, .933, .1002, .1020.	I-D
Ammonium thiocyanate (25% or less), Ammonium thiosulfate (20% or less) solution.	C	P	III	NR	Open	Open	NSR	None	NA
Ammonium thiosulfate solution (60% or less).	C	P	III	NR	Open	Open	NSR	.440, .908(b)	NA
Amyl acetate (all isomers)	C	P	III	4m	PV	Restr	A	.409	I-D

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
tert-Amyl methyl ether	C	P	III	4m	PV	Restr	A	.409	NA
Aniline	C	S/P	II	B/3	PV	Closed	A	.316, .408, .525, .526, .933, .1020	I-D
Anthracene oil (Coal tar fraction), *see* Coal tar.									
Aviation alkylates *(C8 paraffins and iso-paraffins, b. pt. 95–120 deg. C).*	C	P	III	4m	PV	Restr	B	.409	I-C
Barium long chain (C11–C50) alkaryl sulfonate.	B	S/P	II	NR	Open	Open	A, D	.408, .440, .525(a), (c), (e), (d), .908(a), .1020.	NA
Barium long chain alkyl (C8–C14) phenate sulfide.	[A]	P	II	NR	Open	Open	A	.409	NA
Benzene hydrocarbon mixtures [2] *(having 10% Benzene or more).*	C [2]	S/P	III	B/3	PV	Closed	A, B	.316, .409, .440, .526, .908(b), .933, .1060.	I-D
Benzenesulfonyl chloride	D	S	III	4m	PV	Restr	A, B, D	.236(a), (b), (c), (g), .409, .526	I-D
Benzene, Toluene, Xylene mixtures [2] *(having 10% Benzene or more).*	@C [2]	S/P	III	B/3	PV	Closed	B	.316, .409, .440, .526, .908(b), .1060.	I-D
Benzyl acetate	C	P	III	NR	Open	Open	A	None	I-D
Benzyl alcohol	C	P	III	NR	Open	Open	A	None	I-D
Benzyl chloride	B	S/P	II	B/3	PV	Closed	A, B	.316, .408, .525, .526, .527, .912(a)(2), .1004, .1020.	I-D
Bromochloromethane	D	S	III	4m	PV	Restr	NSR	.236(a), (b), (d), .526, .933	NA
Butene oligomer	B	P	III	NR	Open	Open	A	.409	NA
Butyl acetate (all isomers)	C	P	III	4m	PV	Restr	A	.409	I-D
Butyl acrylate (all isomers)	B	S/P	II	4m	PV	Restr	A	.409, .526, .912(a)(1), .1002(a), (b), .1004.	I-D
Butylamine (all isomers)	C	S/P	II	B/3	PV	Restr	A	.236(b), (c), .316, .408, .525, .526, .527, .1020.	I-D
Butylbenzene (all isomers), *see* Alkyl(C3–C4)benzenes (*all isomers*).	A	P	III	4m	PV	Restr	A	.409	I-D
Butyl benzyl phthalate	A	P	II	NR	Open	Open	A	.409	I-D
n-Butyl butyrate, see Butyl butyrate (all isomers).									
Butyl butyrate (all isomers)	B	P	III	4m	PV	Restr	A	.409	I-D
1,2-Butylene oxide	C	S/P	III	4m	PV	Restr	A, C	.372, .409, .440, .500, .526, .530(a), (c), (e)–(g), (m)–(o), .1010, .1011.	I-B
n-Butyl ether	C	S/P	III	B/3	PV	Restr	A, D	.409, .500, .525, .526, .1020	I-C
Butyl heptyl ketone	[C]	P	III	NR	Open	Open	A	None	NA
iso-Butyl isobutyrate, see Butyl butyrate (all isomers).									
Butyl methacrylate	D	S	III	4m	PV	Restr	A, D	.409, .526, .912(a)(1), .1002(a), (b), .1004.	I-D
Butyl methacrylate, Decyl methacrylate, Cetyl-Eicosyl methacrylate mixture.	D	S	III	4m	PV	Restr	A, C, D	.912(a)(1), .1002(a), (b), .1004	I-D
n-Butyl propionate	C	P	III	4m	PV	Restr	A	.409	I-D
Butyl toluene	@A	P	II	NR	Open	Open	A	.409	I-D
Butyraldehyde (all isomers)	C	S/P	III	4m	PV	Restr	A	.409, .526	I-C
Butyric acid	D	S	III	4m	PV	Restr	A	.238(a), .554	I-D
Calcium alkyl(C9)phenol sulfide, polyolefin phosphorosulfide mixture.	A	P	II	NR	Open	Open	A, B	.409	NA
Calcium bromide, Zinc bromide solution, see Drilling brine (containing Zinc salts).									

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Calcium hypochlorite solution (15% or less).	C	S/P	III	4m	PV	Restr	NSR	.236(a), (b)	NA
Calcium hypochlorite solution (more than 15%).	B	S/P	III	4m	PV	Restr	NSR	.236(a), (b), .409	NA
Calcium long chain alkyl(C5–C10) phenate.	C	P	III	NR	Open	Open	A	None	NA
Calcium long chain alkyl salicylate (C13+).	C	P	III	NR	Open	Open	A, B	(.440, .903, .908(a)) [1]	NA
Camphor oil	B	S/P	II	4m	PV	Restr	A, B	.409	I-D
Carbolic oil	A	S/P	II	B/3	PV	Closed	A	.408, .440, .525, .526, .908(b), .933, .1020.	NA
Carbon disulfide	B	S/P	II	B/3	PV	Closed	C	.236(c), .252, .408, .500, .515, .520, .525, .526, .527, .1020, .1040.	I-A
Carbon tetrachloride	B	S/P	III	B/3	PV	Closed	NSR	.316, .409, .525, .526, .527, .1020	NA
Cashew nut shell oil (untreated).	D	S	III	4m	PV	Restr	A, B	.526, .933	NA
Caustic potash solution	C	S/P	III	NR	Open	Open	NSR	.236(a), (c), (g), .933	NA
Caustic soda solution	D	S	III	NR	Open	Open	NSR	.236(a), (c), (g), .933	NA
Cetyl-Eicosyl methacrylate mixture.	III	S	III	NR	Open	Open	A, C, D	.912(a)(1), .1002(a), (b), .1004	NA
Chlorinated paraffins (C10–C13).	A	P	I	NR	Open	Open	A	.408	NA
Chloroacetic acid (80% or less).	C	S/P	II	B/3	PV	Closed	NSR	.238(e), .408, .440, .554, .908(b)	I-D
Chlorobenzene	B	S/P	III	4m	PV	Restr	A, B	.409, .526	I-D
Chloroform	B	S/P	III	B/3	PV	Restr	NSR	.409, .525, .526, .527, .1020	NA
(crude) Chlorohydrins	D	S	II	B/3	PV	Closed	A	.408, .525, .526, .1020	I-D
4-Chloro-2-methylphenoxyacetic acid, dimethylamine salt solution.	C	P	III	NR	Open	Open	NSR	.236(a), (b), (c), (g)	NA
o-Chloronitrobenzene	B	S/P	II	B/3	PV	Closed	A, B, C, D	.316, .336, .408, .440, .525, .526, .908(a), (b), .933, .1020.	NA
1-(4-Chlorophenyl)-4,4-dimethyl pentan-3-one.	B	P	III	NR	Open	Open	A, B, D	.409, .440, .488, .908(a), (b)	NA
2- or 3-Chloropropionic acid.	C	S/P	III	NR	Open	Open	A	.238(a), (b), .440, .554, .908(a), (b)	NA
Chlorosulfonic acid	C	S/P	I	B/3	PV	Closed	NSR	.408, .525, .526, .527, .554, .555, .602, .933, .1000, .1020, .1045.	I-B
o-Chlorotoluene	A	S/P	III	4m	PV	Restr	A, B, C	.409, .526	I-D
m-Chlorotoluene	B	S/P	III	4m	PV	Restr	A, B, C	.409, .526	I-D
p-Chlorotoluene	B	S/P	II	4m	PV	Restr	A, B, C	.409, .440, .526, .908(b)	I-D
Chlorotoluenes (mixed isomers).	A	S/P	II	4m	PV	Restr	A, B, C	.409, .526	I-D
Coal tar	A	S/P	II	4m	PV	Restr	B, D	.409, .933, .1060	I-D
Coal tar naphtha solvent	B	S/P	III	4m	PV	Restr	A, D	.409, .526, .933, .1060	I-D
Coal tar pitch (molten)	D	S	III	4m	PV	Restr	B, D	.252, .409, .933, .1060	I-D
Cobalt naphthenate in solvent naphtha.	A	S/P	II	4m	PV	Restr	A, D	.409, .526	I-D
Coconut oil, fatty acid	C	P	III	NR	Open	Open	A	.440, .903, .908(a), (b)	NA
Cottonseed oil, fatty acid	[C]	P	III	NR	Open	Open	A	.440, .903, .908(a)	NA
Creosote (coal tar)	A	S/P	II	NR	Open	Open	A, B, D	.409	I-D
Creosote (wood)	A	S/P	II	NR	Open	Open	A, B, D	.409	NA
Cresols (all isomers)	A	S/P	II	NR	Open	Open	A, B	.409, .440, .908(b)	I-D

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Cresols with less than 5% Phenol, see Cresols (all isomers)									
Cresols with 5% or more Phenol, see Phenol									
Cresylate spent caustic *(mixtures of Cresols and Caustic soda solutions).*	A	S/P	II	NR	Open	Open	NSR	.236(a), (c), .409, .933	NA
Cresylic acid, dephenolized	A	S/P	II	NR	Open	Open	A, B	.409	NA
Cresylic acid, sodium salt solution, *see* Cresylate spent caustic.									
Crotonaldehyde	A	S/P	II	B/3	PV	Restr	A	.316, .409, .525, .526, .527, .1020	I-C
Cumene (isopropylbenzene), see Propylbenzene (all isomers).									
1,5,9-Cyclododecatriene	A	S/P	I	4m	PV	Restr	A	.236(b), (c), .408, .526, .912(a)(1), .1002(a), (b), .1004.	I-D
Cycloheptane	C	P	III	4m	PV	Restr	A	.409	I-D
Cyclohexane	C	P	III	4m	PV	Restr	A	.409, .440, .908(b)	I-D
Cyclohexanone	D	S	III	4m	PV	Restr	A	.236(a), (b), .409, .526	I-D
Cyclohexanone, Cyclohexanol mixture.	D	S	III	4m	PV	Restr	A	.236(a), (b), .526	I-D
Cyclohexyl acetate	B	P	III	4m	PV	Restr	A	.409	I-D
Cyclohexylamine	C	S/P	III	4m	PV	Restr	A, C, D	.236(a), (b), (c), (g), .409, .526	I-D
1,3-Cyclopentadiene dimer (molten).	B	P	II	4m	PV	Restr	A	.409, .440, .488, .908(a), (b)	I-C
Cyclopentane	C	P	III	4m	PV	Restr	A	.409	I-D
Cyclopentene	B	P	III	4m	PV	Restr	A	.409	I-D
p-Cymene	C	P	III	4m	PV	Restr	A	.409	I-D
iso-Decaldehyde	@C	P	III	NR	Open	Open	A	None	I-C
n-Decaldehyde	@B	P	III	NR	Open	Open	A	None	I-C
Decanoic acid	C	P	III	NR	Open	Open	A	.440, .903, .908(a), (b)	NA
Decene	B	P	III	4m	PV	Restr	A	.409	I-D
Decyl acetate	B	P	III	NR	Open	Open	A	.409	NA
(iso-, n-) Decyl acrylate	A	S/P	II	NR	Open	Open	A, C, D	.236(a), (b), (c), .409, .912(a)(1), .1002(a), (b), .1004.	I-D
Decyl alcohol (all isomers)	B	P	III	NR	Open	Open	A	.409, .440, .908(b)	I-D
Decyloxytetrahydrothiophene dioxide.	A	S/P	II	B/3	PV	Restr	A	.409, .526	NA
Dibromomethane	C	S/P	II	4m	PV	Restr	NSR	.236(a), (b), (d), .408, .525(a), (c), (d), (e), .526, .933, .1020.	NA
Dibutylamine	C	S/P	III	4m	PV	Restr	A, B, C, D	.236(b), (c), .409, .526	I-C
Dibutyl hydrogen phosphonate.	B	P	III	NR	Open	Open	A	.409, .440, .908(a)	NA
ortho-Dibutyl phthalate	A	P	II	NR	Open	Open	A	.409	I-D
Dichlorobenzene (all isomers) [1].	B	S/P	II	4m	PV	Restr	A, B, D	.236(a), (b), .409, .440, .488 [1], .526, .908(a), (b) [1].	I-D
3,4-Dichloro-1-butene	B	S/P	III	B/3	PV	Closed	A, B, C	.316, .409, .525(a), (c), (d), (e), .526, .527, .933, .1020.	I-D
1,1-Dichloroethane	D	S	III	4m	PV	Restr	A, B	.409, .526, .527	I-D
2,2'-Dichloroethyl ether	B	S/P	II	4m	PV	Restr	A	.236(a), (b), .409, .526	I-C
1,6-Dichlorohexane	B	S/P	II	4m	PV	Restr	A, B	.409, .526	NA
2,2'-Dichloroisopropyl ether	C	S/P	II	B/3	PV	Restr	A, B, C, D	.236(a), (b), .316, .408(a), .440, .525, .526, .1020.	I-D
Dichloromethane	D	S	III	4m	PV	Restr	NSR	.526	I-D
2,4-Dichlorophenol [4]	A	S/P	II	4m	PV	Restr	A, B, C, D	.236(a), (b), (c), (g), .409, .440, .500, .501, .526, .908(b), .933.	I-D
2,4-Dichlorophenoxyacetic acid, diethanolamine salt solution.	A	S/P	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .409	NA

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
2,4-Dichlorophenoxyacetic acid, dimethylamine salt solution.	A	S/P	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .409	NA
2,4-Dichlorophenoxyacetic acid, triisopropanolamine salt solution.	A	S/P	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .409	NA
1,1-Dichloropropane	C	S/P	II	B/3	PV	Restr	A, B	.409, .525, .526, .1020	I-D
1,2-Dichloropropane	C	S/P	II	B/3	PV	Restr	A, B	.409, .525, .526, .1020	I-D
1,3-Dichloropropane	D	S	II	B/3	PV	Restr	A, B	.409, .525, .526, .1020	I-D
1,3-Dichloropropene	B	S/P	II	B/3	PV	Closed	A, B	.316, .336, .408, .525, .526, .527, .1020.	I-D
Dichloropropene, Dichloropropane mixtures.	B	S/P	II	B/3	PV	Closed	A, B, C, D	.316, .336, .408, .526, .527	I-D
2,2-Dichloropropionic acid	D	S	III	4m	PV	Restr	A	.238(e), .266, .500, .501, .554, .933	NA
Diethanolamine	D	S	III	NR	Open	Open	A	.236(b), (c)	NA
Diethylamine	C	S/P	III	B/3	PV	Restr	A	.236(a), (b), (c), (g), .409, .525, .526, .527, .1020.	I-C
Diethylaminoethanol, *see* Diethylethanolamine									
2,6-Diethylaniline	C	S/P	III	NR	Open	Open	B, C, D	.236(b), .409, .440, .908(b)	NA
Diethylbenzene	A	P	III	4m	PV	Restr	A	.409	I-D
Diethylenetriamine	D	S	III	NR	Open	Open	A	.236(b), (c)	NA
Diethylethanolamine	C	S/P	III	4m	PV	Restr	A, C	.236(a), (b), (c), (g), .409, .526	I-C
Diethyl ether, *see* Ethyl ether									
Di-(2-ethylhexyl) phosphoric acid.	C	S/P	III	NR	Open	Open	A, B, C, D	.236(b), (c)	I-D
Diethyl phthalate	C	P	III	NR	Open	Open	A	None	I-D
Diethyl sulfate	B	S/P	II	4m	PV	Closed	A, D	.236(a), (c), (d), .409, .526, .933	I-D
Diglycidyl ether of Bisphenol A.	B	P	III	NR	Open	Open	A	.409, .440, .908(a)	NA
Diglycidyl ether of Bisphenol F.	B	P	III	NR	Open	Open	A	.409, .440, .908(a)	NA
Di-n-hexyl adipate	B	P	III	NR	Open	Open	A	.409	NA
Diisobutylamine	C	S/P	II	4m	PV	Restr	A, B, C, D	.236(a), (b), (c), (g), .409, .525(a), (c), (d), (e), .526, .1020.	I-C
Diisobutylcarbinol	@C	P	III	NR	Open	Open	A	None	I-D
Diisobutylene	B	P	III	4m	PV	Restr	A	.409	I-D
Diisobutyl phthalate	B	P	III	NR	Open	Open	A	.409, .440, .908(a)	I-D
Diisopropanolamine	C	S/P	III	NR	Open	Open	A	.236(b), (c), .440, .908(a), (b)	I-D
Diisopropylamine	C	S/P	II	B/3	PV	Closed	A	.236(b), (c), .408, .525, .526, .527, .1020.	I-C
Diisopropylbenzene (all isomers).	A	P	II	NR	Open	Open	A	.409	I-D
N,N-Dimethylacetamide	D	S	III	B/3	PV	Restr	B	.236(b), .316, .525, .526, .527, .1020.	I-D
N,N-Dimethylacetamide solution (40% or less).	D	S	III	B/3	PV	Restr	B	.236(b), .316, .526	I-D
Dimethyl adipate	B	P	III	NR	Open	Open	A	.409, .440, .908(b)	NA
Dimethylamine solution (45% or less).	C	S/P	III	B/3	PV	Restr	A, C, D	.236(a), (b), (c), (g), .409, .525, .526, .527, .1020.	I-C
Dimethylamine solution (over 45% but not over 55%).	C	S/P	II	B/3	PV	Closed	A, C, D	.236(a), (b), (c), (g), .316, .408, .525, .526, .527, .1020.	I-C
Dimethylamine solution (over 55% but not over 65%).	C	S/P	II	B/3	PV	Closed	A, C, D	.236(a), (b), (c), (g), .316, .372, .408, .525, .526, .527, .1020.	I-C
2,6-Dimethylaniline	[C]	S/P	III	NR	Open	Open	B, C, D	.236(b), .409, .440, .908(b)	I-D
N,N-Dimethylcyclohexylamine.	C	S/P	II	B/3	PV	Restr	A, C	.236(a), (b), (c), (g), .316, .409, .525, .526, .527, .1020.	NA
N,N-Dimethyldodecylamine	A	S/P	I	NR	Open	Open	B	.236(b), .408	NA
Dimethylethanolamine	D	S	III	4m	PV	Restr	A, D	.236(b), (c), .409, .526	I-C

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Dimethylformamide	D	S	III	4m	PV	Restr	A, D	.236(b), .409, .526	I-D
Dimethyl glutarate	C	P	III	NR	Open	Open	A	None	NA
Dimethyl hydrogen phosphite.	B	S/P	III	4m	PV	Restr	A, D	.526	NA
Dimethyl naphthalene sulfonic acid, sodium salt solution.	[A]	P	III	NR	Open	Open	NSR	.409	NA
Dimethyloctanoic acid	C	P	III	NR	Open	Open	A	.440, .903, .908(b)	I-D
Dimethyl phthalate	C	P	III	NR	Open	Open	A	None	I-D
Dimethyl succinate	C	P	III	NR	Open	Open	A	.440, .908(b)	NA
Dinitrotoluene (molten)	A	S/P	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .1003, .1020.	I-C
1,4-Dioxane	D	S	II	B/3	PV	Closed	A	.408, .525, .526, .1020	I-C
Dipentene	C	P	III	4m	PV	Restr	A	.409	I-D
Diphenyl	A	P	I	NR	Open	Open	B	.408	I-D
Diphenylamine (molten)	B	P	III	NR	Open	Open	B, D	.236(b), .409, .440, .488, .908(b)	NA
Diphenylamines, alkylated	A	P	II	NR	Open	Open	A	.409	NA
Diphenylamine, reaction product with 2,2,4-Trimethylpentene.	A	S/P	I	NR	Open	Open	A	.408	NA
Diphenyl, Diphenyl ether mixtures.	A	P	I	NR	Open	Open	B	.408	I-D
Diphenyl ether	A	P	III	NR	Open	Open	A	.409	I-D
Diphenyl ether, Biphenyl phenyl ether mixture.	A	P	III	NR	Open	Open	A, B	.409	NA
Diphenylmethane diisocyanate [6].	B	S/P	II	B/3	PV	Closed	A, B, C [6], D	.236(a), (b), .316, .409, .440, .500, .501, .525, .526, .602, .908(a), .1000, .1020.	NA
Diphenylol propane-epichlorohydrin resins.	B	P	III	NR	Open	Open	A, B	.409, .440, .908(a)	NA
Di-n-propylamine	C	S/P	III	4m	PV	Restr	A	.236(b), (c), .409, .525, .526, .1020	I-C
Dithiocarbamate ester (C7–C35).	A	P	II	NR	Open	Open	A, D	.409	NA
Dodecanol	B	P	III	NR	Open	Open	A	.409, .440, .488, .908(a), (b)	I-D
Dodecene (all isomers)	B	P	III	NR	Open	Open	A	.409	I-D
Dodecyl alcohol, *see* Dodecanol.									
Dodecylamine, Tetradecylamine mixture.	A	S/P	II	4m	PV	Restr	A, D	.236(b), (c), .409, .526	NA
Dodecyldimethylamine, Tetradecyldimethylamine mixture.	A	S/P	II	NR	Open	Open	B, C, D	.236(b), .409	NA
Dodecyl diphenyl ether disulfonate solution.	A	S/P	II	NR	Open	Open	NSR	.409	NA
Dodecyl hydroxypropyl sulfide.	A	P	I	NR	Open	Open	A	.408	NA
Dodecyl methacrylate	III	S	III	NR	Open	Open	A, C	.236(b), (c), .912(a)(1), .1004	I-D
Dodecyl-Octadecyl methacrylate mixture.	D	S	III	NR	Open	Restr	A, D	.236(b), .912(a)(1), .1002(a), (b), .1004.	NA
Dodecyl-Pentadecyl methacrylate mixture.	III	S	III	NR	Open	Open	A, C, D	.912(a)(1), .1002(a), (b), .1004	NA
Dodecyl phenol	A	P	I	NR	Open	Open	A	.408	I-D
Drilling brine (containing Zinc salts).	B	P	III	NR	Open	Open	NSR	.409	NA
Epichlorohydrin	A	S/P	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .1020	I-C
Ethanolamine	D	S	III	NR	Open	Open	A	.236(b), (c), .526	I-D
2-Ethoxyethyl acetate	C	P	III	4m	PV	Restr	A	.409	I-C
Ethyl acrylate	A	S/P	II	4m	PV	Restr	A	.409, .526, .527, .912(a)(1), .1002(a), (b), .1004.	I-D
Ethylamine	C	S/P	II	B/3	PV	Closed	C, D	.236(b), (c), .252, .372, .409, .525, .526, .527, .1020.	I-D
Ethylamine solution (72% or less).	C	S/P	II	B/3	PV	Closed	A, C	.236(a), (b), (c), (g), .372, .408, .525(a), (c), (d), (e), .526, .527, .1020.	I-D
Ethyl amyl ketone	C	P	III	4m	PV	Restr	A	.409	I-D

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Ethylbenzene	B	P	III	4m	PV	Restr	A	.409	I-D
N-Ethylbutylamine	C	S/P	III	4m	PV	Restr	A	.236(a), (b), (c), (g), .409, .525(a), (c), (d), (e), .526, .1020.	I-C
Ethyl tert-butyl ether	C	P	III	4m	PV	Restr	A	.409	I-C
Ethyl butyrate	C	P	III	4m	PV	Restr	A	.409	I-D
Ethylcyclohexane	C	P	III	4m	PV	Restr	A	.409	I-D
N-Ethylcyclohexylamine	D	S	III	4m	PV	Restr	A, C	.236(a), (b), (c), (g), .409, .526	I-C
S-Ethyl dipropylthiocarbamate.	C	P	III	NR	Open	Open	A	None	NA
Ethylene chlorohydrin	C	S/P	II	B/3	PV	Closed	A, D	.316, .408, .525, .526, .527, .933, .1020.	I-D
Ethylene cyanohydrin	D	S	III	NR	Open	Open	A	None	NA
Ethylenediamine	C	S/P	II	4m	PV	Restr	A	.236(b), (c), .409, .440, .526, .908(b).	I-D
Ethylene dibromide	B	S/P	II	B/3	PV	Closed	NSR	.408, .440, .525, .526, .527, .908(b), .1020.	NA
Ethylene dichloride	B	S/P	II	4m	PV	Restr	A, B	.236(b), .408, .526	I-D
Ethylene glycol butyl ether acetate.	C	P	III	NR	Open	Open	A	None	I-C
Ethylene glycol diacetate	C	P	III	NR	Open	Open	A	None	I-D
Ethylene glycol ethyl ether acetate, see 2-Ethoxyethyl acetate									
Ethylene glycol methyl ether acetate.	C	P	III	NR	Open	Open	A	None	I-C
Ethylene glycol monoalkyl ether. *Including:* *2-Ethoxyethanol* *Ethylene glycol butyl ether* *Ethylene glycol tert-butyl ether* *Ethylene glycol ethyl ether* *Ethylene glycol hexyl ether* *Ethylene glycol methyl ether* *Ethylene glycol n-propyl ether* *Ethylene glycol isopropyl ether*	D	S	III	4m	PV	Restr	A	.409	I-C
Ethylene oxide (30% or less), Propylene oxide mixture.	C	S/P	II	B/3	PV	Closed	A, C	.252, .372, .408, .440, .500, .525, .526, .530, .1010, .1011, .1020.	I-B
Ethyl ether	III	S	II	4m	PV	Closed	A	.236(g), .252, .372, .408, .440, .500, .515, .526, .527.	I-C
Ethyl-3-ethoxypropionate	C	P	III	4m	PV	Restr	A	.409	NA
2-Ethylhexanol	@C	P	III	NR	Open	Open	A	None	I-D
2-Ethylhexyl acrylate	B	S/P	III	NR	Open	Open	A	.409, .912(a)(1), .1002(a), (b), .1004.	I-D
2-Ethylhexylamine	B	S/P	II	B/3	PV	Restr	A	.236(b), (c), .409, .525, .526, .1020	I-D
Ethyl hexyl phthalate	C	P	III	NR	Open	Open	A	None	NA
Ethylidene norbornene	B	S/P	III	B/3	PV	Restr	A, B, C, D	.236(b), .409, .526	NA
Ethyl methacrylate	D	S	III	4m	PV	Restr	A, B, D	.409, .526, .912(a)(1), .1002(a), (b), .1004.	I-D
Ethylphenol	A	S/P	III	NR	Open	Open	B	.409	I-D
2-Ethyl-3-propylacrolein	A	S/P	III	4m	PV	Restr	A	.409, .526	I-C
Ethyl toluene	B	P	III	4m	PV	Restr	A	.409	I-D
Ferric chloride solutions	C	S/P	III	NR	Open	Open	NSR	.409, .440, .554, .555, .908(b), .1045.	I-B
Ferric nitrate, Nitric acid solution.	C	S/P	II	4m	PV	Restr	NSR	.408, .526, .527, .554, .555, .559, .933, .1045.	I-B

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Fluorosilicic acid (30% or less).	C	S/P	III	B/3	PV	Restr	NSR	.252, .526, .527, .554, .555, .933, .1045.	I-B
Formaldehyde (50% or more), Methanol mixtures.	#	S/P	III	4m	PV	Closed	A	.409, .526, .527	I-B
Formaldehyde solution (37% to 50%).	C	S/P	III	4m	PV	Restr	A	.409, .440, .526, .527, .908(b)	I-B
Formic acid	D	S	III	4m	PV	Restr	A	.238(b), (c), .409, .526, .527, .554, .933.	I-D
Fumaric adduct of rosin, water dispersion.	B	P	III	NR	Open	Open	NSR	.409, .440, .908(a)	NA
Furfural	C	S/P	III	4m	PV	Restr	A	.409, .526	I-C
Furfuryl alcohol	C	P	III	NR	Open	Open	A	None	I-C
Glutaraldehyde solution (50% or less).	D	S	III	NR	Open	Open	NSR	None	NA
Glycidyl ester of C10 Trialkyl acetic acid, *see* Glycidyl ester of Tridecyl acetic acid.									
Glycidyl ester of Tridecyl acetic acid.	B	P	III	NR	Open	Open	A	.409	NA
Glyoxylic acid solution (50% or less).	D	S	III	NR	Open	Open	A, C, D	.238(e), .554(a), (b), (c), .933, .1002.	NA
Heptane (all isomers), *see* Alkanes(C6–C9) (*all isomers*).	C	P	III	4m	PV	Restr	A	.409	I-D
Heptanol (all isomers)	C	P	III	4m	PV	Restr	A	.409	I-D
Heptene (all isomers)	C	P	III	4m	PV	Restr	A	.409	I-D
Heptyl acetate	B	P	III	NR	Open	Open	A	.409	NA
Hexamethylenediamine (molten).	C	S/P	II	B/3	PV	Closed	C	.236(a), (b), (c), (g), .316, .336, .409, .440, .525, .526, .527, .908(a), (b), .933, .1020.	NA
Hexamethylenediamine solution.	C	S/P	III	4m	PV	Restr	A	.236(b), (c), .409, .440, .526, .908(b).	I-D
Hexamethylene diisocyanate [6].	B	S/P	II	B/3	PV	Closed	A, C [6], D	.238(d), .252, .316, .336, .408, .500, .501, .525, .526, .527, .602, .1000, .1020.	NA
Hexamethyleneimine	C	S/P	II	4m	PV	Restr	A, C	.236(a), (b), (c), (g), .409, .526	I-C
Hexane (all isomers), *see* Alkanes(C6–C9).	C	P	III	4m	PV	Restr	A	.409	I-D
Hexene (all isomers)	C	P	III	4m	PV	Restr	A	.409	I-D
Hexyl acetate	B	P	III	4m	PV	Restr	A	.409	I-D
Hydrochloric acid	D	S	III	4m	PV	Restr	NSR	.252, .526, .527, .554, .557, .933, .1045, .1052.	I-B
Hydrogen peroxide solutions (over 8% but not over 60%).	C	S/P	III	B/3	PV	Closed	NSR	.238(a), (c), .355, .409, .440(a)(1)&(2), .500, .933, .1004(a)(2), .1500.	NA
Hydrogen peroxide solutions (over 60% but not over 70%).	C	S/P	II	B/3	PV	Closed	NSR	.238(a), (c), .355, .409, .440(a)(1)&(2), .500, .933, .1004(a)(2), .1500.	NA
2-Hydroxyethyl acrylate	B	S/P	II	B/3	PV	Closed	A	.408, .525, .526, .912(a)(1), .933, .1002(a), (b), .1004, .1020.	NA
N,N-bis(2-Hydroxyethyl) oleamide.	B	P	II	4m	PV	Restr	A	.409, .440, .488, .908(a), (b)	NA
2-Hydroxy-4-(methylthio)butanoic acid.	C	P	III	NR	Open	Open	A	.440, .903, .908(a)	NA
alpha-hydro-omega-Hydroxytetradeca(oxytetra methylene), see Poly(tetramethylene ether) glycols (mw 950-1050).									
Icosa (oxypropane-2,3-diyl)s.	B	P	III	NR	Open	Open	A	.409, .440, .908(a)	NA

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Isophorone diamine	D	S	III	4m	PV	Restr	A	.236(b), (c), .526	NA
Isophorone diisocyanate [6]	B	S/P	II	B/3	PV	Closed	A, B, C [6], D	.236(a), (b), .316, .409, .500, .501, .525, .526, .602, .1000, .1020.	NA
Isoprene	C	S/P	III	4m	PV	Restr	B	.372, .409, .440, .912(a)(1), .1002(a), (b), .1004.	I-D
Isopropylbenzene, see Propylbenzene (all isomers)									
Lactonitrile solution (80% or less).	B	S/P	II	B/3	PV	Closed	A, C, D	.238(d), .252, .316, .336, .408, .440, .525, .526, .527, .908(a), .912(a)(2), .1002, .1004, .1020, .1035.	I-D
Lauric acid	B	P	III	NR	Open	Open	A	.409, .440, .488, .908(a), (b)	NA
Lauryl polyglucose (50% or less), *see* Alkyl(C12–C14) polyglucoside solution (55% or less).									
Long chain alkaryl polyether (C11–C20).	C	P	III	NR	Open	Open	A, B	(.440, .903, .908(a)) [1]	NA
Long chain polyetheramine in alkyl(C2–C4)benzenes.	C	P	III	4m	PV	Restr	A	.409, .440, .903, .908(a)	I-D
Magnesium long chain alkyl salicylate (C11+).	C	P	III	NR	Open	Open	A, B	(.440, .903, .908(a)) [1]	NA
Maleic anhydride [7]	D	S	III	4m	PV	Restr	[7]A, C	None	I-D
Mercaptobenzothiazol, sodium salt solution, *see* Sodium-2-mercaptobenzothiazol solution									
Mesityl oxide	D	S	III	4m	PV	Restr	A	.236(b), (c), .409, .526	I-D
Metam sodium solution	A	S/P	II	NR	Open	Open	NSR	.236(a), (b), (c), (g), .409	NA
Methacrylic acid	D	S	III	4m	PV	Restr	A	.238(a), .526, .912(a)(1), .1002(a), .1004.	NA
Methacrylic resin in Ethylene dichloride.	B	S/P	II	4m	PV	Restr	A, B	.236(b), .408, .440, .526, .908(a)	I-D
Methacrylonitrile	D	S	II	B/3	PV	Closed	A	.236(b), .316, .408, .525, .526, .527, .912(a)(1), .1002(a), .1004, .1020.	NA
N-(2-Methoxy-1-methyl ethyl)-2-ethyl-6-methyl chloroacetanilide, *see* Metolachlor									
Methyl acrylate	B	S/P	II	4m	PV	Restr	A, B	.409, .526, .527, .912(a)(1), .1002(a), (b), .1004.	I-D
Methylamine solution (42% or less).	C	S/P	II	B/3	PV	Closed	A, C, D	.236(a), (b), (c), (g), .316, .408, .525, .526, .527, .1020.	I-D
Methylamyl acetate	C	P	III	4m	PV	Restr	A	.409	I-D
Methylamyl alcohol	C	P	III	4m	PV	Restr	A	.409	I-D
Methyl butyrate	C	P	III	4m	PV	Restr	A	.409	I-D
Methylcyclohexane	C	P	III	4m	PV	Restr	A	.409	I-D
Methylcyclopentadiene dimer.	B	P	III	4m	PV	Restr	B	.409	I-B
Methyl diethanolamine	D	S	III	NR	Open	Open	A	.236(b), (c)	I-C
Methylene chloride, see Dichloromethane									
2-Methyl-6-ethylaniline	C	S/P	III	NR	Open	Open	A, B, C, D	None	NA
2-Methyl-5-ethylpyridine	B	S/P	III	NR	Open	Open	A, D	.236(b), .409	I-D
Methyl formate	D	S	II	B/3	PV	Restr	A	.372, .408, .440, .525, .526, .527, .1020.	I-D
Methyl heptyl ketone	B	P	III	4m	PV	Restr	A	.409	I-D
2-Methyl-2-hydroxy-3-butyne.	III	S	III	4m	PV	Restr	A, B, C, D	.236(b), (d), (f), (g), .409, .526	I-D
Methyl methacrylate	D	S	II	4m	PV	Restr	A, B	.409, .526, .912(a)(1), .1002(a), (b), .1004.	I-D

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Methyl naphthalene (molten).	A	S/P	II	4m	PV	Restr	A, D	.409	I-D
2-Methyl-1-pentene (Hexene (all isomers)), see Alkanes(C6–C9).									
4-Methyl-1-pentene (Hexene (all isomers)), see Alkanes(C6–C9).									
Methyl tert-pentyl ether, *see* tert-Amyl methyl ether.									
2-Methylpyridine	D	S	II	B/3	PV	Closed	A, C	.236(b), .408, .525(a), (c), (d), (e), .1020.	I-D
3-Methylpyridine	C	S/P	II	B/3	PV	Closed	A, C	.236(b), .408, .525(a), (c), (d), (e), .1020.	I-D
4-Methylpyridine	D	S	II	B/3	PV	Closed	A, C, D	.236(b), .408, .440, .525(a), (c), (d), (e), .526, .908(b), .1020.	I-D
Methyl salicylate	B	P	III	NR	Open	Open	A	.409	I-D
alpha-Methylstyrene	A	S/P	III	4m	PV	Restr	A, D	.409, .526, .912(a)(1), .1002(a), (b), .1004.	I-D
3-(Methylthio) propionaldehyde.	B	S/P	III	B/3	PV	Closed	B, C	.238(e), .316, .408, .525, .526, .527, .1020.	NA
Metolachlor	B	P	III	NR	Open	Open	A	.409	NA
Morpholine	D	S	III	4m	PV	Restr	A	.236(b), (c), .409	I-C
Motor fuel anti-knock compounds (containing lead alkyls).	A	S/P	I	B/3	PV	Closed	A, B, C	.252, .316, .336, .408, .525, .526, .527, .933, .1020, .1025.	I-D
Naphthalene (molten)	A	S/P	II	4m	PV	Restr	A, D	.409, .440, .908(b)	I-D
Naphthalene sulfonic acid, sodium salt solution (40% or less).	[A]	P	III	NR	Open	Open	NSR	.409	NA
Naphthenic acid	A	P	II	NR	Open	Open	A	.409	NA
Naphthenic acid, sodium salt solution.	[A]	P	II	NR	Open	Open	NSR	.409	NA
Neodecanoic acid	C	P	III	NR	Open	Open	A	None	NA
Nitrating acid *(mixture of sulfuric and nitric acids).*	C	S/P	II	B/3	PV	Closed	NSR	.316, .408, .526, .527, .554, .555, .556, .559, .602, .933, .1000, .1045.	I-B
Nitric acid (70% or less)	C	S/P	II	4m	PV	Restr	NSR	.408, .526, .527, .554, .555, .559, .933, .1045.	I-B
Nitrobenzene	B	S/P	II	B/3	PV	Closed	A, D	.316, .336, .408, .440, .525, .526, .908(b), .933, .1020.	I-D
Nitroethane [7]	D	S	III	4m	PV	Restr	[7]A, C	.236(b), .409, .526, .1002(a), (b), .1003.	I-C
Nitroethane, 1-Nitropropane (each 15% or more) mixture [7].	D	S	III	4m	PV	Restr	[7]A	.236(b), .409, .526, .1002	I-C
o-Nitrophenol (molten)	B	S/P	II	B/3	PV	Closed	A, C, D	.409, .440, .525, .526, .908(a), (b), .1020.	NA
1- or 2-Nitropropane [7]	D	S	III	4m	PV	Restr	[7]A, C	.409, .526	I-C
Nitropropane (60%), Nitroethane (40%) mixture [7].	D	S	III	4m	PV	Restr	[7]A, C	.236(b), .409, .526	I-C
Nitropropane (20%), Nitroethane (80%) mixture [7].	D	S	III	4m	PV	Restr	[7]A, C	.236(b), .409, .526, .1002(a), (b), .1003.	I-C
(o-, p-) Nitrotoluene	B	S/P	II	B/3	PV	Closed	A, B	.316, .408, .440, .525, .526, .908(b), .1020.	I-D
Nonane (all isomers), *see* Alkanes(C6–C9).	C	P	III	4m	PV	Restr	B, C	.409	I-D
Nonene (all isomers)	B	P	III	4m	PV	Restr	A	.409	I-D
Nonyl acetate	C	P	III	NR	Open	Open	A	.409	I-D
Nonyl alcohol (all isomers)	C	P	III	NR	Open	Open	A	None	I-D
Nonyl phenol	A	P	II	NR	Open	Open	A	.409	I-D

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Nonyl phenol poly(4+)ethoxylates.	B	P	III	NR	Open	Open	A	.409, .440, .488 [1], .908(a), (b)	I-D
Noxious liquid, N.F., (1) n.o.s. (''trade name'' contains ''principal components'') ST 1, Cat A.	A	P	I	NR	Open	Open	A	.408	NA
Noxious liquid, F., (2) n.o.s. (''trade name'' contains ''principal components'') ST 1, Cat A.	A	P	I	4m	PV	Restr	A	.408	NA
Noxious liquid, N.F., (3) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat A.	A	P	II	NR	Open	Open	A	.409	NA
Noxious liquid, F., (4) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat A.	A	P	II	4m	PV	Restr	A	.409	NA
Noxious liquid, N.F., (5) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat B.	B	P	II	NR	Open	Open	A	.409; (.440, .908) [1]	NA
Noxious liquid, N.F., (6) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat B, mp. equal to or greater than 15 deg. C.	B	P	II	NR	Open	Open	A	.409, .440, .488, .908(b); (.908(a)) [1]	NA
Noxious liquid, F., (7) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat B.	B	P	II	4m	PV	Restr	A	.409; (.440, .908) [1]	NA
Noxious liquid, F., (8) n.o.s. (''trade name'' contains ''principal components'') ST 2, Cat B, mp. equal to or greater than 15 deg. C.	B	P	II	4m	PV	Restr	A	.409, .440, .488, .908(b); (.908(a)) [1]	NA
Noxious liquid, N.F., (9) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat A.	A	P	III	NR	Open	Open	A	.409	NA
Noxious liquid, F., (10) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat A.	A	P	III	4m	PV	Restr	A	.409	NA
Noxious liquid, N.F., (11) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat B.	B	P	III	NR	Open	Open	A	(.409, .440, .908) [1]	NA
Noxious liquid, N.F., (12) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat B, mp. equal to or greater than 15 deg. C.	B	P	III	NR	Open	Open	A	.409, .440, .488, .908(b); (.908(a)) [1]	NA
Noxious liquid, F., (13) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat B.	B	P	III	4m	PV	Restr	A	.409; (.440, .908) [1]	NA

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Noxious liquid, F., (14) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat B, mp. equal to or greater than 15 deg. C.	B	P	III	4m	PV	Restr	A	.409, .440, .488, .908(b); (.908(a)) [1]	NA
Noxious liquid, N.F., (15) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat C.	C	P	III	NR	Open	Open	A	(.440, .903, .908) [1]	NA
Noxious liquid, F., (16) n.o.s. (''trade name'' contains ''principal components'') ST 3, Cat C.	C	P	III	4m	PV	Restr	A	(.440, .903, .908) [1]	NA
Octane (all isomers), *see* Alkanes(C6–C9).	C	P	III	4m	PV	Restr	A	.409	I-D
Octanol (all isomers)	C	P	III	NR	Open	Open	A	None	I-D
Octene (all isomers)	B	P	III	4m	PV	Restr	A	.409	I-D
Octyl acetate	C	P	III	NR	Open	Open	A	None	I-D
Octyl aldehydes	B	P	III	4m	PV	Restr	A	.409, .440, .908(b)	I-C
Octyl nitrates (all isomers), see Alkyl(C7–C9) nitrates.									
Olefin mixtures (C5–C7)	C	P	III	4m	PV	Restr	A	.409	I-D
Olefin mixtures (C5–C15)	B	P	III	4m	PV	Restr	A	.409	I-D
alpha-Olefins (C6–C18) mixtures.	B	P	III	4m	PV	Restr	A	.409, .440, .908(a), (b)	I-D
Oleum	C	S/P	II	B/3	PV	Closed	NSR	.316, .408, .440, .526, .527, .554, .555, .556, .602, .908(a), .933, .1000, .1045, .1052.	I-B
Oleylamine	A	S/P	II	4m	PV	Restr	A	.409, .526	NA
Palm kernel acid oil	C	P	III	NR	Open	Open	A, B	.440, .903, .908(a), (b)	NA
Paraldehyde	C	S/P	III	4m	PV	Restr	A	.409, .440, .908(b)	I-C
Paraldehyde-ammonia reaction product.	C	S/P	II	B/3	PV	Closed	A	.236 (a), (b), (c), (g), .525(a), (c), (e), .408, .526, .1020.	NA
Pentachloroethane	B	S/P	II	B/3	PV	Restr	NSR	.316, .409, .525, .526, .1020	NA
1,3-Pentadiene	C	S/P	III	4m	PV	Restr	A, B	.409, .526, .912(a)(1), .1002, .1004	I-D
Pentane (all isomers)	C	P	III	4m	PV	Restr	A	.372, .409	I-D
n-Pentanoic acid (64%), 2-Methyl butyric acid (36%) mixture.	D	S	II	B/3	Open	Closed	A, D	.238(a), .408, .525(a), (c), (e), .554, .933, .1020.	I-D
Pentene (all isomers)	C	P	III	4m	PV	Restr	A	.409	I-D
n–Pentyl propionate	C	P	III	4m	PV	Restr	A	.409	I-D
Perchloroethylene	B	S/P	III	B/3	PV	Restr	NSR	.409, .526	NA
Phenol *(or solutions with 5% or more Phenol).*	C	S/P	II	B/3	PV	Closed	A	.408, .440, .488, .525, .526, .908(a), (b), .933, .1020.	I-D
1-Phenyl-l-xylyl ethane	C	P	III	NR	Open	Open	A, B	None	NA
Phosphate esters, alkyl(C12–C14)amine.	B	P	III	4m	PV	Restr	A	.409	NA
Phosphoric acid	D	S	III	NR	Open	Open	NSR	.554, .555, .558, .1045, .1052, .933	I-B
Phthalic anhydride (molten)	C	S/P	III	4m	PV	Restr	A, D	.440, .908(a), (b)	I-D
Pinene, see the alpha- or beta- isomers.									
alpha-Pinene	A	P	III	4m	PV	Restr	A	.409	I-D
beta-Pinene	B	P	III	4m	PV	Restr	A	.409	I-D
Pine oil	C	P	III	NR	Open	Open	A	.440, .908(a)	I-D
Polyalkyl(C18–C22) acrylate in Xylene.	C	P	III	4m	PV	Restr	A	.409, .440, .903, .908(a)	NA
Polyalkylene oxide polyol	C	P	III	NR	Open	Open	A	.440, .903, .908(a)	NA
Poly(2+)cyclic aromatics	A	P	II	4m	PV	Restr	A, D	.409	I-D
Polyethylene polyamines	C	S/P	III	NR	Open	Open	A	.236(b), (c), .400, .440, .908(b)	NA
Polyferric sulfate solution	C	S/P	III	NR	Open	Open	NSR	.238(d)	NA
Polyisobutenamine in aliphatic (C10–C14) solvent.	C	P	III	NR	Open	Open	A	.903	NA

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Polymethylene polyphenyl isocyanate [6].	D	S	II	B/3	PV	Closed	A, C [6], D	.236(a), (b), .409, .500, .501, .525, .526, .602, .1000, .1020.	NA
Polyolefinamine (C28–C250).	C	P	III	NR	Open	Open	A	None	NA
Polyolefinamine in alkyl(C2–C4)benzenes.	C	P	III	4m	PV	Restr	A	.409, .440, .903, .908(a)	I-D
Polyolefin phosphorosulfide, barium derivative (C28–C250).	C	P	III	NR	Open	Open	A, B	(.440, .903, .908(a)) [1]	NA
Poly(tetramethylene ether) glycols (mw 950-1050).	B	P	III	NR	Open	Open	A, D	.409, .440, .488, .908(a), (b)	NA
Potassium hydroxide solution, *see* Caustic potash solution									
Potassium oleate	C	P	III	NR	Open	Open	A	.409	NA
Potassium thiosulfate (50% or less).	C	P	III	NR	Open	Open	NSR	None	NA
iso-Propanolamine	C	S/P	III	NR	Open	Open	A	.236(b), (c), .440, .526, .903, .908(b).	I-D
n-Propanolamine	C	S/P	III	NR	Open	Open	A, D	.236(b), (c), .440, .526, .908(b)	NA
Propionaldehyde	C	S/P	III	4m	PV	Restr	A	.316, .409, .526, .527	I-C
Propionic acid	D	S	III	4m	PV	Restr	A	.238(a), .409, .527, .554, .933	I-D
Propionic anhydride	C	S/P	III	4m	PV	Restr	A	.238(a), .526	I-D
Propionitrile	C	S/P	II	B/3	PV	Closed	A, D	.252, .316, .336, .408, .525, .526, .527, .1020.	I-D
iso-Propylamine	C	S/P	II	B/3	PV	Closed	C, D	.236(b), (c), .372, .408, .440, .525, .526, .527, .1020.	I-D
iso-Propylamine solution (70% or less).	C	S/P	II	B/3	PV	Closed	C, D	.236(a), (b), (c), (g), .408, .440, .525, .526, .527, .1020.	I-D
n-Propylamine	C	S/P	II	B/3	PV	Closed	A, C, D	.236(b), (c), .408, .500, .525, .526, .527, .1020.	I-D
n-Propylbenzene, see Propylbenzene (all isomers).									
Propylbenzene (all isomers).	A	P	III	4m	PV	Restr	A	.409	I-D
n-Propyl chloride	D	S	III	4m	PV	Restr	A, B	.409	I-D
iso-Propylcyclohexane	C	P	III	4m	PV	Restr	A	.409, .440, .903, .908(a)	I-D
Propylene dimer	C	P	III	4m	PV	Restr	A	.409	NA
Propylene oxide	C	S/P	II	B/3	PV	Closed	A, C	.372, .408, .440, .500, .526, .530, .1010, .1011.	I-B
Propylene tetramer	B	P	III	4m	PV	Restr	A	.409	I-D
Propylene trimer	B	P	III	4m	PV	Restr	A	.409	I-D
iso-Propyl ether	D	S	III	4m	PV	Restr	A	.409, .500, .515, .912(a)(1)	I-D
Pyridine	D	S	III	4m	PV	Restr	A	.236(b), .409	I-D
Rosin, *see* Rosin oil.									
Rosin oil	B	P	III	NR	Open	Open	A	.409, .440, .488, .908(a), (b)	I-D
Rosin soap (disproportionated) solution.	B	P	III	NR	Open	Open	A	.409	NA
Sodium alkyl (C14-C17) sulfonates 60-65% solution, *see* Alkane (C14-C17) sulfonic acid, sodium salt solution.									
Sodium aluminate solution	D	S	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .933	NA
Sodium borohydride (15% or less), Sodium hydroxide solution.	C	S/P	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .440, .908(a), .933.	NA
Sodium chlorate solution (50% or less).	III	S	III	NR	Open	Open	NSR	.409, .933, .1065	NA
Sodium dichromate solution (70% or less).	C	S/P	II	B/3	Open	Closed	NSR	.236(b), (c), .408, .525, .933, .1020	NA

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
Sodium dimethyl naphthalene sulfonate solution, see Dimethyl naphthalene sulfonic acid, sodium salt solution.									
Sodium hydrogen sulfide (6% or less), Sodium carbonate (3% or less) solution.	B	P	III	NR	Open	Open	NSR	.409	NA
Sodium hydrogen sulfite solution (45% or less).	D	S	III	NR	Open	Open	NSR	None	NA
Sodium hydrosulfide solution (45% or less).	B	S/P	III	4m	PV	Restr	NSR	.409, .440, .526, .908(b), .933	NA
Sodium hydrosulfide, Ammonium sulfide solution.	B	S/P	II	B/3	PV	Closed	A, C	.236(a), (b), (c), (g), .316, .372, .408, .525, .526, .527, .933, .1002, .1020.	NA
Sodium hydroxide solution, *see* Caustic soda solution									
Sodium hypochlorite solution (15% or less).	C	S/P	III	4m	PV	Restr	NSR	.236(a), (b), .933	NA
Sodium long chain alkyl salicylate (C13+).	[C]	P	III	NR	Open	Open	A	(.440, .903, .908(a)) [1]	NA
Sodium-2-mercaptobenzothiazol solution.	B	S/P	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .409, .440, .908(b), .933.	NA
Sodium N-methyldithiocarbamate solution, see Metam sodium solution.									
Sodium naphthalene sulfonate solution (40% or less), see Naphthalene sulfonic acid, sodium salt solution (40% or less).									
Sodium naphthenate solution, see Naphthenic acid, sodium salt solution.									
Sodium nitrite solution	B	S/P	II	NR	Open	Open	NSR	.408, .525(a), (c), (d), (e), .1020	NA
Sodium petroleum sulfonate.	B	S/P	II	NR	Open	Open	A	.409, .440, .908(a)	NA
Sodium silicate solution	C	P	III	NR	Open	Open	A	None	NA
Sodium sulfide solution (15% or less).	B	S/P	III	B/3	PV	Closed	NSR	.236(a), (b), .409, .440, .526, .908(b).	NA
Sodium sulfite solution (25% or less).	C	P	III	NR	Open	Open	NSR	.409, .440, .908(b)	NA
Sodium tartrates, Sodium succinates solution.	D	S	III	NR	Open	Open	A, B	.238(e)	NA
Sodium thiocyanate solution (56% or less).	B	P	III	NR	Open	Open	NSR	.238(a), .409	NA
Styrene *monomer*	B	S/P	III	4m	PV	Restr	A, B	.236(b), .409, .912(a)(1), .1002(a), (b), .1004.	I-D
Sulfohydrocarbon, long chain (C18+) alkylamine mixture.	B	P	III	NR	Open	Open	A, B	.409; (.440, .908(a)) [1]	NA
Sulfur (molten)	III	S	III	NR	Open	Open	NSR	.252, .440, .526, .545	I-C
Sulfuric acid	C	S/P	III	NR	Open	Open	NSR	.440, .554, .555, .556, .602, .908(a), (b), .933, .1000, .1045, .1046, .1052.	I-B
Tall oil *(crude and distilled)*	B	P	III	NR	Open	Open	A	.409, .440, .488, .908(a), (b)	NA
Tall oil, fatty acid *(resin acids less than 20%).*	C	P	III	NR	Open	Open	A	.440, .908(a), (b)	NA
Tall oil fatty acid, barium salt.	B	S/P	III	NR	Open	Open	A	.409, .440, .908(a)	NA
Tall oil soap (disproportionated) solution.	B	P	III	NR	Open	Open	A	.409, .440, .908(a), (b)	NA

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
1,1,2,2-Tetrachloroethane	B	S/P	III	B/3	PV	Restr	NSR	.316, .409, .525, .526, .1020	NA
Tetraethylenepentamine [3]	D	S	III	NR	Open	Open	A	.236(b), (c), (g)	I-C
Tetrahydrofuran	D	S	III	4m	PV	Restr	A, D	.409, .526, .912(a)(2), .1004	I-C
Tetrahydronaphthalene	C	P	III	NR	Open	Open	A	None	I-D
Tetramethylbenzene (all isomers).	A	P	III	NR	Open	Open	A	None	I-D
Toluene	C	P	III	4m	PV	Restr	A	.409	I-D
Toluenediamine	C	S/P	II	B/3	PV	Closed	A, B, C, D	.236(a), (b), (c), (g), .316, .408, .440, .525, .526, .527, .908(a), (b), .933, .1020.	NA
Toluene diisocyanate [6]	C	S/P	II	4m	PV	Closed	A, C [6], D	.236(b), .316, .408, .440, .500, .501, .525, .526, .527, .602, .908(b), .1000, .1020.	I-D
o-Toluidine	C	S/P	II	B/3	PV	Closed	A, C	.316, .408, .525, .526, .933, .1020	I-D
Tributyl phosphate	B	P	III	NR	Open	Open	A	.409	I-D
1,2,3-Trichlorobenzene (molten).	A	S/P	I	B/3	PV	Closed	A, C, D	.316, .408, .440, .526, .908(b), .933	I-D
1,2,4-Trichlorobenzene	B	S/P	II	4m	PV	Restr	A, B,C,	.409, .440, .526, .908(b),	I-D
1,1,1-Trichloroethane	C	P	III	NR	Open	Open	A	.409	I-D
1,1,2-Trichloroethane	C	S/P	III	B/3	PV	Restr	NSR	.409, .525, .526, .933, .1020	I-D
Trichloroethylene	C	S/P	III	B/3	PV	Restr	NSR	.316, .409, .525, .526, .1020	I-D
1,2,3-Trichloropropane	C	S/P	II	B/3	PV	Closed	A, B, C, D	.316, .408, .525, .526, .933, .1020	I-D
1,1,2-Trichloro-1,2,2-trifluoroethane.	C	P	III	NR	Open	Open	NSR	None	NA
Tricresyl phosphate (less than 1% of the ortho isomer).	A	P	II	NR	Open	Open	A	.409	I-D
Tricresyl phosphate (1% or more of the ortho isomer).	A	S/P	I	4m	PV	Closed	A, B	.408, .525(a), (c), (d), (e), .1020	I-D
Tridecanoic acid	B	P	III	NR	Open	Open	A	.409, .440, .488, .908(a), (b)	NA
Triethanolamine	D	S	III	NR	Open	Open	A	.236(a), (b), (c), (g)	I-C
Triethylamine	C	S/P	II	B/3	PV	Restr	A, B, C	.236(b), (c), .409, .525, .526, .527, .1020.	I-C
Triethylbenzene	A	P	II	NR	Open	Open	A	.409	I-D
Triethylene glycol di-(2-ethylbutyrate).	[C]	P	III	NR	Open	Open	A	None	I-C
Triethylenetetramine	D	S	III	NR	Open	Open	A	.236(a), (b), (c)	I-C
Triethyl phosphite	B	S/P	III	B/3	PV	Restr	A, B, D	.409, .526	NA
Triisopropylated phenyl phosphates.	A	P	II	NR	Open	Open	A	.409	NA
Trimethylacetic acid	D	S	III	4m	PV	Restr	A, C	.238(a), .266, .554	I-D
Trimethylamine solution (30% or less).	C	S/P	II	B/3	PV	Closed	A, C	.236(a), (b), (c), (g), .372, .408, .440, .525, .526, .527, .908(b), .1020.	I-C
Trimethylbenzene (all isomers).	A	P	III	4m	PV	Restr	A	.409	I-D
Trimethylhexamethylenediamine (2,2,4- and 2,4,4-isomers).	D	S	III	NR	Open	Open	A, C	.236(a), (b), (c), (g), .409	NA
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4- isomers) [6].	B	S/P	II	B/3	PV	Closed	A, C [6]	.316, .409, .500, .501, .525, .526, .602, .1000, .1020.	NA
2,2,4-Trimethyl-1,3-pentanediol-1-isobutyrate.	C	P	III	NR	Open	Open	A	None	I-D
Trimethyl phosphite	#	S	III	4m	PV	Restr	A, D	.409, .526, .602, .1000	I-D
1,3,5-Trioxane	D	S	III	4m	PV	Restr	A, D	.409	I-C
Trixylenyl phosphate	A	P	I	NR	Open	Open	A	.408	NA
Trixylyl phosphate, *see* Trixylenyl phosphate.									
Turpentine	B	P	III	4m	PV	Restr	A	.409	I-D
Undecanoic acid	B	P	III	NR	Open	Open	A	.440, .908(a), (b)	NA

TABLE 1.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name	IMO Annex II Pollution Category	Haz.	Cargo containment system	Vent height	Vent	Gauge	Fire protection system	Special requirements in 46 CFR Part 153	Electrical hazard class and group
a.	b.	c.	d.	e.	f.	g.	h.	i.	j.
1-Undecene	B	P	III	NR	Open	Open	A	.409	I-D
1- Undecyl alcohol	B	P	III	NR	Open	Open	A	.409, .440, .908(b)	I-D
Urea, Ammonium nitrate solution (containing more than 2% NH_3).	C	S/P	III	4m	PV	Restr	A	.236(b), .526	I-D
Valeraldehyde (all isomers)	C	S/P	III	4m	PV	Restr	A	.409, .500, .526	I-C
Vinyl acetate	C	S/P	III	4m	PV	Restr	A	.409, .912(a)(1), .1002(a), (b), .1004.	I-D
Vinyl ethyl ether	C	S/P	II	4m	PV	Closed	A	.236(b), (d), (f), (g), .252, .372, .408, .440, .500, .515, .526, .527, .912(a)(1), .1002(a), (b), .1004.	I-C
Vinylidene chloride	D	S	II	4m	PV	Restr	B	.236(a), (b), .372, .409, .440, .500, .526, .527, .912(a)(1), .1002(a), (b), .1004.	I-D
Vinyl neodecanate	B	S/P	III	NR	Open	Open	A, B	.409, .912(a)(1), .1002(a), (b), .1004.	NA
Vinyltoluene	A	S/P	III	4m	PV	Restr	A, B, D	.236(a), (b), (c), (g), .409, .912(a)(1), .1002(a), (b), .1004.	I-D
White spirit (low (15–20%) aromatic).	B	P	II	4m	PV	Restr	A	.409	NA
Xylenes [8] *(ortho-, meta-, para-).*	C	P	III	4m	PV	Restr	A	.409, .440, .908(b) [8]	I-D
Xylenes, Ethylbenzene (10% or more) mixture.	B	P	III	4m	PV	Restr	A	.409	NA
Xylenol	B	S/P	III	NR	Open	Open	A, B	.409, .440, .908(a), (b)	NA
Zinc alkaryl dithiophosphate (C7–C16).	C	P	III	NR	Open	Open	A, B	(.440, .903, .908(a)) [1]	NA
Zinc alkyl dithiophosphate (C3–C14).	B	P	III	NR	Open	Open	A, B	.409; (.440, .908(a)) [1]	NA

Column Heading Footnotes:

a. The cargo name must be as it appears in this column (see 153.900, 153.907). Words in italics are not part of the cargo name but may be used in addition to the cargo name. When one entry references another entry by use of the word ''*see*'', and both names are in roman type, either name may be used as the cargo name (e.g., Diethyl ether, *see* Ethyl ether). However, the referenced entry is preferred.

The provisions contained in 46 CFR part 197, subpart C, apply to liquid cargoes containing 0.5% or more benzene by volume.

b. This column lists the IMO Annex II Pollution Category.

A, B, C, D—NLS Category of Annex II of MARPOL 73/78.

III—Appendix III of Annex II (non-NLS cargoes) of MARPOL 73/78.

#—No determination of NLS status. For shipping on an oceangoing vessel, see 46 CFR 153.900(c).

[ ]—A NLS category in brackets indicates that the product is provisionally categorized and that further data are necessary to complete the evaluation of its pollution hazards. Until the hazard evaluation is completed, the pollution category assigned is used.

@—The NLS category has been assigned by the U.S. Coast Guard, in absence of one assigned by the IMO. The category is based upon a GESAMP Hazard Profile or by analogy to a closely related product having an NLS assigned.

c. This column lists the hazard(s) of the commodity:

S—The commodity is included because of its safety hazards.

P—The commodity is included because of its pollution hazards.

S/P—The commodity is included because of both its safety and pollution hazards.

d. This column lists the type of containment system the cargo must have (see 153.230 through 153.232).

e. This column lists the height of any vent riser required (see 153.350 and 153.351).

f. This column lists any vent control valve required (see 153.355).

g. This column lists the type of gauging system required (see 153.400 through 153.406).

h. This column lists the type of fire protection system required. Where more than one system is listed, any listed system may be used. A dry chemical system may not be substituted for either type of foam system unless the dry chemical system is listed as an alternative or the substitution is approved by Commandant (G–MSO) (see 153.460). The types are as follows:

A is a foam system for water soluble cargoes (polar solvent foam).

B is a foam system for water insoluble cargoes (non-polar solvent foam).

C is a water spray system.

D is a dry chemical system.

NSR means there is no special requirement applying to fire protection systems.

i. This column lists sections that apply to the cargo in addition to the general requirements of this part. The 153 Part number is omitted.

j. This column lists the electrical hazard class and group used for the cargo when determining requirements for electrical equipment under Subchapter J (Electrical Engineering) of this chapter.

A number of electrical hazard class and group assignments are based upon that which appears in ''Classification of Gases, Liquids and Volatile Solids Relative to Explosion-Proof Electrical Equipment'', Publication NMAB 353–5, National Academy Press, 1982, when not appearing in NFPA 497M, ''Manual for Classification of Gases, Vapors and Dusts for Electrical Equipment in Hazardous (Classified) Locations.''

The I-B electrical hazard does not apply to weather deck locations (see 46 CFR Part 111) for inorganic acids: Chlorosulfonic acid; Hydrochloric acid; Nitrating acid; Nitric acid (70% or less); Oleum; Phosphoric acid; Sulfuric acid.

Abbreviations used in the Table:

NR—No requirement.

NA—Not applicable.

Abbreviations for Noxious Liquid cargoes:
N.F.—non-flammable (flash point greater than 60 deg C (140 deg F) closed cup (cc)).
F.—flammable (flash point less than or equal to 60 deg C (140 deg F) closed cup (cc)).
n.o.s.—not otherwise specified.
ST—Ship type.
Cat—Pollution category.

Footnotes for Specific Cargoes:

1. Special applicability:
153.440 and .908(a) apply to the chemical, and mixtures containing the chemical, with a viscosity of 25 mPa.s at 20 deg C (68 deg F).
153.440 and .908(b) apply to the chemical, and mixtures containing the chemical, with a melting point of 0 deg C (32 deg F) and above.
153.488 applies to the chemical, and mixtures containing the chemical, with a melting point of 15 deg C (59 deg F) and above.

2. Benzene containing cargoes.
Applies to mixtures containing no other components with safety hazards and where the pollution category is C or less.

3. Diammonium salt of Zinc ethylenediaminetetraacetic acid solution; Tetraethylenepentamine.
Aluminum is a questionable material of construction with this cargo since pitting and corrosion has been reported. The IMO Chemical Code prohibits aluminum as a material of construction for this cargo.

4. 2,4-Dichlorophenol.
Some tank pitting has been reported when this cargo is contaminated with water, including moisture in the air. The IMO Chemical Code requires that the vapor space over this cargo be kept dry.

5. Reserved.

6. Diphenylmethane diisocyanate; Hexamethylene diisocyanate; Isophorone diisocyanate; Polymethylene polyphenyl isocyanate; Toluene diisocyanate; Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4- isomers).
Water is effective in extinguishing open air fires but will generate hazardous quantities of gas if put on the cargo in enclosed spaces.

7. Maleic anhydride; Nitroethane; Nitroethane, 1-Nitropropane mixtures; 1- or 2-Nitropropane; Nitropropane, Nitroethane mixtures.
Dry chemical extinguishers should not be used on fires involving these cargoes since some dry chemicals may react with the cargo and cause an explosion.

8. Xylenes.
Special requirement .908(b) only applies to the para- (p-) isomer, and mixtures containing the para-isomer having a melting point of 0 deg C (32 deg F) or more.

PART 153 TABLE II—[AMENDED]

20. Amend Table 2 as follows:

a. Change bold-faced type wherever it appears to Roman type; in the column entitled ''Cargoes'', remove each bullet ''•'' that precedes the name of a cargo; and remove the undesignated footnote that reads: ''Items with a bullet (•) or in **boldface** are changes since October 1, 1993''.

b. From the column entitled ''Cargoes'', remove the words ''Dextrose solution'' and add, in their place, the words ''*Dextrose solution, see* Glucose solution'', and beside it in the column entitled ''Pollution Category'', remove the number ''III''.

c. From the column entitled ''Cargoes'', remove the words ''Lignin sulfonic acid, sodium salt solution'' and add, in their place, the words ''Lignin sulfonic acid, sodium salt solution, *see also* Lignin liquor *or* Sodium lignosulfonate solution''.

d. In the column entitled ''Pollution Category'', beside the entry ''Drilling brine (containing Calcium, Potassium, or Sodium Salts)'', add the number ''III''.

e. From the column entitled ''Cargoes'', remove the words ''Pentasodium salt of Diethylenetriamine pentaacetic acid solution, *see* Diethylenetriamine pentaacetic acid, pentasodium salt solution'' and add, in their place, the words ''*Pentasodium salt of Diethylenetriamine pentaacetic acid solution, see* Diethylenetriamine pentaacetic acid, pentasodium salt solution''; and, from beside them in the column entitled ''Pollution Category'', remove the number ''III''.

f. From the column entitled ''Cargoes'', remove the words ''Sodium naphthenate solution (free alkali content, 3% or less), *see* Naphthenic acid, sodium salt solution'' and add, in their place, the words ''*Sodium naphthenate solution (free alkali content, 3% or less), see* Naphthenic acid, sodium salt solution''; and, from beside it in the column entitled ''Pollution Category'', remove the letter ''[A]''.

g. From the column entitled ''Cargoes'', remove the words ''Tetrasodium salt of Ethylenediaminetetraaacetic acid solution, *see* Ethylenediaminetetraacetic acid, tetrasodium salt solution'' and add, in their place, the words ''*Tetrasodium salt of Ethylenediaminetetraaacetic acid solution, see* Ethylenediaminetetraacetic acid, tetrasodium salt solution''; and, from beside it in the column entitled ''Pollution Category'', remove the letter ''D''.

h. From the column entitled ''Cargoes'', remove the words ''Trisodium salt of N-(Hydroxyethyl)ethylenediaminetriacetic acid solution, *see* N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution'' and add, in their place, the words ''*Trisodium salt of N-(Hydroxyethyl)ethylenediamine triacetic acid solution, see* N-(Hydroxyethyl)ethylenediamine triacetic acid, trisodium salt solution''; and, from beside it in the column entitled ''Pollution Category'', remove the letter ''D''.

21. Amend Table 2 by adding the following new entries in chemically proper alphabetized order:

TABLE 2—CARGOES NOT REGULATED UNDER SUBCHAPTERS D OR O OF THIS CHAPTER WHEN CARRIED IN BULK ON NON-OCEANGOING BARGES

Cargoes	Pollution category
* * * * *	
Ammonium thiosulfate solution (60% or less).	C
* * * * *	
Sulfonated polyacrylate solution	III
* * * * *	
Titanium dioxide slurry	III
* * * * *	

Dated: August 30, 2000.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 00–28387 Filed 11–7–00; 8:45 am]

BILLING CODE 4910–15–U

Federal Register

Wednesday,
November 8, 2000

Part V

Department of Education

National Assessment of Educational Progress (NAEP)—Secondary Analysis Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001; Notice

DEPARTMENT OF EDUCATION

[CFDA No. 84.902B]

National Assessment of Educational Progress (NAEP)—Secondary Analysis Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Purpose of Program: To encourage the preparation of reports that would not otherwise be available and that apply new approaches to the analysis and reporting of the NAEP and NAEP High School Transcript Studies data. Analyses and reports prepared under this program should potentially be useful to the general public, parents, educators, educational researchers, or policy makers.

For FY 2001, the competition for new awards focuses on projects designed to meet the priorities we describe in the PRIORITIES section of this application notice.

Eligible Applicants: Public or private organizations and consortia of organizations.

Applications Available: November 9, 2000. The application package for this competition is also available on-line at: http://ed.gov/GrantApps/.

Deadline for Transmittal of Applications: January 10, 2001.

Estimated Available Funds: $700,000.

The estimated amount of funds available for new awards is based on the Administration's request for this program for FY 2001. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process before the end of the fiscal year, if Congress appropriates funds for this program.

Estimated Range of Awards: $15,000–$100,000.

Estimated Average Size of Awards: $85,000.

Maximum Award: We will reject any application that proposes a budget exceeding $100,000 for a single budget period of 18 months.

Estimated Number of Awards: 7–9.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 18 months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 60 pages, using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- You must double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the resumes, the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

If, to meet the page limit, you use more than one side of the page, you use a larger page or you use a print size, spacing, or margins smaller than the standards in this notice, we will reject your application.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75 (except for those provisions of part 75 noted in 34 CFR 700.5 (a)), 77, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR part 700.

Priorities

Invitational Priorities

We are particularly interested in applications that meet one or more of the following invitational priorities.

Under 34 CFR 75.105(c)(1) we do not give an application that meets one or more of the priorities a competitive or absolute preference over other applications.

Invitational Priority 1

Projects that use NAEP achievement data alone or in combination with other data sets to assist policy makers and educators who make decisions about curriculum and instruction.

Invitational Priority 2

Projects designed to assist States in analyzing, interpreting and reporting their State-level NAEP results.

Invitational Priority 3

Projects that include the development of analytic procedures that improve precision with which NAEP estimates group and subgroup performance.

Invitational Priority 4

Projects that develop improved sampling procedures for national or State-level NAEP.

Invitational Priority 5

Projects to analyze and report data using statistical software developed by the project to permit more advanced analytic techniques to be readily applied to NAEP data.

For Further Information or Applications Contact: Alex Sedlacek, U.S. Department of Education, 1990 K Street, NW., room 8007, Washington, DC 20006. Telephone: (202) 502–7446 or via Internet: alex__sedlacek@ed.gov.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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Individuals with disabilities may obtain a copy of the application package in an alternative format by contacting the program person listed under *For Further Information or Applications Contact.* However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 9010.

Dated: November 1, 2000.

C. Kent McGuire,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 00–28658 Filed 11–7–00; 8:45 am]

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Federal Register

Wednesday,
November 8, 2000

Part VI

Department of Education

Bilingual Education: Training for All Teachers; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.195B]

Bilingual Education: Training for All Teachers Notice Inviting Applications for New Awards for Fiscal Year (FY) 2001

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the applicable regulations governing this program, including the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for a grant under this program.

Purpose of Program

This program provides grants to incorporate courses and curricula on appropriate and effective instructional and assessment methodologies, strategies, and resources specific to limited English proficient students into preservice and inservice professional development programs for teachers, pupil services personnel, administrators, and other educational personnel in order to prepare such individuals to provide effective services to limited English proficient students. The program focuses on the development of coursework and curricula for professional development programs for currently practicing teachers and other educational personnel who provide instruction or support to LEP students, but who do not expect to become bilingual education or English as a second language specialists. Training activities may also include improving the skills of higher education faculty to better prepare all teachers to instruct LEP students. Funds under this program may be used to provide for the development of training programs in collaboration with other programs, such as programs authorized under Titles I and II of this Act and under the Head Start Act.

Eligible Applicants: One or more institutions of higher education (IHEs); one or more local educational agencies (LEAs); one or more State educational agencies (SEAs); or one or more nonprofit organizations (NPOs) which have entered into consortia arrangements with an IHE, LEA, or SEA. organizations.

Deadline for Transmittal of Applications: 12/22/2000.

Deadline for Intergovernmental Review: 2/22/2001.

Available Funds: $10 million.

Estimated Range of Awards: $150,000–$250,000.

Estimated Average Size of Awards: $200,000.

Estimated Number of Awards: 50.

Note: The Administration has requested $10 million for new awards under the Training for All Teachers program in 2001. The actual level of funding, if any, depends upon final congressional action.

Project Period: Up to 60 Months.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria reviewers use to evaluate your application. You must limit the application narrative to the equivalent of no more than 30 pages, using the following standards:

- A page is 8.5 × 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including budget justification and the cost itemization; Part IV, the assurances and certifications; or the table of contents, the one-page abstract, or the letters of support. However you must include all of the application narrative in Part III.

If, to meet the page limit, you use more than one side of the page, you use a larger page, or you use a print size, spacing, or margins smaller that the standards in this notice, we will reject your application.

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; and 34 CFR Part 299.

Description of Program

The statutory authorization for this program, and the application requirements that apply to this competition, are set out in sections 7142 and 7146–7150 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994) (the Act) (20 U.S.C. 7474 and 7476–7480).

Activities conducted under this program must assist educational personnel in meeting State and local certification requirements for bilingual education and, wherever possible, must lead to the awarding of college or university credit.

Priorities

Competitive Priority

Under 34 CFR 75.105(c)(2)(i) and 34 CFR 299.3(b), we award up to 3 points for an application that meets the competitive priority. These points are in addition to any points the application earns under the selection criteria for the program.

Projects that will contribute to a systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture, and are made an integral part of the Zone's or Community's comprehensive community revitalization strategies.

A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Invitational Priorities

The Secretary is particularly interested in applications that meet the following invitational priorities. However, an application that meets these invitational priorities receives no competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

(a) Projects that propose to improve the skills of higher education faculty to ensure that all teachers are effectively prepared to teach LEP students.

(b) Projects that incorporate training in family involvement into formal induction programs for beginning secondary teachers or ongoing professional development programs for currently practicing secondary teachers.

Selection Criteria

The Secretary uses the following selection criteria in 34 CFR 75.210 to evaluate applications for new grants under this competition.

The maximum score for all of these criteria is 100 points.

The maximum score for each criterion is indicated in parentheses.

(a) *Significance.* (10 points) (1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project the Secretary considers the likelihood that the proposed project will result in system change or improvement.

(b) *Need for project.* (10 points) (1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project.

(ii) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and the magnitude of those gaps or weaknesses.

(c) *Quality of the project design.* (45 points) (1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(iii) The extent to which the proposed project is designed to build capacity and yield results that will extend beyond the period of Federal financial assistance.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(v) The extent to which the proposed project will be coordinated with similar or related efforts, and with other appropriate community, State, and Federal resources.

(vi) The extent to which the proposed project represents an exceptional approach for meeting the statutory purposes and requirements.

(d) *Quality of project services.* (5 points) (1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(e) *Quality of project personnel.* (5 points) (1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factor: the qualifications, including relevant training and experience, of key project personnel.

(f) *Quality of the management plan.* (5 points) (1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the following factor: the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(g) *Quality of the project evaluation.* (20 points) (1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(iii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Intergovernmental Review Of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

If you are an applicant you must contact the appropriate State Single Point of Contact (SPOC) to find out about, and to comply with, the State's process under Executive order 12372.

If you propose to perform activities in more than one State, you should immediately contact the SPOC for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any SPOC, see the list in the appendix to this application notice; or you may view the latest official SPOC list on the Web site of the Office of Management and Budget at the following address: *http://www.whitehouse.gov/omb/grants.*

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a SPOC and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA # 84.195B, U.S. Department of Education, Room 7E200 400 Maryland Avenue, SW., Washington, D.C. 20202–0125.

We will determine proof of mailing under 34 CFR 75.102 (Deadline date for applications). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, D.C. time) on the date indicated in this notice.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Instructions for Transmittal of Applications

If you want to apply for a grant and be considered for funding you must meet the following deadline requirements:

(a) *If you send your application by mail—*

You must mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195B), Washington, D.C. 20202–4725.

You must show one of the following as proof of mailing.

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If you mail an application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(b) Hand-deliver the original and two copies of the application by 4:30 p.m.

(Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.195B), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center accepts application deliveries daily between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), except Saturdays, Sundays and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A person delivering an application must show identification to enter the building.

(c) *If you submit your application by courier*—You must deliver the original and two copies of your application to the courier service on or before the deadline date. You must show as proof of delivery to the courier service a dated shipping label, invoice, or receipt from the courier service. The courier service must deliver your application to: U.S. Department of Education, Application Control Center, Attn: (84.195B), Room 3633, Regional Office Building, 7th and D Streets, SW., Washington, D.C.

The Application Control Center accepts application deliveries daily between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), except Saturdays, Sundays and Federal holidays. The Center accepts application deliveries through the D Street entrance only. A courier delivering an application must show identification to enter the building.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) If you send your application by mail or deliver it by hand or by a courier service, the Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) You *must* indicate on the envelope and—if not provided by the Department—in Item 3 of the Application for Federal Assistance (Standard Form 424) the CFDA number and suffix letter, if any, of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains the following forms and instructions plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with section 427 of the General Education Provisions Act, questions and answers on this program (located at the end of the notice) and various assurances, certifications, and required documentation:

a. Estimated Public Reporting Burden
b. Application Instructions
c. Nonregulatory Guidance: Questions and Answers
d. Checklist for Applicants
e. List of Empowerment Zones and Enterprise Communities
f. Application for Federal Education Assistance (ED 424) and instructions
g. Group Application Form
h. Budget Information
i. Participant Data
j. Project Documentation
k. Program Assurances
l. Assurances—Non-Construction Programs (Standard Form 424B) and instructions
m. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013) and instructions
n. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014) and instructions

Note: This form is intended for the use of grantees and should not be transmitted to the Department.

o. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. The document has been marked to reflect statutory changes
p. Notice to All Applicants (GEPA Requirement) and Instructions (OMB No. 1801–0004)

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature. All applicants must submit *ONE* original signed application, including ink signatures on all forms and assurances, and *TWO* copies of the application. Please mark each application as ''original'' or ''copy''. No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Petraine Johnson or Franklin Reid US Department of Education, 400 Maryland Avenue, SW., Room 5090, Switzer Building, Washington, D.C. 20202–6510. Telephone: Petraine Johnson: (202) 205–8766; Franklin Reid: (202) 205–9803 E-mail address: Franklin Reid@ed.gov; Petraine Johnson@ed.gov.

If you use a telecommunications device for the deaf (TDD) you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339. Individuals with disabilities may obtain this notice in an alternative format (e.g., braille, large print, audiotape, or computer diskette) on request to the contact persons listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternative format the standard forms included in the notice.

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 portable document format (PFD) on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use PFD you must have Adobe Acrobat Reader, which is available free at either of the preceding sites. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1–888–293–6498; or in the Washington, D.C. 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 at GPO access at: *http://www.access.gpo.gov.nara.index.html*

Program Authority: 20 U.S.C. 7474.

Dated: November 11, 2000.

Art Love,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

Appendix

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, you are not 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. 1885–0542, Exp. Date: 12/31/01. We estimate the time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection.

If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: U.S. Department of Education, Washington, D.C. 20202–4651.

If you have any comments or concerns regarding the status of your individual submission of this form, write directly to: Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202–6510.

Application Instructions

Abstract

The narrative section should be preceded by a one-page abstract that includes a short description of the population to be served by the project, project objectives, planned activities, and invitational priorities the project proposes to address.

Selection Criteria

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Do not include resumes. Instead, provide position descriptions for key personnel. Do not include bibliographies, letters of support, or appendices in your application. This package includes questions and answers to assist you in preparing the narrative portion of your application.

Empowerment Zone/Enterprise Community Priority

Applicants that wish to be considered under the competitive priority for Empowerment Zones and Enterprise Communities, as specified in a previous section of this notice, should identify in Section D of the Project Documentation Form the Applicable Empowerment Zone or Enterprise Community. The application narrative should describe the extent to which the proposed project will contribute to systemic educational reform in the particular Empowerment Zone or Enterprise Community and be an integral part of the Zone's or Community's comprehensive revitalization strategies. A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Table of Contents

The application should include a table of contents listing the various parts of the narrative in the order of the selection criteria. Be sure that the table includes the page numbers where the parts of the narrative are found.

Budget

Budget line items must support the goals and objectives of the proposed project and be directly applicable to the program design and all other project components. A separate budget summary and cost itemization must be provided. Prepare an itemized budget for each year of requested funding.

Indirect costs for institutions of higher education which are the fiscal agents for Training for All Teachers are limited to the lower of either 8 percent of a modified total direct cost base or the institution for higher education's actual indirect cost agreement. A modified direct cost base is defined as total direct costs less stipends, tuition and related fees and capital expenditures of $5,000 or more. In describing student support costs distinguish costs for tuition and fees from costs for stipends.

Submission of Application to State Educational Agency

Section 7146(a)(4) of the Act (Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382) requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment (20 U.S.C. 7476(a)(4)).

Section 75.156 of the Education Department General Administrative Regulations (EDGAR) requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). A copy of this letter should be attached to the Project Documentation Form contained in this application package.

Applicants that do not submit a copy of their application to their SEA will not be considered for funding. Applicants are reminded that the requirement for submission to the State Educational Agency and the requirements for Executive Order 12372 are two separate requirements.

Final Application Preparation

Use the following checklist to verify that all necessary items are addressed. Prepare one original with an original signature, and include two additional copies. Do not use elaborate bindings or covers. The application package must be mailed to the Application Control Center (ACC) and postmarked by the deadline date published in the closing date notice.

Checklist for Applicants

The following forms and other items must be included in the application:

1. Application for Federal Assistance (SF 424)
2. Group Application Certification (to be signed by authorized Representative of LEA in consortia with the applicant)
3. Budget Information (ED Form No. 524)
4. Itemized Budget for each year (attached to ED Form No. 524)
5. Participant Data (approximate number of participants to be served each year)
6. Project Documentation

Section A—Copy of Transmittal Letter to SEA requesting SEA to comment on application

Section B—Documentation of Empowerment Zone or Enterprise Community (f applicable)

7. Program Assurances
8. Non-Construction Programs (SF 424B)
9. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013)
10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions (ED 80–0014)
11. Disclosure of Lobbying Activities (SF–LLL)
12. Notice to all Applicants (See form provided below)
13. Table of Contents
14. One-page single-spaced abstract
15. Application narrative (Not to exceed 30 double-spaced pages, see instructions below)
16. One original and two copies of the application to the Department of Education Application Control Center
17. One copy to the State Education Agency
18. One copy to the State Single Point of Contact

Questions and Answers

May Training for All Teachers Programs Provide Training to Participants?

In addition to developing and revising courses and curricula for professional development programs for all teachers, applicants may implement training activities for currently practicing teachers and other educational personnel, including beginning teachers, who are not bilingual education or English as a second language specialists, but who provide services to LEP students. The program addresses the need for teachers and other educational personnel to acquire knowledge and skills necessary to provide appropriate and effective services to limited English proficient students and their families.

What Factors Should Be Considered in Designing a Training for All Teachers Program?

Applicants should consider the characteristics and conditions that foster high-quality professional development, including sustained intensive training activities that are focused on a manageable number of participants. In determining the number of participants to be served, applicants should consider the capability of the program to provide high-quality professional development for all participants and to effectively evaluate improved teaching and learning as a result of the program. Applicants are reminded that program participants may include higher education faculty as well as inservice teachers of other educational personnel. Applicants should not propose programs that are so large in scope that they dilute the quality of training.

What Are the Certification Requirements for the Training for all Teachers Program?

The Title VII statute requires grantees to assist educational personnel in meeting state and local certification requirements. Courses and curricula developed, revised or offered must be part of a program, which would lead to State and local certification. However, it is not a requirement that participants trained under the program complete certification requirements during the course of the grant. Emphasis should be placed on the acquisition of knowledge and skills in order to meet the needs of limited English proficient students.

What Information May Be Helpful in Preparing a Aarrative for Training for All Teachers Grant?

Information on the Training for All Teachers Program is available through the OBEMLA Website: *http://www.ed.gov/offices/OBEMLA*. First click on Funding opportunities, then go to Professional Development Programs.

In responding to the selection criteria applicants may wish to consider the following questions as a guide for preparing the application narrative:

- What are the specific responsibilities of schools, districts, institutions of higher education and other partnership organizations in planning, implementing and evaluating the proposed program?
- How will the training curricula incorporate high standards for teaching and learning?
- How is the proposed program linked to a comprehensive school-wide plan to improve professional development programs for all teachers related to the needs of limited English proficient students?
- How will the products of the proposed program be integrated into professional development program activities for all teachers?
- How will the program assist in systemically reforming local policies and practices related to the training of teachers to improve instructional services for LEP students?
- What performance indicators will the proposed program use to assess the effectiveness of the program? What are the expected outcomes for participant learning, improved teaching practices, improved student achievement, reform of professional development in the school or university, or improved skills of higher education faculty?
- What professional development activities are planned for school staff development specialists, or for higher education faculty to ensure that they are effectively prepared to provide training to prepare all teachers related to the needs of LEP students?

In addition, applicants may wish to consider the Department of Education Professional Development Principles in planning Training for All Teachers Program. The following are the Professional Development Principles: Professional Development: Focuses on teachers as central to student learning, yet includes all other members of the school community; Focuses on individual, collegial and organizational improvement; Respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community; Reflects best available research and practice in teaching, learning, and leadership; enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards; promotes continuous inquiry and improvement embedded in the daily life of schools; is planned collaboratively by those who will participate in and facilitate that development; requires substantial time and other resources; is driven by a coherent long-term plan; is evaluated ultimately on the basis of its impact on teacher effectiveness and student learning; and this assessment guides subsequent professional development efforts.

BILLING CODE 4000–01–P

Application for Federal Education Assistance

Note: If available, please provide application package on diskette and specify the file format.

U.S. Department of Education

Form Approved
OMB No. 1875-0106
Exp. 06/30/2001

Applicant Information

1. Name and Address
Legal Name:
Address:
City State County ZIP Code + 4

Organizational Unit

2. Applicant's D-U-N-S Number
3. Applicant's T-I-N
4. Catalog of Federal Domestic Assistance #: 84 195B → Title: Bilingual Education: Training for All Teachers
5. Project Director:
Address:
City State ZIP Code + 4
Tel. #: ( ) - Fax #: ( ) -
E-Mail Address:

6. Is the applicant delinquent on any Federal debt? ☐ Yes ☐ No
(If "Yes," attach an explanation.)

7. Type of Applicant *(Enter appropriate letter in the box.)*

A State	H Independent School District
B County	I Public College or University
C Municipal	J Private, Non-Profit College or University
D Township	K Indian Tribe
E Interstate	L Individual
F Intermunicipal	M Private, Profit-Making Organization
G Special District	N Other *(Specify)*:

8. Novice Applicant ☐ Yes ☐ No

Application Information

9. Type of Submission:

—PreApplication	*—Application*
☐ Construction	☐ Construction
☐ Non-Construction	☐ Non-Construction

10. Is application subject to review by Executive Order 12372 process?
☐ Yes *(Date made available to the Executive Order 12372 process for review):* ___/___/___
☐ No *(If "No," check appropriate box below.)*
☐ Program is not covered by E.O. 12372.
☐ Program has not been selected by State for review.

11. Proposed Project Dates: Start Date: ___/___/___ End Date: ___/___/___

12. Are any research activities involving human subjects planned at any time during the proposed project period? ☐ Yes ☐ No
a. If "Yes," Exemption(s) #: OR b. Assurance of Compliance #:
c. IRB approval date: ☐ Full IRB or ☐ Expedited Review

13. Descriptive Title of Applicant's Project:

Estimated Funding

14a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

Authorized Representative Information

15. To the best of my knowledge and belief, all data in this preapplication/application are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative
b. Title
c. Tel. #: ( ) - Fax #: ( ) -
d. E-Mail Address:
e. Signature of Authorized Representative Date: ___/___/___

REV. 11/12/99

ED 424

Instructions for ED 424

1. **Legal Name and Address.** Enter the legal name of applicant and the name of the primary organizational unit which will undertake the assistance activity.

2. **D-U-N-S Number.** Enter the applicant's D-U-N-S Number. If your organization does not have a D-U-N-S Number, you can obtain the number by calling 1-800-333-0505or by completing a D-U-N-S Number Request Form. The form can be obtained via the Internet at the following URL: **http://www.dnb.com/dbis/aboutdb/intlduns.htm.**

3. **Tax Identification Number.** Enter the tax identification number as assigned by the Internal Revenue Service.

4. **Catalog of Federal Domestic Assistance (CFDA) Number.** Enter the CFDA number and title of the program under which assistance is requested.

5. **Project Director.** Name, address, telephone and fax numbers, and e-mail address of the person to be contacted on matters involving this application.

6. **Federal Debt Delinquency.** Check **"Yes"** if the applicant's organization is delinquent on any Federal debt. (This question refers to the applicant's organization and not to the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.) Otherwise, check **"No."**

7. **Type of Applicant.** Enter the appropriate letter in the box provided.

8. **Novice Applicant.** Check **"Yes"** only if assistance is being requested under a program that gives special consideration to novice applicants and you meet the program requirements for novice applicants. By checking "Yes" the applicant certifies that it meets the novice applicant requirements specified by ED. Otherwise, check **"No."**

9. **Type of Submission.** Self-explanatory.

10. **Executive Order 12372.** Check **"Yes"** if the application is subject to review by Executive Order 12372. Also, please enter the month, date, and four (4) digit year (e.g., 12/12/2000). 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. Otherwise, check **"No."**

11. **Proposed Project Dates.** Please enter the month, date, and four (4) digit year (e.g., 12/12/2000).

12. **Human Subjects.** Check "Yes" <u>or</u> "No". If research activities involving human subjects are <u>not</u> planned <u>at any time</u> during the proposed project period, check **"No." The remaining parts of item 12 are then not applicable.**

    If research activities involving human subjects, whether or not exempt from Federal regulations for the protection of human subjects, <u>are</u> planned <u>at any time</u> during the proposed project period, either at the applicant organization or at any other performance site or collaborating institution, check **"Yes."** If <u>all</u> the research activities are designated to be exempt under the regulations, enter, in item 12a, the exemption number(s) corresponding to one or more of the six exemption categories listed in **"Protection of Human Subjects in Research"** attached to this form. Provide sufficient information in the application to allow a determination that the designated exemptions in item 12a, are appropriate. **Provide this narrative information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page. Skip the remaining parts of item 12.**

    If <u>some or all</u> of the planned research activities involving human subjects are covered (nonexempt), skip item 12a and continue with the remaining parts of item 12, as noted below. In addition, follow the instructionsin **"Protection of Human Subjects in Research"** attached to this form to prepare the six-point narrative about the nonexempt activities. **Provide this six-point narrative in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

    If the applicant organization has an approved Multiple Project Assurance of Compliance on file with the Grants Policy and Oversight Staff (GPOS), U.S. Department of Education, or with the Office for Protection from Research Risks (OPRR), National Institutes of Health, U.S. Department of Health and Human Services, that covers the specific activity, enter the Assurance number in item 12b and the date of approval by the Institutional Review Board (IRB) of the proposed activities in item 12c. This date must be no earlier than one year before the receipt date for which the application is submitted and must include the four (4) digit year (e.g., 2000). Check the type of IRB review in the appropriate box. An IRB may use the expedited review procedure if it complies with the requirements of 34 CFR 97.110. If the IRB review is delayed beyond the submission of the application, enter **"Pending"** in item 12c. If your application is recommended/selected for funding, a follow-up certification of IRB approval from an official signing for the applicant organization must be sent to and received by the designated ED official within 30 days after a specific formal request from the designated ED official. **If the applicant organization does not have** on file with GPOS or OPRR **an approved Assurance of Compliance** that covers the proposed research activity, enter **"None"** in item 12b and skip 12c. In this case, the applicant organization, by the signature on the application, is declaring that it will comply with 34 CFR 97 within 30 days after a specific formal request from the designated ED official for the Assurance(s) and IRB certifications.

13. **Project Title.** 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.

14. **Estimated Funding.** Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 14.

15. **Certification.** 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.

    Be sure to enter the telephone and fax number and e-mail address of the authorized representative. Also, in item 15e, please enter the month, date, and four (4) digit year (e.g., 12/12/2000) in the date signed field.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1875-0106**. The time required to complete this information collection is estimated to average between 15 and 45 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651. **If you have comments or concerns regarding the status of your individual submission of this form write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, S.W. ROB-3, Room 3633, Washington, D.C. 20202-4725.

PROTECTION OF HUMAN SUBJECTS IN RESEARCH
(Attachment to ED 424)

I. Instructions to Applicants about the Narrative Information that Must be Provided if Research Activities Involving Human Subjects are Planned

If you marked item 12 on the application "Yes" and designated exemptions in 12a, **(all research activities are exempt),** provide sufficient information in the application to allow a determination that the designated exemptions are appropriate. Research involving human subjects that is exempt from the regulations is discussed under **II.B. "Exemptions,"** below. The Narrative must be succinct. **Provide this information in an "Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

If you marked "Yes" to item 12 on the face page, and designated no exemptions from the regulations **(some or all of the research activities are nonexempt),** address the following six points for each nonexempt activity. In addition, if research involving human subjects will take place at collaborating site(s) or other performance site(s), provide this information before discussing the six points. Although no specific page limitation applies to this section of the application, be succinct. Provide the six-point narrative and discussion of other performance sites in an **"Item 12/Protection of Human Subjects Attachment" and insert this attachment immediately following the ED 424 face page.**

(1) Provide a detailed description of the proposed involvement of human subjects. Describe the characteristics of the subject population, including their anticipated number, age range, and health status. Identify the criteria for inclusion or exclusion of any subpopulation. Explain the rationale for the involvement of special classes of subjects, such as children, children with disabilities, adults with disabilities, persons with mental disabilities, pregnant women, prisoners, institutionalized individuals, or others who are likely to be vulnerable.

(2) Identify the sources of research material obtained from individually identifiable living human subjects in the form of specimens, records, or data. Indicate whether the material or data will be obtained specifically for research purposes or whether use will be made of existing specimens, records, or data.

(3) Describe plans for the recruitment of subjects and the consent procedures to be followed. Include the circumstances under which consent will be sought and obtained, who will seek it, the nature of the information to be provided to prospective subjects, and the method of documenting consent. State if the Institutional Review Board (IRB) has authorized a modification or waiver of the elements of consent or the requirement for documentation of consent.

(4) Describe potential risks (physical, psychological, social, legal, or other) and assess their likelihood and seriousness. Where appropriate, describe alternative treatments and procedures that might be advantageous to the subjects.

(5) Describe the procedures for protecting against or minimizing potential risks, including risks to confidentiality, and assess their likely effectiveness. Where appropriate, discuss provisions for ensuring necessary medical or professional intervention in the event of adverse effects to the subjects. Also, where appropriate, describe the provisions for monitoring the data collected to ensure the safety of the subjects.

(6) Discuss why the risks to subjects are reasonable in relation to the anticipated benefits to subjects and in relation to the importance of the knowledge that may reasonably be expected to result.

II. Information on Research Activities Involving Human Subjects

A. Definitions.

A research activity involves human subjects if the activity is research, as defined in the Department's regulations, and the research activity will involve use of human subjects, as defined in the regulations.

—Is it a research activity?

The ED Regulations for the Protection of Human Subjects, Title 34, Code of Federal Regulations, Part 97, define research as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge." *If an activity follows a deliberate plan whose purpose is to develop or contribute to generalizable knowledge, such as an exploratory study or the collection of data to test a hypothesis, it is research.* Activities which meet this definition constitute research whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

—Is it a human subject?

The regulations define human subject as "a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information." *(1) If an activity involves obtaining information about a living person by manipulating that person or that person's environment, as might occur when a new instructional technique is tested, or by communicating or interacting with the individual, as occurs with surveys and interviews, the definition of human subject is met. (2) If an activity involves obtaining private information about a living person in such a way that the information can be linked to that individual (the identity of the subject is or may be readily determined by the investigator or associated with the information), the definition of human subject is met.* [Private information includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a school health record).]

B. Exemptions.

Research activities in which the only involvement of human subjects will be in one or more of the following six categories of ***exemptions*** are not covered by the regulations:

(1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (a) research on regular and special education instructional strategies, or (b) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (a) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (b) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. ***If the subjects are children, this exemption applies only to research involving educational tests or observations of public behavior when the investigator(s) do not participate in the activities being observed.*** [Children are defined as persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law or jurisdiction in which the research will be conducted.]

(3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under section (2) above, if the human subjects are elected or appointed public officials or candidates for public office; or federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

(4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and which are designed to study, evaluate, or otherwise examine: (a) public benefit or service programs; (b) procedures for obtaining benefits or services under those programs; (c) possible changes in or alternatives to those programs or procedures; or (d) possible changes in methods or levels of payment for benefits or services under those programs.

(6) Taste and food quality evaluation and consumer acceptance studies, (a) if wholesome foods without additives are consumed or (b) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S Department of Agriculture.

Copies of the Department of Education's Regulations for the Protection of Human Subjects, 34 CFR Part 97 and other pertinent materials on the protection of human subjects in research are available from the Grants Policy and Oversight Staff (GPOS) Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, Washington, D.C., telephone: (202) 708-8263, and on the U.S. Department of Education's Protection of Human Subjects in Research Web Site at http://ocfo.ed.gov/humansub.htm.

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number: 1890-0004

Expiration Date: 02/28/2003

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington DC 20503.

INSTRUCTIONS FOR ED FORM 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES - 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 other 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 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 of 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 receipt 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 C.F.R. 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 Titles 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 the 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

Standard Form 424B (Rev. 7-97) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) 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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgement 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 indicted 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 (2)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 -

A. The applicant 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 on-going 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 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. 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 subparagraph (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.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610-

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013 12/98

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

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 has become erroneous by reason of changed circumstances.

4. 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 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, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is 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 the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. 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 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 Nonprocurement List.

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 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

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are 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.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

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)

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 date 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/proposal 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.

OMB Control No. 1801-0004 (Exp. 8/31/2001)

NOTICE TO ALL APPLICANTS

The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

(If this program is a State-formula grant program, a State needs to provide this description only for projects or activities that it carries out with funds reserved for State-level uses. In addition, local school districts or other eligible applicants that apply to the State for funding need to provide this description in their applications to the State for funding. The State would be responsible for ensuring that the school district or other local entity has submitted a sufficient section 427 statement as described below.)

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability, or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the Federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with Section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it intends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement for GEPA Requirements

The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, DC 20202-4651.

PARTICIPANT DATA

Note: This form must be completed by applicants under the following programs:

- **Teachers and Personnel Grants**
- **Career Ladder Program**
- **Training for all Teachers**

Number of proposed participants in each of the following categories to be served each year of the grant.

Preservice Teachers (who are not paraprofessionals)	_____
Preservice Teachers (who are currently paraprofessionals)	_____
Inservice Teachers	_____
Other Educational Personnel (Specify type of personnel below)	_____
_____	_____
_____	_____

Degree level(s) to be attained (if applicable) _____

Certification Type(s) to be attained _____

Language(s) of Participants (other than English) _____

_____

_____

PROGRAM ASSURANCES

NOTE: The authorizing statute requires applicants under certain programs to provide assurances. These assurances are specified below under the relevant programs. If your application pertains to any of these programs, this form must be completed.

As the duly authorized representative of the applicant, I certify that the applicant, in regard to the program relevant to this application:

- Teachers and Personnel Grants
- Career Ladder Program
- Training for All Teachers

Will include, if applicable, as part of the project implementing a master's or doctoral-level program, a training practicum in a local school program serving children and youth of limited English proficiency.
(Authority: 20 U.S.C. 7426(g)(3)

_____

Authorized Representative

Name: _____

Signature: _____

Typed Name: _____

Date: _____

Applicant Organization: _____

PROJECT DOCUMENTATION

Note: Submit the appropriate documents and information as specified below for the following programs.

- Teachers and Personnel Grants
- Career Ladder Program
- Training for All Teachers

Section A

A copy of the applicant's transmittal letter requesting the appropriate State educational agency to comment on the application. (This does not refer to the Executive Order requirements)

Section B

If applicable, identify on the line below the Empowerment Zone, Supplemental Empowerment Zone, or Enterprise Community that the proposed project will serve. **Attach any documentation to support how the project will contribute to systemic educational reform in an Empowerment Zone, Suppplemental Empowerment Zone or an Enterprise Community** (See the competitive priority and the list of designated Empowerment Zones in previous sections of this application package.)

_____

STATE SINGLE POINT OF CONTACT
(As of April 22, 1999)

Note: In accordance with Executive Order 12372, Intergovernmental Review of Federal Programs, this listing represents the designated State Single Points of Contact (SSPOCs). Because participation is voluntary, some States and Territories no longer participate in the process. These include: Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

The jurisdictions not listed no longer participate in the process. However, an applicant is still eligible to apply for a grant or grants even if its respective State, Territory, Commonwealth, etc. does not have a SSPOC.

ARIZONA
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3800 N. Central Avenue
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FAX: (809) 776-0069

Note: This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to Sherron Duncan at the Office of Management and Budget (202) 395-3914 and to the State in question. Changes to the list will only be made upon formal notification by the State. The list is updated every six months and is also published biannually in the Catalog of Federal Domestic Assistance.

The last changes made were to Delaware, Indiana, Missouri, New Mexico, Puerto Rico, Rhode Island, Utah, and Wisconsin.

*Guam and the Virgin Islands are not confirmed.

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Federal Register

Wednesday,
November 8, 2000

Part VII

The President

Proclamation 7370—National Family Caregivers Month, 2000

Federal Register
Vol. 65, No. 217
Wednesday, November 8, 2000

Presidential Documents

Title 3—

The President

Proclamation 7370 of November 5, 2000

National Family Caregivers Month, 2000

By the President of the United States of America

A Proclamation

All Americans owe a debt of gratitude to the family caregivers among us—the generous, compassionate individuals who daily face the challenge of caring for loved ones who are frail, chronically ill, or living with disabilities that restrict their independence. These everyday heroes, living quietly among us in families and communities across the country, are the major source of long-term care in America. By providing billions of dollars' worth of caregiving services each year, they dramatically reduce the demands on our Nation's health care system and make an extraordinary contribution to the quality of life of their loved ones.

Caregivers often pay an emotional and physical price as well as a financial one. Few enjoy any free time because they must juggle the demands of home and work while meeting the special needs of the individuals in their care. Many do not have the support of other family members or friends and consequently experience depression, a sense of isolation, and the stress of knowing they must carry out their important duties alone. Studies have indicated that such caregiver stress can have a physical consequence, contributing to a higher mortality rate among elderly caregivers who themselves have a history of chronic illness.

But caregivers should not have to face their challenges alone, and my Administration has worked hard to ensure that they will not have to do so. I am pleased that the Congress has finally passed the Older Americans Act Amendments of 2000, which will strengthen and improve the services available to senior citizens in every State, from home-delivered meals to transportation services to legal assistance. This legislation also includes authorization for our new National Family Caregiver Support Program, which will provide quality respite care and other support services to hundreds of thousands of families who are struggling to care for loved ones.

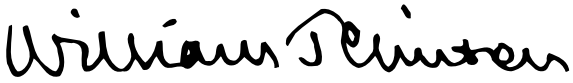
The Long-Term Care Security Act that I signed into law in September authorizes the Office of Personnel Management to negotiate with private insurers to offer more affordable, high-quality, long-term care insurance policies to Federal employees, retirees, and their families. This initiative will help some 13 million Americans better prepare for the future and ease the fear of having to deplete their life savings to care for a loved one.

We must also help families who need long-term care assistance right now. I continue to call on the Congress to provide a $3,000 tax credit for the millions of Americans with long-term care needs and the families who care for them. Passage of a new, voluntary Medicare prescription drug benefit would also go a long way toward easing the financial burden on family caregivers.

Caregiving touches us all, either within our own families or within our communities. As we observe National Family Caregivers Month, let us thank the millions of devoted men and women across our Nation who enable our loved ones who are frail, chronically ill, or living with disabilities to live in dignity in the warmth and familiarity of home.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 2000 as National Family Caregivers Month. I call upon all Americans to acknowledge and honor the contributions of caregivers to the quality of our national life.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of November, in the year of our Lord two thousand, and of the Independence of the United States of America the two hundred and twenty-fifth.



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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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Agricultural Marketing Service

Tomatoes grown in—

Florida; published 11-6-00

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Maryland; published 11-8-00

LABOR DEPARTMENT

Mine Safety and Health Administration

Metal and nonmetal mine safety and health:

Occupational noise exposure—

Health standards; correction; published 11-8-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

CFE Co.; published 10-24-00

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Agricultural Marketing Service

Cranberries grown in—

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Animal and Plant Health Inspection Service

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Food and Nutrition Service

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Farm Service Agency

Program regulations:

Emergency Farm Loan Program; requirements; comments due by 11-13-00; published 9-12-00

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Rural Housing Service

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COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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Northeastern United States fisheries—

Atlantic sea scallop; comments due by 11-13-00; published 10-11-00

Summer flounder, scup, black sea bass, Atlantic mackerel, squid, and butterfish; comments due by 11-17-00; published 11-2-00

CONSUMER PRODUCT SAFETY COMMISSION

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Over-the-counter drug products; comments due by 11-13-00; published 8-30-00

DEFENSE DEPARTMENT

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Balance of Payments Program; revisions; comments due by 11-13-00; published 9-11-00

Financing policies; comments due by 11-17-00; published 9-18-00

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California; comments due by 11-17-00; published 10-16-00

Connecticut, Massachusetts, District of Columbia, and Georgia; serious ozone nonattainment areas; one-hour attainment demonstrations; comments due by 11-15-00; published 11-2-00

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

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Health Care Financing Administration

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Indian Affairs Bureau

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal**

Register but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 4811/P.L. 106–429
Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2001, and for other purposes. (Nov. 6, 2000; 114 Stat. 1900)

H.R. 5178/P.L. 106–430
Needlestick Safety and Prevention Act (Nov. 6, 2000; 114 Stat. 1901)

Last List November 7, 2000

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